

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 1675**

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DATE	D-PG	OFFICIAL STATUS
02/02/2012	3705	Introduction and first reading Referred to Health and Human Services
02/23/2012	3893a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
03/12/2012	4277a	Comm report: To pass as amended
	4311	Second reading
03/22/2012	4687a	Special Order: Amended
	4761	Third reading Passed
04/19/2012	5947	Returned from House with amendment
	5947	Senate concurred and repassed bill
	5947	Third reading

A bill for an act

1.1 relating to human services; modifying provisions related to children and
1.2 family services; reforming adoptions under guardianship of the commissioner;
1.3 modifying statutory provisions related to child support, child care, child safety,
1.4 and MFIP; amending Minnesota Statutes 2010, sections 13.46, subdivision 2;
1.5 13.461, subdivision 17; 13.465, by adding a subdivision; 119B.09, subdivision
1.6 7; 119B.12, subdivisions 1, 2; 119B.125, subdivisions 1a, 2, 6; 119B.13,
1.7 subdivision 6; 145.902, subdivisions 1, 3; 256.998, subdivisions 1, 5; 256J.08,
1.8 subdivision 11; 256J.24, subdivisions 2, 5; 256J.32, subdivision 6; 256J.621;
1.9 256J.68, subdivision 7; 256J.95, subdivision 3; 257.01; 257.75, subdivision
1.10 7; 259.22, subdivision 2; 259.23, subdivision 1; 259.24, subdivisions 1, 3, 5,
1.11 6a, 7; 259.29, subdivision 2; 259.69; 259.73; 260.012; 260C.001; 260C.007,
1.12 subdivision 4, by adding subdivisions; 260C.101, subdivision 2; 260C.150,
1.13 subdivision 1; 260C.157, subdivision 1; 260C.163, subdivisions 1, 4; 260C.178,
1.14 subdivisions 1, 7; 260C.193, subdivisions 3, 6; 260C.201, subdivisions 2,
1.15 10, 11a; 260C.212, subdivisions 1, 2, 5, 7; 260C.215, subdivisions 4, 6;
1.16 260C.217; 260C.301, subdivisions 1, 8; 260C.317, subdivisions 3, 4; 260C.325,
1.17 subdivisions 1, 3, 4; 260C.328; 260C.451; 260D.08; 518C.205; 541.04; 548.09,
1.18 subdivision 1; 609.3785; 626.556, subdivisions 2, 10, 10e, 10f, 10i, 10k, 11;
1.19 Minnesota Statutes 2011 Supplement, sections 119B.13, subdivision 1; 256.01,
1.20 subdivision 14b; proposing coding for new law in Minnesota Statutes, chapters
1.21 260C; 611; proposing coding for new law as Minnesota Statutes, chapter 259A;
1.22 repealing Minnesota Statutes 2010, sections 256.022; 259.67; 259.71; 260C.201,
1.23 subdivision 11; 260C.215, subdivision 2; 260C.456; Minnesota Rules, parts
1.24 9560.0071; 9560.0082; 9560.0083; 9560.0091; 9560.0093, subparts 1, 3, 4;
1.25 9560.0101; 9560.0102.

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

ARTICLE 1

CHILDREN AND FAMILIES POLICY PROVISIONS

1.30 Section 1. Minnesota Statutes 2010, section 13.46, subdivision 2, is amended to read:

1.31 Subd. 2. **General.** (a) Unless the data is summary data or a statute specifically
1.32 provides a different classification, data on individuals collected, maintained, used, or

2.1 disseminated by the welfare system is private data on individuals, and shall not be
2.2 disclosed except:

2.3 (1) according to section 13.05;

2.4 (2) according to court order;

2.5 (3) according to a statute specifically authorizing access to the private data;

2.6 (4) to an agent of the welfare system, including a law enforcement person, attorney,
2.7 or investigator acting for it in the investigation or prosecution of a criminal or civil
2.8 proceeding relating to the administration of a program;

2.9 (5) to personnel of the welfare system who require the data to verify an individual's
2.10 identity; determine eligibility, amount of assistance, and the need to provide services to
2.11 an individual or family across programs; evaluate the effectiveness of programs; assess
2.12 parental contribution amounts; and investigate suspected fraud;

2.13 (6) to administer federal funds or programs;

2.14 (7) between personnel of the welfare system working in the same program;

2.15 (8) to the Department of Revenue to assess parental contribution amounts for
2.16 purposes of section 252.27, subdivision 2a, administer and evaluate tax refund or tax credit
2.17 programs and to identify individuals who may benefit from these programs. The following
2.18 information may be disclosed under this paragraph: an individual's and their dependent's
2.19 names, dates of birth, Social Security numbers, income, addresses, and other data as
2.20 required, upon request by the Department of Revenue. Disclosures by the commissioner
2.21 of revenue to the commissioner of human services for the purposes described in this clause
2.22 are governed by section 270B.14, subdivision 1. Tax refund or tax credit programs include,
2.23 but are not limited to, the dependent care credit under section 290.067, the Minnesota
2.24 working family credit under section 290.0671, the property tax refund and rental credit
2.25 under section 290A.04, and the Minnesota education credit under section 290.0674;

2.26 (9) between the Department of Human Services, the Department of Employment
2.27 and Economic Development, and when applicable, the Department of Education, for
2.28 the following purposes:

2.29 (i) to monitor the eligibility of the data subject for unemployment benefits, for any
2.30 employment or training program administered, supervised, or certified by that agency;

2.31 (ii) to administer any rehabilitation program or child care assistance program,
2.32 whether alone or in conjunction with the welfare system;

2.33 (iii) to monitor and evaluate the Minnesota family investment program or the child
2.34 care assistance program by exchanging data on recipients and former recipients of food
2.35 support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance
2.36 under chapter 119B, or medical programs under chapter 256B, 256D, or 256L; and

3.1 (iv) to analyze public assistance employment services and program utilization,
3.2 cost, effectiveness, and outcomes as implemented under the authority established in Title
3.3 II, Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of
3.4 1999. Health records governed by sections 144.291 to 144.298 and "protected health
3.5 information" as defined in Code of Federal Regulations, title 45, section 160.103, and
3.6 governed by Code of Federal Regulations, title 45, parts 160-164, including health care
3.7 claims utilization information, must not be exchanged under this clause;

3.8 (10) to appropriate parties in connection with an emergency if knowledge of
3.9 the information is necessary to protect the health or safety of the individual or other
3.10 individuals or persons;

3.11 (11) data maintained by residential programs as defined in section 245A.02 may
3.12 be disclosed to the protection and advocacy system established in this state according
3.13 to Part C of Public Law 98-527 to protect the legal and human rights of persons with
3.14 developmental disabilities or other related conditions who live in residential facilities for
3.15 these persons if the protection and advocacy system receives a complaint by or on behalf
3.16 of that person and the person does not have a legal guardian or the state or a designee of
3.17 the state is the legal guardian of the person;

3.18 (12) to the county medical examiner or the county coroner for identifying or locating
3.19 relatives or friends of a deceased person;

3.20 (13) data on a child support obligor who makes payments to the public agency
3.21 may be disclosed to the Minnesota Office of Higher Education to the extent necessary to
3.22 determine eligibility under section 136A.121, subdivision 2, clause (5);

3.23 (14) participant Social Security numbers and names collected by the telephone
3.24 assistance program may be disclosed to the Department of Revenue to conduct an
3.25 electronic data match with the property tax refund database to determine eligibility under
3.26 section 237.70, subdivision 4a;

3.27 (15) the current address of a Minnesota family investment program participant
3.28 may be disclosed to law enforcement officers who provide the name of the participant
3.29 and notify the agency that:

3.30 (i) the participant:

3.31 (A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after
3.32 conviction, for a crime or attempt to commit a crime that is a felony under the laws of the
3.33 jurisdiction from which the individual is fleeing; or

3.34 (B) is violating a condition of probation or parole imposed under state or federal law;

3.35 (ii) the location or apprehension of the felon is within the law enforcement officer's
3.36 official duties; and

4.1 (iii) the request is made in writing and in the proper exercise of those duties;

4.2 (16) the current address of a recipient of general assistance or general assistance
4.3 medical care may be disclosed to probation officers and corrections agents who are
4.4 supervising the recipient and to law enforcement officers who are investigating the
4.5 recipient in connection with a felony level offense;

4.6 (17) information obtained from food support applicant or recipient households may
4.7 be disclosed to local, state, or federal law enforcement officials, upon their written request,
4.8 for the purpose of investigating an alleged violation of the Food Stamp Act, according
4.9 to Code of Federal Regulations, title 7, section 272.1 (c);

4.10 (18) the address, Social Security number, and, if available, photograph of any
4.11 member of a household receiving food support shall be made available, on request, to a
4.12 local, state, or federal law enforcement officer if the officer furnishes the agency with the
4.13 name of the member and notifies the agency that:

4.14 (i) the member:

4.15 (A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a
4.16 crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

4.17 (B) is violating a condition of probation or parole imposed under state or federal
4.18 law; or

4.19 (C) has information that is necessary for the officer to conduct an official duty related
4.20 to conduct described in subitem (A) or (B);

4.21 (ii) locating or apprehending the member is within the officer's official duties; and

4.22 (iii) the request is made in writing and in the proper exercise of the officer's official
4.23 duty;

4.24 (19) the current address of a recipient of Minnesota family investment program,
4.25 general assistance, general assistance medical care, or food support may be disclosed to
4.26 law enforcement officers who, in writing, provide the name of the recipient and notify the
4.27 agency that the recipient is a person required to register under section 243.166, but is not
4.28 residing at the address at which the recipient is registered under section 243.166;

4.29 (20) certain information regarding child support obligors who are in arrears may be
4.30 made public according to section 518A.74;

4.31 (21) data on child support payments made by a child support obligor and data on
4.32 the distribution of those payments excluding identifying information on obligees may be
4.33 disclosed to all obligees to whom the obligor owes support, and data on the enforcement
4.34 actions undertaken by the public authority, the status of those actions, and data on the
4.35 income of the obligor or obligee may be disclosed to the other party;

5.1 (22) data in the work reporting system may be disclosed under section 256.998,
5.2 subdivision 7;

5.3 (23) to the Department of Education for the purpose of matching Department of
5.4 Education student data with public assistance data to determine students eligible for free
5.5 and reduced-price meals, meal supplements, and free milk according to United States
5.6 Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and
5.7 state funds that are distributed based on income of the student's family; and to verify
5.8 receipt of energy assistance for the telephone assistance plan;

5.9 (24) the current address and telephone number of program recipients and emergency
5.10 contacts may be released to the commissioner of health or a local board of health as
5.11 defined in section 145A.02, subdivision 2, when the commissioner or local board of health
5.12 has reason to believe that a program recipient is a disease case, carrier, suspect case, or at
5.13 risk of illness, and the data are necessary to locate the person;

5.14 (25) to other state agencies, statewide systems, and political subdivisions of this
5.15 state, including the attorney general, and agencies of other states, interstate information
5.16 networks, federal agencies, and other entities as required by federal regulation or law for
5.17 the administration of the child support enforcement program;

5.18 (26) to personnel of public assistance programs as defined in section 256.741, for
5.19 access to the child support system database for the purpose of administration, including
5.20 monitoring and evaluation of those public assistance programs;

5.21 (27) to monitor and evaluate the Minnesota family investment program by
5.22 exchanging data between the Departments of Human Services and Education, on
5.23 recipients and former recipients of food support, cash assistance under chapter 256, 256D,
5.24 256J, or 256K, child care assistance under chapter 119B, or medical programs under
5.25 chapter 256B, 256D, or 256L;

5.26 (28) to evaluate child support program performance and to identify and prevent
5.27 fraud in the child support program by exchanging data between the Department of Human
5.28 Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a)
5.29 and (b), without regard to the limitation of use in paragraph (c), Department of Health,
5.30 Department of Employment and Economic Development, and other state agencies as is
5.31 reasonably necessary to perform these functions;

5.32 (29) counties operating child care assistance programs under chapter 119B may
5.33 disseminate data on program participants, applicants, and providers to the commissioner
5.34 of education; or

5.35 (30) child support data ~~on the parents and the child~~ may be disclosed to agencies
5.36 administering programs under titles IV-B and IV-E of the Social Security Act, as provided

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6.1 by federal law. ~~Data may be disclosed only to the extent necessary for the purpose of~~
6.2 ~~establishing parentage or for determining who has or may have parental rights with respect~~
6.3 ~~to a child, which could be related to permanency planning.~~

6.4 (b) Information on persons who have been treated for drug or alcohol abuse may
6.5 only be disclosed according to the requirements of Code of Federal Regulations, title
6.6 42, sections 2.1 to 2.67.

6.7 (c) Data provided to law enforcement agencies under paragraph (a), clause (15),
6.8 (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected
6.9 nonpublic while the investigation is active. The data are private after the investigation
6.10 becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

6.11 (d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is
6.12 not subject to the access provisions of subdivision 10, paragraph (b).

6.13 For the purposes of this subdivision, a request will be deemed to be made in writing
6.14 if made through a computer interface system.

6.15 Sec. 2. Minnesota Statutes 2010, section 13.461, subdivision 17, is amended to read:

6.16 Subd. 17. **Maltreatment review panels.** Data of the vulnerable adult maltreatment
6.17 review panel ~~or the child maltreatment review panel~~ are classified under section 256.021
6.18 ~~or 256.022.~~

6.19 Sec. 3. Minnesota Statutes 2010, section 13.465, is amended by adding a subdivision
6.20 to read:

6.21 Subd. 5a. **Adoptive parent.** Certain data that may be disclosed to a prospective
6.22 adoptive parent is governed by section 260C.613, subdivision 2.

6.23 Sec. 4. Minnesota Statutes 2010, section 145.902, subdivision 1, is amended to read:

6.24 Subdivision 1. **General.** (a) For purposes of this section, a "safe place" means a
6.25 hospital licensed under sections 144.50 to 144.56, a healthcare provider that provides
6.26 access to urgent care services, or a sheriff's office.

6.27 (b) ~~A hospital licensed under sections 144.50 to 144.56~~ safe place shall receive a
6.28 newborn left with ~~a hospital~~ an employee on the hospital premises of the safe place during
6.29 its hours of operation, provided that:

6.30 (1) the newborn was born within ~~72 hours~~ seven days of being left at the ~~hospital~~
6.31 safe place, as determined within a reasonable degree of medical certainty; and

6.32 (2) the newborn is left in an unharmed condition.

7.1 ~~(b)~~ (c) The ~~hospital~~ safe place must not inquire as to the identity of the mother or the
7.2 person leaving the newborn or call the police, provided the newborn is unharmed when
7.3 presented ~~to the hospital~~. The ~~hospital~~ safe place may ask the mother or the person leaving
7.4 the newborn about the medical history of the mother or newborn but the mother or the
7.5 person leaving the newborn is not required to provide any information. The ~~hospital~~ safe
7.6 place may provide the mother or the person leaving the newborn with information about
7.7 how to contact relevant social service agencies.

7.8 (d) A safe place that is not a hospital shall arrange to transport the newborn to a
7.9 hospital. The safe place can either: (1) dial 911, advise the 911 dispatcher that the call
7.10 is being made from a safe place for newborns, and request that the dispatcher send an
7.11 ambulance; or (2) arrange to transport the newborn in a safe and appropriate manner. The
7.12 hospital shall receive the newborn and perform the duties under subdivision 2.

7.13 Sec. 5. Minnesota Statutes 2010, section 145.902, subdivision 3, is amended to read:

7.14 Subd. 3. **Immunity.** (a) A ~~hospital~~ safe place with responsibility for performing
7.15 duties under this section, and any employee, doctor, or other medical professional working
7.16 at the ~~hospital~~ safe place, are immune from any criminal liability that otherwise might
7.17 result from their actions, if they are acting in good faith in receiving a newborn, and
7.18 are immune from any civil liability that otherwise might result from merely receiving a
7.19 newborn.

7.20 (b) A ~~hospital~~ safe place performing duties under this section, or an employee,
7.21 doctor, or other medical professional working at the ~~hospital~~ safe place who is a mandated
7.22 reporter under section 626.556, is immune from any criminal or civil liability that
7.23 otherwise might result from the failure to make a report under that section if the person is
7.24 acting in good faith in complying with this section.

7.25 Sec. 6. Minnesota Statutes 2010, section 256.998, subdivision 1, is amended to read:

7.26 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this
7.27 section.

7.28 (b) "Date of hiring" means the earlier of: (1) the first day for which an employee is
7.29 owed compensation by an employer; or (2) the first day that an employee reports to work
7.30 or performs labor or services for an employer.

7.31 (c) "Earnings" means payment owed by an employer for labor or services rendered
7.32 by an employee.

8.1 (d) "Employee" means a person who resides or works in Minnesota, performs
8.2 services for compensation, in whatever form, for an employer and satisfies the criteria of
8.3 an employee under chapter 24 of the Internal Revenue Code. Employee does not include:

8.4 (1) persons hired for domestic service in the private home of the employer, as
8.5 defined in the Federal Tax Code; or

8.6 (2) an employee of the federal or state agency performing intelligence or
8.7 counterintelligence functions, if the head of such agency has determined that reporting
8.8 according to this law would endanger the safety of the employee or compromise an
8.9 ongoing investigation or intelligence mission.

8.10 (e) "Employer" means a person or entity located or doing business in this state that
8.11 employs one or more employees for payment, and satisfies the criteria of an employer
8.12 under chapter 24 of the Internal Revenue Code. Employer includes a labor organization as
8.13 defined in paragraph (g). Employer also includes the state, political or other governmental
8.14 subdivisions of the state, and the federal government.

8.15 (f) "Hiring" means engaging a person to perform services for compensation and
8.16 includes the reemploying or return to work of any previous employee who was laid off,
8.17 furloughed, separated, granted a leave without pay, or terminated from employment when
8.18 a period of ~~90~~60 days elapses from the date of layoff, furlough, separation, leave, or
8.19 termination to the date of the person's return to work.

8.20 (g) "Labor organization" means entities located or doing business in this state that
8.21 meet the criteria of labor organization under section 2(5) of the National Labor Relations
8.22 Act. This includes any entity, that may also be known as a hiring hall, used to carry out
8.23 requirements described in chapter 7 of the National Labor Relations Act.

8.24 (h) "Payor" means a person or entity located or doing business in Minnesota who
8.25 pays money to an independent contractor according to an agreement for the performance
8.26 of services.

8.27 Sec. 7. Minnesota Statutes 2010, section 256.998, subdivision 5, is amended to read:

8.28 Subd. 5. **Report contents.** Reports required under this section must contain: all
8.29 the information required by federal law.

8.30 ~~(1) the employee's name, address, Social Security number, and date of birth when~~
8.31 ~~available, which can be handwritten or otherwise added to the W-4 form, W-9 form, or~~
8.32 ~~other document submitted; and~~

8.33 ~~(2) the employer's name, address, and federal identification number.~~

8.34 Sec. 8. Minnesota Statutes 2010, section 256J.24, subdivision 5, is amended to read:

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9.1 Subd. 5. **MFIP transitional standard.** The MFIP transitional standard is based
 9.2 on the number of persons in the assistance unit eligible for both food and cash assistance
 9.3 unless the restrictions in subdivision 6 on the birth of a child apply. ~~The following table~~
 9.4 ~~represents the transitional standards including a breakdown of the cash and food portions~~
 9.5 ~~effective October 1, 2009:~~

9.6	Number of Eligible People	Transitional Standard	Cash Portion	Food Portion
9.7	1	\$428:	\$250	\$178
9.8	2	\$764:	\$437	\$327
9.9	3	\$1,005:	\$532	\$473
9.10	4	\$1,222:	\$621	\$601
9.11	5	\$1,399:	\$697	\$702
9.12	6	\$1,608:	\$773	\$835
9.13	7	\$1,754:	\$850	\$904
9.14	8	\$1,940:	\$916	\$1,024
9.15	9	\$2,125:	\$980	\$1,145
9.16	10	\$2,304:	\$1,035	\$1,269
9.17	over 10	add \$178:	\$53	\$125
9.18	per additional member.			

9.19 The amount of the transitional standard is published annually by the Department of
 9.20 Human Services.

9.21 Sec. 9. Minnesota Statutes 2010, section 259.22, subdivision 2, is amended to read:

9.22 Subd. 2. **Persons who may be adopted.** No petition for adoption shall be filed
 9.23 unless the person sought to be adopted has been placed by ~~the commissioner of human~~
 9.24 ~~services, the commissioner's agent, or~~ a licensed child-placing agency. The provisions of
 9.25 this subdivision shall not apply if:

- 9.26 (1) the person to be adopted is over 14 years of age;
- 9.27 (2) the child is sought to be adopted by an individual who is related to the child, as
 9.28 defined by section 245A.02, subdivision 13;
- 9.29 (3) the child has been lawfully placed under the laws of another state while the child
 9.30 and petitioner resided in that other state;
- 9.31 (4) the court waives the requirement of this subdivision in the best interests of the
 9.32 child or petitioners, provided that the adoption does not involve a placement as defined in
 9.33 section 259.21, subdivision 8; or
- 9.34 (5) the child has been lawfully placed under section 259.47.

9.35 Sec. 10. Minnesota Statutes 2010, section 259.23, subdivision 1, is amended to read:

10.1 Subdivision 1. **Venue.** (a) ~~Except as provided in section 260C.101, subdivision 2,~~
10.2 The juvenile court shall have original jurisdiction in all adoption proceedings. The proper
10.3 venue for an adoption proceeding shall be the county of the petitioner's residence, except
10.4 as provided in ~~paragraph (b)~~ section 260C.621, subdivision 2, for the adoption of children
10.5 under the guardianship of the commissioner.

10.6 ~~(b) Venue for the adoption of a child committed to the guardianship of the~~
10.7 ~~commissioner of human services shall be the county with jurisdiction in the matter~~
10.8 ~~according to section 260C.317, subdivision 3.~~

10.9 ~~(c) Upon request of the petitioner, the court having jurisdiction over the matter under~~
10.10 ~~section 260C.317, subdivision 3, may transfer venue of an adoption proceeding involving~~
10.11 ~~a child under the guardianship of the commissioner to the county of the petitioner's~~
10.12 ~~residence upon determining that:~~

10.13 ~~(1) the commissioner has given consent to the petitioner's adoption of the child~~
10.14 ~~or that consent is unreasonably withheld;~~

10.15 ~~(2) there is no other adoption petition for the child that has been filed or is reasonably~~
10.16 ~~anticipated by the commissioner or the commissioner's delegate to be filed; and~~

10.17 ~~(3) transfer of venue is in the best interests of the child.~~

10.18 Transfer of venue under this paragraph shall be according to the rules of adoption court
10.19 procedure.

10.20 ~~(d)~~ (b) In all ~~other~~ adoptions under this chapter, if the petitioner has acquired a new
10.21 residence in another county and requests a transfer of the adoption proceeding, the court in
10.22 which an adoption is initiated may transfer the proceeding to the appropriate court in the
10.23 new county of residence if the transfer is in the best interests of the person to be adopted.
10.24 The court transfers the proceeding by ordering a continuance and by forwarding to the
10.25 court administrator of the appropriate court a certified copy of all papers filed, together
10.26 with an order of transfer. The transferring court also shall forward copies of the order
10.27 of transfer to the commissioner of human services and any agency participating in the
10.28 proceedings. The judge of the receiving court shall accept the order of the transfer and any
10.29 other documents transmitted and hear the case; provided, however, the receiving court
10.30 may in its discretion require the filing of a new petition prior to the hearing.

10.31 Sec. 11. Minnesota Statutes 2010, section 259.24, subdivision 1, is amended to read:

10.32 Subdivision 1. **Exceptions.** (a) No child shall be adopted without the consent of the
10.33 child's parents and the child's guardian, if there be one, except ~~in the following instances~~
10.34 consent is not required of a parent:

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11.1 ~~(a) Consent shall not be required of a parent (1) who is not entitled to notice of the~~
11.2 ~~proceedings;~~

11.3 ~~(b) Consent shall not be required of a parent (2) who has abandoned the child, or~~
11.4 ~~of a parent who has lost custody of the child through a divorce decree or a decree of~~
11.5 ~~dissolution, and upon whom notice has been served as required by section 259.49; or~~

11.6 ~~(c) Consent shall not be required of a parent (3) whose parental rights to the child~~
11.7 ~~have been terminated by a juvenile court or who has lost custody of a child through a final~~
11.8 ~~commitment of the juvenile court or through a decree in a prior adoption proceeding.~~

11.9 ~~(d) If there be no parent or guardian qualified to consent to the adoption, the~~
11.10 ~~consent shall be given by the commissioner. After the court accepts a parent's consent~~
11.11 ~~to the adoption under section 260C.201, subdivision 11, consent by the commissioner~~
11.12 ~~or commissioner's delegate is also necessary. Agreement to the identified prospective~~
11.13 ~~adoptive parent by the responsible social services agency under section 260C.201,~~
11.14 ~~subdivision 11, does not constitute the required consent.~~

11.15 ~~(e) (b) If there is no parent or guardian qualified to consent to the adoption, the~~
11.16 ~~commissioner or agency having authority to place a child for adoption pursuant to section~~
11.17 ~~259.25, subdivision 1, shall have the exclusive right to consent to the adoption of such the~~
11.18 ~~child. The commissioner or agency shall make every effort to place siblings together for~~
11.19 ~~adoption. Notwithstanding any rule to the contrary, the commissioner may delegate the~~
11.20 ~~right to consent to the adoption or separation of siblings, if it is in the child's best interest,~~
11.21 ~~to a local social services agency.~~

11.22 Sec. 12. Minnesota Statutes 2010, section 259.24, subdivision 3, is amended to read:

11.23 Subd. 3. **Child.** When the child to be adopted is over 14 years of age, the child's
11.24 written consent to adoption by a particular person is also necessary. ~~A child of any age~~
11.25 ~~who is under the guardianship of the commissioner and is legally available for adoption~~
11.26 ~~may not refuse or waive the commissioner's agent's exhaustive efforts to recruit, identify,~~
11.27 ~~and place the child in an adoptive home required under section 260C.317, subdivision~~
11.28 ~~3, paragraph (b), or sign a document relieving county social services agencies of all~~
11.29 ~~recruitment efforts on the child's behalf.~~

11.30 Sec. 13. Minnesota Statutes 2010, section 259.24, subdivision 5, is amended to read:

11.31 Subd. 5. **Execution.** All consents to an adoption shall be in writing, executed
11.32 before two competent witnesses, and acknowledged by the consenting party. ~~In addition,~~
11.33 ~~all consents to an adoption, except those by the commissioner, the commissioner's agent,~~
11.34 ~~a licensed child-placing agency, an adult adoptee, or the child's parent in a petition for~~

S.F. No. 1675, 3rd Engrossment - 87th Legislative Session (2011-2012) [S1675-3]

12.1 ~~adoption by a stepparent, shall be executed before a representative of the commissioner,~~
12.2 ~~the commissioner's agent, or a licensed child-placing agency.~~ All consents by a parent
12.3 to adoption under this chapter:

12.4 (1) shall contain notice to the parent of the substance of subdivision 6a, providing
12.5 for the right to withdraw consent unless the parent will not have the right to withdraw
12.6 consent ~~because consent was executed under section 260C.201, subdivision 11, following~~
12.7 ~~proper notice that consent given under that provision is irrevocable upon acceptance by~~
12.8 ~~the court as provided in subdivision 6a; and~~

12.9 (2) shall contain the following written notice in all capital letters at least one-eighth
12.10 inch high:

12.11 "~~This~~ The agency responsible for supervising the adoptive placement of the child
12.12 will submit your consent to adoption to the court. If you are consenting to adoption by
12.13 the child's stepparent, the consent will be submitted to the court by the petitioner in your
12.14 child's adoption. The consent itself does not terminate your parental rights. Parental rights
12.15 to a child may be terminated only by an adoption decree or by a court order terminating
12.16 parental rights. Unless the child is adopted or your parental rights are terminated, you
12.17 may be asked to support the child."

12.18 Consents shall be filed in the adoption proceedings at any time before the matter
12.19 is heard provided, however, that a consent executed and acknowledged outside of this
12.20 state, either in accordance with the law of this state or in accordance with the law of the
12.21 place where executed, is valid.

12.22 Sec. 14. Minnesota Statutes 2010, section 259.24, subdivision 6a, is amended to read:

12.23 Subd. 6a. **Withdrawal of consent.** ~~Except for consents executed under section~~
12.24 ~~260C.201, subdivision 11,~~ A parent's consent to adoption under this chapter may be
12.25 withdrawn for any reason within ten working days after the consent is executed and
12.26 acknowledged. No later than the tenth working day after the consent is executed and
12.27 acknowledged, written notification of withdrawal of consent must be received by: (1)
12.28 the agency to which the child was surrendered ~~no later than the tenth working day after~~
12.29 ~~the consent is executed and acknowledged;~~ (2) the agency supervising the adoptive
12.30 placement of the child; or (3) in the case of adoption by a stepparent or any adoption
12.31 not involving agency placement or supervision, by the district court where the adopting
12.32 stepparent or parent resides. On the day following the tenth working day after execution
12.33 and acknowledgment, the consent shall become irrevocable, except upon order of a court
12.34 of competent jurisdiction after written findings that consent was obtained by fraud. ~~A~~
12.35 ~~consent to adopt executed under section 260C.201, subdivision 11, is irrevocable upon~~

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13.1 ~~proper notice to both parents of the effect of a consent to adopt and acceptance by the~~
13.2 ~~court, except upon order of the same court after written findings that the consent was~~
13.3 ~~obtained by fraud. In proceedings to determine the existence of fraud, the adoptive parents~~
13.4 ~~and the child shall be made parties.~~ The proceedings shall be conducted to preserve the
13.5 confidentiality of the adoption process. There shall be no presumption in the proceedings
13.6 favoring the birth parents over the adoptive parents.

13.7 Sec. 15. Minnesota Statutes 2010, section 259.24, subdivision 7, is amended to read:

13.8 Subd. 7. **Withholding consent; reason.** Consent to an adoption shall not be
13.9 unreasonably withheld by a guardian, who is not a parent of the child, ~~by the commissioner~~
13.10 or by an agency.

13.11 Sec. 16. Minnesota Statutes 2010, section 259.29, subdivision 2, is amended to read:

13.12 Subd. 2. **Placement with relative or friend.** The authorized child-placing agency
13.13 shall consider placement, consistent with the child's best interests and in the following
13.14 order, with (1) a relative or relatives of the child, or (2) an important friend with whom the
13.15 child has resided or had significant contact. In implementing this section, an authorized
13.16 child-placing agency may disclose private or confidential data, as defined in section 13.02,
13.17 to relatives of the child for the purpose of locating a suitable adoptive home. The agency
13.18 shall disclose only data that is necessary to facilitate implementing the preference.

13.19 If the child's birth parent or parents explicitly request that placement with relatives a
13.20 specific relative or important ~~friends~~ friend not be considered, the authorized child-placing
13.21 agency shall honor that request if it is consistent with the best interests of the child and
13.22 consistent with the requirements of sections 260C.212, subdivision 2, and 260C.221.

13.23 If the child's birth parent or parents express a preference for placing the child in an
13.24 adoptive home of the same or a similar religious background to that of the birth parent
13.25 or parents, the agency shall place the child with a family that meets the birth parent's
13.26 religious preference.

13.27 This subdivision does not affect the Indian Child Welfare Act, United States
13.28 Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation
13.29 Act, sections 260.751 to 260.835.

13.30 Sec. 17. Minnesota Statutes 2010, section 260C.193, subdivision 3, is amended to read:

13.31 Subd. 3. **Best interest of the child in foster care ~~or residential care.~~** (a) The
13.32 policy of the state is to ensure that the best interests of children in foster ~~or residential~~
13.33 care are met by requiring individualized determinations under section 260C.212, subdivision 2,

14.1 paragraph (b), of the needs of the child and of how the selected placement will serve the
14.2 needs of the child in foster care placements.

14.3 (b) The court shall review whether the responsible social services agency made
14.4 efforts as required under section ~~260C.212, subdivision 5~~ 260C.221, and made an
14.5 individualized determination as required under section 260C.212, subdivision 2. If
14.6 the court finds the agency has not made efforts as required under section ~~260C.212,~~
14.7 ~~subdivision 5~~ 260C.221, and there is a relative who qualifies to be licensed to provide
14.8 family foster care under chapter 245A, the court may order the child placed with the
14.9 relative consistent with the child's best interests.

14.10 (c) If the child's birth parent or parents explicitly request that a relative or important
14.11 friend not be considered, the court shall honor that request if it is consistent with the
14.12 best interests of the child and consistent with the requirements of section 260C.221. If
14.13 the child's birth parent or parents express a preference for placing the child in a foster or
14.14 adoptive home of the same or a similar religious background to that of the birth parent
14.15 or parents, the court shall order placement of the child with an individual who meets the
14.16 birth parent's religious preference.

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

14.19 (e) Whenever possible, siblings requiring foster care placement should be placed
14.20 together unless it is determined not to be in the best interests of a sibling after weighing
14.21 the benefits of separate placement against the benefits of sibling connections for each
14.22 sibling. If siblings are not placed together according to section 260C.212, subdivision 2,
14.23 paragraph (d), the responsible social services agency shall report to the court the efforts
14.24 made to place the siblings together and why the efforts were not successful. If the court is
14.25 not satisfied with the agency's efforts to place siblings together, the court may order the
14.26 agency to make further efforts. If siblings are not placed together the court shall review
14.27 the responsible social services agency's plan for visitation among siblings required as part
14.28 of the out-of-home placement plan under section 260C.212.

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

14.32 Sec. 18. Minnesota Statutes 2010, section 260C.201, subdivision 11a, is amended to
14.33 read:

14.34 Subd. 11a. **Permanency progress review for children under eight in foster care**
14.35 **for six months.** (a) ~~If the child was under eight years of age at the time the petition~~

15.1 ~~was filed alleging the child was in need of protection or services, and the~~ When a child
15.2 continues in placement out of the home of the parent or guardian from whom the child
15.3 was removed, no later than six months after the child's placement the court shall conduct a
15.4 permanency progress hearing to review:

15.5 (1) the progress of the case, the parent's progress on the case plan or out-of-home
15.6 placement plan, ~~and~~ whichever is applicable;

15.7 (2) the agency's reasonable, or in the case of an Indian child, active efforts for
15.8 reunification and its provision of services;

15.9 (3) the agency's reasonable efforts to finalize the permanent plan for the child
15.10 under section 260.012, paragraph (e), and to make a placement as required under section
15.11 260C.212, subdivision 2, in a home that will commit to being the legally permanent
15.12 family for the child in the event the child cannot return home according to the timelines
15.13 in this section; and

15.14 (4) in the case of an Indian child, active efforts to prevent the breakup of the Indian
15.15 family and to make a placement according to the placement preferences under United
15.16 States Code, title 25, chapter 21, section 1915.

15.17 ~~(b) Based on its assessment of the parent's or guardian's progress on the out-of-home~~
15.18 ~~placement plan, the responsible social services agency must ask the county attorney to file~~
15.19 ~~a petition for termination of parental rights, a petition for transfer of permanent legal and~~
15.20 ~~physical custody to a relative, or the report required under juvenile court rules.~~

15.21 (b) The court shall ensure that notice of the hearing is sent to any relative who:

15.22 (1) responded to the agency's notice provided under section 260C.221 indicating an
15.23 interest in participating in planning for the child or being a permanency resource for the
15.24 child and who has kept the court apprised of his or her address; or

15.25 (2) asked to be notified of court proceedings regarding the child as is permitted in
15.26 section 260C.152, subdivision 5.

15.27 (c)(1) If the parent or guardian has maintained contact with the child and is
15.28 complying with the court-ordered out-of-home placement plan, and if the child would
15.29 benefit from reunification with the parent, the court may either:

15.30 (i) return the child home, if the conditions which led to the out-of-home placement
15.31 have been sufficiently mitigated that it is safe and in the child's best interests to return
15.32 home; or

15.33 (ii) continue the matter up to a total of six additional months. If the child has not
15.34 returned home by the end of the additional six months, the court must conduct a hearing
15.35 according to subdivision 11.

16.1 (2) If the court determines that the parent or guardian is not complying with the
16.2 out-of-home placement plan or is not maintaining regular contact with the child as outlined
16.3 in the visitation plan required as part of the out-of-home placement plan under section
16.4 260C.212, the court may order the responsible social services agency:

16.5 (i) to develop a plan for legally permanent placement of the child away from the
16.6 parent ~~and~~;

16.7 (ii) to consider, identify, recruit, and support one or more permanency resources
16.8 from the child's relatives and foster parent to be the legally permanent home in the event
16.9 the child cannot be returned to the parent. Any relative or the child's foster parent may
16.10 ask the court to order the agency to consider them for permanent placement of the child
16.11 in the event the child cannot be returned to the parent. A relative or foster parent who
16.12 wants to be considered under this item shall cooperate with the background study required
16.13 under section 245C.08, if the individual has not already done so, and with the home study
16.14 process required under chapter 245A for providing child foster care and for adoption
16.15 under section 259.41; the home study referred to in this item shall be a single-home study
16.16 in the form required by the commissioner of human services or similar study required
16.17 by the individual's state of residence when the subject of the study is not a resident of
16.18 Minnesota; the court may order the responsible social services agency to make a referral
16.19 under the Interstate Compact on the Placement of Children, sections 260.851 et al., when
16.20 necessary to obtain a home study for an individual who wants to be considered for transfer
16.21 of permanent legal and physical custody or adoption of the child; and

16.22 (iii) to file a petition to support an order for the legally permanent placement plan.

16.23 (d) Following the review under ~~paragraphs (b) and (c)~~ this subdivision:

16.24 (1) if the court has either returned the child home or continued the matter up to a
16.25 total of six additional months, the agency shall continue to provide services to support the
16.26 child's return home or to make reasonable efforts to achieve reunification of the child and
16.27 the parent as ordered by the court under an approved case plan;

16.28 (2) if the court orders the agency to develop a plan for the transfer of permanent
16.29 legal and physical custody of the child to a relative, a petition supporting the plan shall be
16.30 filed in juvenile court within 30 days of the hearing required under this subdivision and a
16.31 trial on the petition held within ~~30~~ 60 days of the filing of the pleadings; or

16.32 (3) if the court orders the agency to file a termination of parental rights, unless the
16.33 county attorney can show cause why a termination of parental rights petition should not be
16.34 filed, a petition for termination of parental rights shall be filed in juvenile court within
16.35 30 days of the hearing required under this subdivision and a trial on the petition held
16.36 within ~~90~~ 60 days of the filing of the petition.

17.1 Sec. 19. Minnesota Statutes 2010, section 260C.212, subdivision 1, is amended to read:

17.2 Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan
17.3 shall be prepared within 30 days after any child is placed in foster care by court order or a
17.4 voluntary placement agreement between the responsible social services agency and the
17.5 child's parent pursuant to subdivision 8 or chapter 260D.

17.6 (b) An out-of-home placement plan means a written document which is prepared by
17.7 the responsible social services agency jointly with the parent or parents or guardian of the
17.8 child and in consultation with the child's guardian ad litem, the child's tribe, if the child
17.9 is an Indian child, the child's foster parent or representative of the ~~residential~~ foster care
17.10 facility, and, where appropriate, the child. For a child in voluntary foster care for treatment
17.11 under chapter 260D, preparation of the out-of-home placement plan shall additionally
17.12 include the child's mental health treatment provider. As appropriate, the plan shall be:

17.13 (1) submitted to the court for approval under section 260C.178, subdivision 7;

17.14 (2) ordered by the court, either as presented or modified after hearing, under section
17.15 260C.178, subdivision 7, or 260C.201, subdivision 6; and

17.16 (3) signed by the parent or parents or guardian of the child, the child's guardian ad
17.17 litem, a representative of the child's tribe, the responsible social services agency, and, if
17.18 possible, the child.

17.19 (c) The out-of-home placement plan shall be explained to all persons involved in its
17.20 implementation, including the child who has signed the plan, and shall set forth:

17.21 (1) a description of the ~~residential facility~~ foster care home or facility selected
17.22 including how the out-of-home placement plan is designed to achieve a safe placement
17.23 for the child in the least restrictive, most family-like, setting available which is in close
17.24 proximity to the home of the parent or parents or guardian of the child when the case plan
17.25 goal is reunification, and how the placement is consistent with the best interests and
17.26 special needs of the child according to the factors under subdivision 2, paragraph (b);

17.27 (2) the specific reasons for the placement of the child in a ~~residential facility~~ foster
17.28 care, and when reunification is the plan, a description of the problems or conditions in the
17.29 home of the parent or parents which necessitated removal of the child from home and the
17.30 changes the parent or parents must make in order for the child to safely return home;

17.31 (3) a description of the services offered and provided to prevent removal of the child
17.32 from the home and to reunify the family including:

17.33 (i) the specific actions to be taken by the parent or parents of the child to eliminate
17.34 or correct the problems or conditions identified in clause (2), and the time period during
17.35 which the actions are to be taken; and

18.1 (ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made
18.2 to achieve a safe and stable home for the child including social and other supportive
18.3 services to be provided or offered to the parent or parents or guardian of the child, the
18.4 child, and the residential facility during the period the child is in the residential facility;

18.5 (4) a description of any services or resources that were requested by the child or the
18.6 child's parent, guardian, foster parent, or custodian since the date of the child's placement
18.7 in the residential facility, and whether those services or resources were provided and if
18.8 not, the basis for the denial of the services or resources;

18.9 (5) the visitation plan for the parent or parents or guardian, other relatives as defined
18.10 in section 260C.007, subdivision 27, and siblings of the child if the siblings are not placed
18.11 together in foster care, and whether visitation is consistent with the best interest of the
18.12 child, during the period the child is in foster care;

18.13 (6) documentation of steps to finalize the adoption or legal guardianship of the child
18.14 if the court has issued an order terminating the rights of both parents of the child or of the
18.15 only known, living parent of the child. At a minimum, the documentation must include
18.16 child-specific recruitment efforts such as relative search and the use of state, regional, and
18.17 national adoption exchanges to facilitate orderly and timely placements in and outside
18.18 of the state. A copy of this documentation shall be provided to the court in the review
18.19 required under section 260C.317, subdivision 3, paragraph (b);

18.20 (7) efforts to ensure the child's educational stability while in foster care, including:

18.21 (i) efforts to ensure that the child ~~in placement~~ remains in the same school in which
18.22 the child was enrolled prior to placement or upon the child's move from one placement
18.23 to another, including efforts to work with the local education authorities to ensure the
18.24 child's educational stability; or

18.25 (ii) if it is not in the child's best interest to remain in the same school that the child
18.26 was enrolled in prior to placement or move from one placement to another, efforts to
18.27 ensure immediate and appropriate enrollment for the child in a new school;

18.28 (8) the educational records of the child including the most recent information
18.29 available regarding:

18.30 (i) the names and addresses of the child's educational providers;

18.31 (ii) the child's grade level performance;

18.32 (iii) the child's school record;

18.33 (iv) a statement about how the child's placement in foster care takes into account
18.34 proximity to the school in which the child is enrolled at the time of placement; and

18.35 (v) any other relevant educational information;

- 19.1 (9) the efforts by the local agency to ensure the oversight and continuity of health
19.2 care services for the foster child, including:
- 19.3 (i) the plan to schedule the child's initial health screens;
- 19.4 (ii) how the child's known medical problems and identified needs from the screens,
19.5 including any known communicable diseases, as defined in section 144.4172, subdivision
19.6 2, will be monitored and treated while the child is in foster care;
- 19.7 (iii) how the child's medical information will be updated and shared, including
19.8 the child's immunizations;
- 19.9 (iv) who is responsible to coordinate and respond to the child's health care needs,
19.10 including the role of the parent, the agency, and the foster parent;
- 19.11 (v) who is responsible for oversight of the child's prescription medications;
- 19.12 (vi) how physicians or other appropriate medical and nonmedical professionals
19.13 will be consulted and involved in assessing the health and well-being of the child and
19.14 determine the appropriate medical treatment for the child; and
- 19.15 (vii) the responsibility to ensure that the child has access to medical care through
19.16 either medical insurance or medical assistance;
- 19.17 (10) the health records of the child including information available regarding:
- 19.18 (i) the names and addresses of the child's health care and dental care providers;
- 19.19 (ii) a record of the child's immunizations;
- 19.20 (iii) the child's known medical problems, including any known communicable
19.21 diseases as defined in section 144.4172, subdivision 2;
- 19.22 (iv) the child's medications; and
- 19.23 (v) any other relevant health care information such as the child's eligibility for
19.24 medical insurance or medical assistance;
- 19.25 (11) an independent living plan for a child age 16 or older ~~who is in placement as~~
19.26 ~~a result of a permanency disposition~~. The plan should include, but not be limited to,
19.27 the following objectives:
- 19.28 (i) educational, vocational, or employment planning;
- 19.29 (ii) health care planning and medical coverage;
- 19.30 (iii) transportation including, where appropriate, assisting the child in obtaining a
19.31 driver's license;
- 19.32 (iv) money management, including the responsibility of the agency to ensure that
19.33 the youth annually receives, at no cost to the youth, a consumer report as defined under
19.34 section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report;
- 19.35 (v) planning for housing;
- 19.36 (vi) social and recreational skills; and

20.1 (vii) establishing and maintaining connections with the child's family and
20.2 community; and

20.3 (12) for a child in voluntary foster care for treatment under chapter 260D, diagnostic
20.4 and assessment information, specific services relating to meeting the mental health care
20.5 needs of the child, and treatment outcomes.

20.6 (d) The parent or parents or guardian and the child each shall have the right to legal
20.7 counsel in the preparation of the case plan and shall be informed of the right at the time
20.8 of placement of the child. The child shall also have the right to a guardian ad litem.
20.9 If unable to employ counsel from their own resources, the court shall appoint counsel
20.10 upon the request of the parent or parents or the child or the child's legal guardian. The
20.11 parent or parents may also receive assistance from any person or social services agency
20.12 in preparation of the case plan.

20.13 After the plan has been agreed upon by the parties involved or approved or ordered
20.14 by the court, the foster parents shall be fully informed of the provisions of the case plan
20.15 and shall be provided a copy of the plan.

20.16 Upon discharge from foster care, the parent, adoptive parent, or permanent legal and
20.17 physical custodian, as appropriate, and the child, if appropriate, must be provided with
20.18 a current copy of the child's health and education record.

20.19 Sec. 20. Minnesota Statutes 2010, section 260C.212, subdivision 2, is amended to read:

20.20 Subd. 2. **Placement decisions based on best interest of the child.** (a) The policy
20.21 of the state of Minnesota is to ensure that the child's best interests are met by requiring an
20.22 individualized determination of the needs of the child and of how the selected placement
20.23 will serve the needs of the child being placed. The authorized child-placing agency shall
20.24 place a child, released by court order or by voluntary release by the parent or parents, in
20.25 a family foster home selected by considering placement with relatives and important
20.26 friends in the following order:

20.27 (1) with an individual who is related to the child by blood, marriage, or adoption; or
20.28 (2) with an individual who is an important friend with whom the child has resided or
20.29 had significant contact.

20.30 (b) Among the factors the agency shall consider in determining the needs of the
20.31 child are the following:

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

20.33 (2) the medical; needs of the child;

20.34 (3) the educational; and needs of the child;

20.35 (4) the developmental needs of the child;

- 21.1 ~~(3)~~ (5) the child's history and past experience;
21.2 ~~(4)~~ (6) the child's religious and cultural needs;
21.3 ~~(5)~~ (7) the child's connection with a community, school, and faith community;
21.4 ~~(6)~~ (8) the child's interests and talents;
21.5 ~~(7)~~ (9) the child's relationship to current caretakers, parents, siblings, and relatives;

21.6 and

- 21.7 ~~(8)~~ (10) the reasonable preference of the child, if the court, or the child-placing
21.8 agency in the case of a voluntary placement, deems the child to be of sufficient age to
21.9 express preferences.

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

21.12 (d) Siblings should be placed together for foster care and adoption at the earliest
21.13 possible time unless it is documented that a joint placement would be contrary to the
21.14 safety or well-being of any of the siblings or unless it is not possible after reasonable
21.15 efforts by the responsible social services agency. In cases where siblings cannot be placed
21.16 together, the agency is required to provide frequent visitation or other ongoing interaction
21.17 between siblings unless the agency documents that the interaction would be contrary to
21.18 the safety or well-being of any of the siblings.

21.19 (e) Except for emergency placement as provided for in section 245A.035, a
21.20 completed background study is required under section 245C.08 before the approval of a
21.21 foster placement in a related or unrelated home.

21.22 Sec. 21. Minnesota Statutes 2010, section 260C.212, subdivision 5, is amended to read:

21.23 Subd. 5. **Relative search.** (a) The responsible social services agency shall exercise
21.24 due diligence to identify and notify adult relatives prior to placement or within 30 days
21.25 after the child's removal from the parent. The county agency shall consider placement
21.26 with a relative under ~~subdivision 2~~ section 260C.221 without delay. The relative search
21.27 required by this section shall be reasonable and comprehensive in scope and may last up
21.28 to six months or until a fit and willing relative is identified. The relative search required by
21.29 this section shall include both maternal relatives of the child and paternal relatives of the
21.30 child, if paternity is adjudicated. The relatives must be notified:

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

21.34 (2) of their responsibility to keep the responsible social services agency and the court
21.35 informed of their current address in order to receive notice in the event that a permanent

22.1 placement is sought for the child and to receive notice of the permanency progress review
22.2 hearing under section 260C.204. A relative who fails to provide a current address to the
22.3 responsible social services agency and the court forfeits the right to receive notice of
22.4 the possibility of permanent placement and of the permanency progress review hearing
22.5 under section 260C.204. A decision by a relative not to be a placement resource at the
22.6 beginning of the case shall not affect whether the relative is considered for placement of
22.7 the child with that relative later;

22.8 (3) that the relative may participate in the care and planning for the child, including
22.9 that the opportunity for such participation may be lost by failing to respond to the notice
22.10 sent under this subdivision; and

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

22.15 (b) A responsible social services agency may disclose private or confidential data,
22.16 as defined in section 13.02, to relatives of the child for the purpose of locating a suitable
22.17 placement. The agency shall disclose only data that is necessary to facilitate possible
22.18 placement with relatives. If the child's parent refuses to give the responsible social
22.19 services agency information sufficient to identify the maternal and paternal relatives of the
22.20 child, the agency shall ask the juvenile court to order the parent to provide the necessary
22.21 information. If a parent makes an explicit request that ~~relatives or~~ a specific relative not
22.22 be contacted or considered for placement due to safety reasons including past family or
22.23 domestic violence, the agency shall bring the parent's request to the attention of the court
22.24 to determine whether the parent's request is consistent with the best interests of the child
22.25 and the agency shall not contact ~~relatives or a~~ the specific relative ~~unless authorized to do~~
22.26 ~~so by~~ when the juvenile court finds that contacting the specific relative would endanger
22.27 the parent, guardian, child, sibling, or any family member.

22.28 (c) When the placing agency determines that a permanent placement hearing is
22.29 necessary because there is a likelihood that the child will not return to a parent's care, the
22.30 agency may send the notice provided in paragraph (d), may ask the court to modify the
22.31 requirements of the agency under this paragraph, or may ask the court to completely
22.32 relieve the agency of the requirements of ~~this paragraph (d).~~ The relative notification
22.33 ~~requirements of this paragraph do not apply when the child is placed with an appropriate~~
22.34 ~~relative or a foster home that has committed to being the permanent legal placement for~~
22.35 ~~the child and the agency approves of that foster home for permanent placement of the~~

23.1 ~~child.~~ The actions ordered by the court under this section must be consistent with the best
23.2 interests, safety, and welfare of the child.

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

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

23.18 Sec. 22. Minnesota Statutes 2010, section 260C.212, subdivision 7, is amended to read:

23.19 Subd. 7. **Administrative or court review of placements.** (a) There shall be an
23.20 administrative review of the out-of-home placement plan of each child placed in foster
23.21 care no later than 180 days after the initial placement of the child in foster care and at least
23.22 every six months thereafter if the child is not returned to the home of the parent or parents
23.23 within that time. The out-of-home placement plan must be monitored and updated at each
23.24 administrative review. The administrative review shall be conducted by the responsible
23.25 social services agency using a panel of appropriate persons at least one of whom is not
23.26 responsible for the case management of, or the delivery of services to, either the child or
23.27 the parents who are the subject of the review. The administrative review shall be open to
23.28 participation by the parent or guardian of the child and the child, as appropriate.

23.29 (b) As an alternative to the administrative review required in paragraph (a), the court
23.30 may, as part of any hearing required under the Minnesota Rules of Juvenile Protection
23.31 Procedure, conduct a hearing to monitor and update the out-of-home placement plan
23.32 pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d).
23.33 The party requesting review of the out-of-home placement plan shall give parties to the
23.34 proceeding notice of the request to review and update the out-of-home placement plan.
23.35 A court review conducted pursuant to section 260C.193; 260C.201, subdivision 1 or 11;

24.1 260C.141, subdivision 2; 260C.317; or 260D.06 shall satisfy the requirement for the
24.2 review so long as the other requirements of this section are met.

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

24.5 (1) the safety, permanency needs, and well-being of the child;

24.6 (2) the continuing necessity for and appropriateness of the placement;

24.7 (3) the extent of compliance with the out-of-home placement plan;

24.8 (4) the extent of progress which has been made toward alleviating or mitigating the
24.9 causes necessitating placement in foster care;

24.10 (5) the projected date by which the child may be returned to and safely maintained in
24.11 the home or placed permanently away from the care of the parent or parents or guardian;
24.12 and

24.13 (6) the appropriateness of the services provided to the child.

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

24.22 (1) At the court review, the responsible social services agency shall establish that it
24.23 has given the notice required under section 260C.456 or Minnesota Rules, part 9560.0660,
24.24 regarding the right to continued access to services for certain children in foster care past
24.25 age 18 and of the right to appeal a denial of social services under section 256.045. If the
24.26 agency is unable to establish that the notice, including the right to appeal a denial of social
24.27 services, has been given, the court shall require the agency to give it.

24.28 (2) Consistent with the requirements of the independent living plan, the court shall
24.29 review progress toward or accomplishment of the following goals:

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

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

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

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

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

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

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

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

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

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

25.12 (xi) the child has a permanent connection to a caring adult.

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

25.19 (e) When a child is age 17 or older, during the 90-day period immediately prior to
25.20 the date the child is expected to be discharged from foster care, the responsible social
25.21 services agency is required to provide the child with assistance and support in developing
25.22 a transition plan that is personalized at the direction of the child. The transition plan
25.23 must be as detailed as the child may elect and include specific options on housing, health
25.24 insurance, education, local opportunities for mentors and continuing support services, and
25.25 work force supports and employment services. The agency shall ensure that the youth
25.26 receives, at no cost to the youth, a copy of the youth's consumer credit report as defined
25.27 in section 13C.001 and assistance in interpreting and resolving any inaccuracies in the
25.28 report. The county agency shall also provide the individual youth with appropriate contact
25.29 information if the individual youth needs more information or needs help dealing with a
25.30 crisis situation through age 21.

25.31 Sec. 23. Minnesota Statutes 2010, section 260C.217, is amended to read:

25.32 **260C.217 SAFE PLACE FOR NEWBORNS.**

25.33 Subdivision 1. **Duty to attempt reunification, duty to search for relatives, and**
25.34 **preferences not applicable.** A local responsible social service agency ~~taking custody of~~
25.35 with legal responsibility for a child after discharge from a hospital that received a child

26.1 ~~under section 145.902~~ under subdivision 4 is not required to attempt to reunify the child
26.2 with the child's parents. Additionally, the agency is not required to search for relatives
26.3 of the child as a placement or permanency option under section 260C.212, subdivision
26.4 5, or to implement other placement requirements that give a preference to relatives if
26.5 the agency does not have information as to the identity of the child, the child's mother,
26.6 or the child's father.

26.7 Subd. 1a. **Safe place.** For purposes of this section, "safe place" means a hospital
26.8 under sections 144.50 to 144.56, health care provider that provides access to urgent care
26.9 services, or a sheriff's office during its hours of operation.

26.10 Subd. 2. **Status of child.** For purposes of proceedings under this chapter ~~and~~,
26.11 including adoption proceedings, a newborn left at a ~~hospital~~ safe place or with a 911
26.12 responder under ~~section 145.902~~ subdivision 3 is considered an abandoned child under
26.13 section 626.556, subdivision 2, paragraph (c), clause (3). The child is abandoned under
26.14 sections 260C.007, subdivision 6, clause (1), and 260C.301, subdivision 1, paragraph
26.15 (b), clause (1).

26.16 Subd. 3. **Relinquish newborn.** A mother or any person, with the mother's
26.17 permission, may bring a newborn infant to a safe place during its hours of operation
26.18 and leave the infant in the care of an employee of the safe place. The mother or person
26.19 with the mother's permission may also call 911 and request to have an ambulance or
26.20 other emergency responder under section 299J.02, subdivision 6, dispatched to an agreed
26.21 upon location to relinquish a newborn infant into the custody of the 911 responder to be
26.22 transported to a hospital. A safe place that is not a hospital must relinquish the child in
26.23 accordance with section 145.902, subdivision 1, paragraph (d).

26.24 Subd. 4. **Placement of newborn.** A hospital with whom a newborn is left shall,
26.25 within 24 hours, report receiving the newborn to the responsible social services agency.
26.26 The agency shall have legal responsibility for the placement of the newborn infant in
26.27 foster care for 72 hours during which time the agency shall file a petition under section
26.28 260C.141 and ask the court to order continued placement of the child in foster care. The
26.29 agency shall immediately begin planning for adoptive placement of the newborn.

26.30 Subd. 5. **Care and treatment.** A safe place or 911 responder with whom a newborn
26.31 is left may examine the newborn and provide necessary care and treatment, if any is
26.32 required, pending assumption of legal responsibility by the responsible social services
26.33 agency under subdivision 4.

26.34 Subd. 6. **Immunity.** A safe place or 911 responder with responsibility for
26.35 performing duties under this section, and any employee, doctor, or other medical, fire, or
26.36 law enforcement professional receiving, handling, treating, caring for, and reporting the

27.1 child as required in subdivision 4, are immune from any criminal liability that otherwise
27.2 might result from their actions, if they are acting in good faith in receiving a newborn, and
27.3 are immune from any civil liability that otherwise might result from merely receiving a
27.4 newborn.

27.5 Sec. 24. Minnesota Statutes 2010, section 260C.317, subdivision 3, is amended to read:

27.6 Subd. 3. **Order; retention of jurisdiction.** (a) A certified copy of the findings and
27.7 the order terminating parental rights, and a summary of the court's information concerning
27.8 the child shall be furnished by the court to the commissioner or the agency to which
27.9 guardianship is transferred.

27.10 (b) The orders shall be on a document separate from the findings. The court shall
27.11 furnish the ~~individual to whom guardianship is transferred~~ guardian a copy of the order
27.12 terminating parental rights.

27.13 ~~(b)~~ (c) When the court orders guardianship pursuant to this section, the court
27.14 shall retain jurisdiction in a case where adoption is the intended permanent placement
27.15 disposition until the child's adoption is finalized, the child is 18 years of age, or, for
27.16 children in foster care beyond age 18 pursuant to section 260C.451, until the individual
27.17 becomes 21 years of age according to the provisions set forth in sections 260C.193,
27.18 subdivision 6, and 260C.451. The guardian ad litem and counsel for the child shall
27.19 continue on the case until an adoption decree is entered. An in-court appearance hearing
27.20 must be held every 90 days following termination of parental rights for the court to review
27.21 progress toward an adoptive placement and the specific recruitment efforts the agency
27.22 has taken to find an adoptive family or other placement living arrangement for the child
27.23 and to finalize the adoption or other permanency plan. Review of the progress toward
27.24 adoption of a child under guardianship of the commissioner of human services shall be
27.25 conducted according to section 260C.607.

27.26 ~~(c)~~ ~~The responsible social services agency may make a determination of compelling~~
27.27 ~~reasons for a child to be in long-term foster care when the agency has made exhaustive~~
27.28 ~~efforts to recruit, identify, and place the child in an adoptive home, and the child continues~~
27.29 ~~in foster care for at least 24 months after the court has issued the order terminating~~
27.30 ~~parental rights. A child of any age who is under the guardianship of the commissioner of~~
27.31 ~~the Department of Human Services and is legally available for adoption may not refuse~~
27.32 ~~or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the~~
27.33 ~~child in an adoptive home required under paragraph (b) or sign a document relieving~~
27.34 ~~county social services agencies of all recruitment efforts on the child's behalf. Upon~~
27.35 ~~approving the agency's determination of compelling reasons, the court may order the child~~

28.1 ~~placed in long-term foster care. At least every 12 months thereafter as long as the child~~
28.2 ~~continues in out-of-home placement, the court shall conduct an in-court permanency~~
28.3 ~~review hearing to determine the future status of the child using the review requirements of~~
28.4 ~~section 260C.201, subdivision 11, paragraph (g).~~

28.5 (d) Upon terminating parental rights or upon a parent's consent to adoption
28.6 under section 260C.201, subdivision 11, resulting in an order for guardianship to the
28.7 commissioner of human services, the court shall retain jurisdiction:

28.8 (1) until the child is adopted;

28.9 (2) through the child's minority in a case where long-term; or

28.10 (3) as long as the child continues in or reenters foster care is the permanent
28.11 ~~disposition whether under paragraph (c) or section 260C.201, subdivision 11, or, for~~
28.12 ~~children in foster care age 18 or older under section 260C.451, until the individual~~
28.13 ~~becomes 21 years of age according to the provisions in sections 260C.193, subdivision 6,~~
28.14 ~~and 260C.451.~~

28.15 Sec. 25. Minnesota Statutes 2010, section 260C.317, subdivision 4, is amended to read:

28.16 Subd. 4. **Rights of terminated parent.** (a) Upon entry of an order terminating the
28.17 parental rights of any person who is identified as a parent on the original birth record of
28.18 the child as to whom the parental rights are terminated, the court shall cause written
28.19 notice to be made to that person setting forth:

28.20 (1) the right of the person to file at any time with the state registrar of vital statistics
28.21 a consent to disclosure, as defined in section 144.212, subdivision 11;

28.22 (2) the right of the person to file at any time with the state registrar of vital statistics
28.23 an affidavit stating that the information on the original birth record shall not be disclosed
28.24 as provided in section 144.2252; and

28.25 (3) the effect of a failure to file either a consent to disclosure, as defined in section
28.26 144.212, subdivision 11, or an affidavit stating that the information on the original birth
28.27 record shall not be disclosed.

28.28 (b) A parent whose rights are terminated under this section shall retain the ability to
28.29 enter into a contact or communication agreement under section 260C.619 if an agreement
28.30 is determined by the court to be in the best interests of the child. The agreement shall be
28.31 filed with the court at or prior to the time the child is adopted. An order for termination of
28.32 parental rights shall not be conditioned on an agreement under section 260C.619.

28.33 Sec. 26. Minnesota Statutes 2010, section 260C.325, subdivision 1, is amended to read:

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

- 29.4 (1) the commissioner of human services;
29.5 (2) a licensed child-placing agency; or
29.6 (3) an individual who is willing and capable of assuming the appropriate duties
29.7 and responsibilities to the child.

29.8 (b) The court shall order ~~transfer of guardianship and legal custody~~ of a child to
29.9 the commissioner of human services ~~only~~ when the responsible county social services
29.10 agency had legal responsibility for planning for the permanent placement of the child and
29.11 the child was in foster care under the legal responsibility of the responsible county social
29.12 services agency at the time the court orders guardianship ~~and legal custody~~ transferred to
29.13 the commissioner. The court shall not order guardianship to the commissioner under any
29.14 other circumstances, except as provided in subdivision 3.

29.15 Sec. 27. Minnesota Statutes 2010, section 260C.325, subdivision 3, is amended to read:

29.16 Subd. 3. **Both parents deceased.** (a) If upon petition ~~to the juvenile court for~~
29.17 guardianship by a reputable person, including but not limited to ~~an~~ the responsible social
29.18 services agency as agent of the commissioner of human services, and upon hearing in
29.19 the manner provided in section 260C.163, the court finds that both parents or the only
29.20 known legal parent are or is deceased and no appointment has been made or petition for
29.21 appointment filed pursuant to sections 524.5-201 to 524.5-317, the court shall order the
29.22 guardianship ~~and legal custody~~ of the child transferred to:

- 29.23 (1) the commissioner of human services; or
29.24 ~~(2) a licensed child-placing agency; or~~
29.25 ~~(3)~~ (2) an individual who is willing and capable of assuming the appropriate duties
29.26 and responsibilities to the child.

29.27 (b) The court shall order ~~transfer of guardianship and legal custody~~ of a child to the
29.28 commissioner of human services only if there is no individual who is willing and capable
29.29 of assuming the appropriate duties and responsibilities to the child.

29.30 Sec. 28. Minnesota Statutes 2010, section 260C.325, subdivision 4, is amended to read:

29.31 Subd. 4. **Guardian's responsibilities.** (a) A guardian appointed under ~~the~~
29.32 ~~provisions of this section~~ has legal custody of a ward ~~unless the court which appoints~~
29.33 ~~the guardian gives legal custody to some other person. If the court awards custody to a~~
29.34 ~~person other than the guardian, the guardian nonetheless has the right and responsibility of~~

30.1 ~~reasonable visitation, except as limited by court order.~~ the child and the right to visit the
30.2 child in foster care, the adoptive placement, or any other suitable setting at any time prior
30.3 to finalization of the adoption of the child. When the child is under the guardianship of the
30.4 commissioner, the responsible social services agency, as agent of the commissioner, has
30.5 the right to visit the child.

30.6 (b) When the guardian is a licensed child-placing agency, the guardian may shall
30.7 make all major decisions affecting the ~~person of the ward~~ child, including, but not limited
30.8 to, giving consent, ~~(when consent is legally required),~~ to the marriage, enlistment in
30.9 the armed forces, medical, surgical, or psychiatric treatment, or adoption of the ~~ward~~
30.10 child. ~~When, pursuant to this section, the commissioner of human services is appointed~~
30.11 guardian, the commissioner may delegate to the responsible social services agency of
30.12 the county in which, after the appointment, the ward resides, the authority to act for the
30.13 commissioner in decisions affecting the person of the ward, including but not limited
30.14 to giving consent to the marriage, enlistment in the armed forces, medical, surgical, or
30.15 psychiatric treatment of the ward.

30.16 (c) When the commissioner is appointed guardian, the duties of the commissioner of
30.17 human services are established under sections 260C.601 to 260C.635.

30.18 ~~(e)~~ (d) A guardianship created under ~~the provisions of~~ this section shall not ~~of itself~~
30.19 include the guardianship of the estate of the ~~ward~~ child.

30.20 (e) The commissioner of human services, through the responsible social services
30.21 agency, or a licensed child-placing agency who is a guardian or who has authority and
30.22 responsibility for planning for the adoption of the child under section 259.25 or 259.47,
30.23 has the duty to make reasonable efforts to finalize the adoption of the child.

30.24 Sec. 29. Minnesota Statutes 2010, section 260C.328, is amended to read:

30.25 **260C.328 CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.**

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

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

31.7 Sec. 30. **[260C.601] ADOPTION OF CHILDREN UNDER GUARDIANSHIP**
31.8 **OF COMMISSIONER.**

31.9 Subdivision 1. **Review and finalization requirements; adoption procedures.** (a)
31.10 Sections 260C.601 to 260C.635 establish:

31.11 (1) the requirements for court review of children under the guardianship of the
31.12 commissioner; and

31.13 (2) procedures for timely finalizing adoptions in the best interests of children under
31.14 the guardianship of the commissioner.

31.15 (b) Adoption proceedings for children not under the guardianship of the
31.16 commissioner are governed by chapter 259.

31.17 Subd. 2. **Duty of responsible agency.** The responsible social services agency has
31.18 the duty to act as the commissioner's agent in making reasonable efforts to finalize the
31.19 adoption of all children under the guardianship of the commissioner pursuant to section
31.20 260C.325. In implementing these duties, the agency shall ensure that:

31.21 (1) the best interests of the child are met in the planning and granting of adoptions;

31.22 (2) a child under the guardianship of the commissioner is appropriately involved
31.23 in planning for adoption;

31.24 (3) the diversity of Minnesota's population and diverse needs including culture,
31.25 religion, and language of persons affected by adoption are recognized and respected; and

31.26 (4) the court has the timely information it needs to make a decision that is in the best
31.27 interests of the child in reviewing the agency's planning for adoption and when ordering
31.28 the adoption of the child.

31.29 Subd. 3. **Background study.** Consistent with section 245C.33 and United States
31.30 Code, title 42, section 671, a completed background study is required before the adoptive
31.31 placement of the child in a related or an unrelated home.

31.32 Sec. 31. **[260C.603] DEFINITIONS.**

31.33 Subdivision 1. **Scope.** For the purposes of sections 260C.601 to 260C.635, the terms
31.34 defined in this section have the meanings given them.

32.1 Subd. 2. **Adopting parent.** "Adopting parent" means an adult who has signed
32.2 an adoption placement agreement regarding the child and has the same meaning as
32.3 "preadoptive parent" under section 259A.01, subdivision 23.

32.4 Subd. 3. **Adoption placement agreement.** "Adoption placement agreement" means
32.5 the written agreement between the responsible social services agency, the commissioner,
32.6 and the adopting parent which reflects the intent of all the signatories to the agreement that
32.7 the adopting parent establish a parent and child relationship by adoption with the child
32.8 who is under the guardianship of the commissioner. The adoptive placement agreement
32.9 must be in the commissioner's designated format.

32.10 Subd. 4. **Adoptive parent.** "Adoptive parent" has the meaning given in section
32.11 259A.01, subdivision 3.

32.12 Subd. 5. **Adoptive placement.** "Adoptive placement" means a placement made by
32.13 the responsible social services agency upon a fully executed adoption placement agreement
32.14 including the signatures of the adopting parent, the responsible social services agency, and
32.15 the commissioner of human services according to section 260C.613, subdivision 1.

32.16 Subd. 6. **Commissioner.** "Commissioner" means the commissioner of human
32.17 services or any employee of the Department of Human Services to whom the commissioner
32.18 has delegated authority regarding children under the commissioner's guardianship.

32.19 Subd. 7. **Guardianship.** "Guardianship" has the meaning given in section 259A.01,
32.20 subdivision 17; 260C.325; or 260C.515, subdivision 3.

32.21 Subd. 8. **Prospective adoptive parent.** "Prospective adoptive parent" means an
32.22 individual who may become an adopting parent regardless of whether the individual
32.23 has an adoption study approving the individual for adoption, but who has not signed an
32.24 adoption placement agreement.

32.25 Sec. 32. **[260C.605] REASONABLE EFFORTS TO FINALIZE AN ADOPTION.**

32.26 Subdivision 1. **Requirements.** (a) Reasonable efforts to finalize the adoption of a
32.27 child under the guardianship of the commissioner shall be made by the responsible social
32.28 services agency responsible for permanency planning for the child.

32.29 (b) Reasonable efforts to make a placement in a home according to the placement
32.30 considerations under section 260C.212, subdivision 2, with a relative or foster parent
32.31 who will commit to being the permanent resource for the child in the event the child
32.32 cannot be reunified with a parent are required under section 260.012 and may be made
32.33 concurrently with reasonable, or if the child is an Indian child, active efforts to reunify
32.34 the child with the parent.

33.1 (c) Reasonable efforts under paragraph (b) must begin as soon as possible when the
33.2 child is in foster care under this chapter, but not later than the hearing required under
33.3 section 260C.204.

33.4 (d) Reasonable efforts to finalize the adoption of the child include:

33.5 (1) using age-appropriate engagement strategies to plan for adoption with the child;

33.6 (2) identifying an appropriate prospective adoptive parent for the child by updating
33.7 the child's identified needs using the factors in section 260C.212, subdivision 2;

33.8 (3) making an adoptive placement that meets the child's needs by:

33.9 (i) completing or updating the relative search required under section 260C.221 and
33.10 giving notice of the need for an adoptive home for the child to:

33.11 (A) relatives who have kept the agency or the court apprised of their whereabouts
33.12 and who have indicated an interest in adopting the child; or

33.13 (B) relatives of the child who are located in an updated search;

33.14 (ii) an updated search is required whenever:

33.15 (A) there is no identified prospective adoptive placement for the child
33.16 notwithstanding a finding by the court that the agency made diligent efforts under section
33.17 260C.221, in a hearing required under section 260C.202;

33.18 (B) the child is removed from the home of an adopting parent; or

33.19 (C) the court determines a relative search by the agency is in the best interests of
33.20 the child;

33.21 (iii) engaging child's foster parent and the child's relatives identified as an adoptive
33.22 resource during the search conducted under section 260C.221, to commit to being the
33.23 prospective adoptive parent of the child; or

33.24 (iv) when there is no identified prospective adoptive parent:

33.25 (A) registering the child on the state adoption exchange as required in section 259.75
33.26 unless the agency documents to the court an exemption to placing the child on the state
33.27 adoption exchange reported to the commissioner;

33.28 (B) reviewing all families with approved adoption home studies associated with the
33.29 responsible social services agency;

33.30 (C) presenting the child to adoption agencies and adoption personnel who may assist
33.31 with finding an adoptive home for the child;

33.32 (D) using newspapers and other media to promote the particular child;

33.33 (E) using a private agency under grant contract with the commissioner to provide
33.34 adoption services for intensive child-specific recruitment efforts; and

33.35 (F) making any other efforts or using any other resources reasonably calculated to
33.36 identify a prospective adoption parent for the child;

34.1 (4) updating and completing the social and medical history required under sections
34.2 259.43 and 260C.609;

34.3 (5) making, and keeping updated, appropriate referrals required by section 260.851,
34.4 the Interstate Compact on the Placement of Children;

34.5 (6) giving notice regarding the responsibilities of an adoptive parent to any
34.6 prospective adoptive parent as required under section 259.35;

34.7 (7) offering the adopting parent the opportunity to apply for or decline adoption
34.8 assistance under chapter 259A;

34.9 (8) certifying the child for adoption assistance, assessing the amount of adoption
34.10 assistance, and ascertaining the status of the commissioner's decision on the level of
34.11 payment if the adopting parent has applied for adoption assistance;

34.12 (9) placing the child with siblings. If the child is not placed with siblings, the agency
34.13 must document reasonable efforts to place the siblings together, as well as the reason for
34.14 separation. The agency may not cease reasonable efforts to place siblings together for final
34.15 adoption until the court finds further reasonable efforts would be futile or that placement
34.16 together for purposes of adoption is not in the best interests of one of the siblings; and

34.17 (10) working with the adopting parent to file a petition to adopt the child and with
34.18 the court administrator to obtain a timely hearing to finalize the adoption.

34.19 Subd. 2. **No waiver.** (a) The responsible social services agency shall make
34.20 reasonable efforts to recruit, assess, and match an adoptive home for any child under
34.21 the guardianship of the commissioner and reasonable efforts shall continue until an
34.22 adoptive placement is made and adoption finalized or until the child is no longer under the
34.23 guardianship of the commissioner.

34.24 (b) A child of any age who is under the guardianship of the commissioner and is
34.25 legally available for adoption may not refuse or waive the responsible social services
34.26 agency's reasonable efforts to recruit, identify, and place the child in an adoptive home
34.27 required under this section. The agency has an ongoing responsibility to work with the
34.28 child to explore the child's opportunities for adoption, and what adoption means for the
34.29 child, and may not accept a child's refusal to consider adoption as an option.

34.30 (c) The court may not relieve or otherwise order the responsible social services
34.31 agency to cease fulfilling the responsible social services agency's duty regarding
34.32 reasonable efforts to recruit, identify, and place the child in an adoptive home.

34.33 **Sec. 33. [260C.607] REVIEW OF PROGRESS TOWARD ADOPTION.**

34.34 Subdivision 1. **Review hearings.** (a) The court shall conduct a review of the
34.35 responsible social services agency's reasonable efforts to finalize adoption for any child

35.1 under the guardianship of the commissioner and of the progress of the case toward
35.2 adoption at least every 90 days after the court issues an order that the commissioner is
35.3 the guardian of the child.

35.4 (b) The review of progress toward adoption shall continue notwithstanding that an
35.5 appeal is made of the order for guardianship.

35.6 (c) The agency's reasonable efforts to finalize the adoption must continue during the
35.7 pendency of the appeal and all progress toward adoption shall continue except that the
35.8 court may not finalize an adoption while the appeal is pending.

35.9 Subd. 2. **Notice.** Notice of review hearings shall be given by the court to:

35.10 (1) the responsible social services agency;

35.11 (2) the child, if the child is age ten and older;

35.12 (3) the child's guardian ad litem;

35.13 (4) relatives of the child who have kept the court informed of their whereabouts
35.14 as required in section 260C.221 and who have responded to the agency's notice under
35.15 section 260C.221, indicating a willingness to provide an adoptive home for the child
35.16 unless the relative has been previously ruled out by the court as a suitable foster parent or
35.17 permanency resource for the child;

35.18 (5) the current foster or adopting parent of the child;

35.19 (6) any foster or adopting parents of siblings of the child; and

35.20 (7) the Indian child's tribe.

35.21 Subd. 3. **Right to participate.** Any individual or entity listed in subdivision 2 may
35.22 participate in the continuing reviews conducted under this section. No other individual
35.23 or entity is required to be given notice or to participate in the reviews unless the court
35.24 specifically orders that notice be given or participation in the reviews be required.

35.25 Subd. 4. **Content of review.** (a) The court shall review:

35.26 (1) the agency's reasonable efforts under section 260C.605 to finalize an adoption
35.27 for the child as appropriate to the stage of the case; and

35.28 (2) the child's current out-of-home placement plan required under section 260C.212,
35.29 subdivision 1, to ensure the child is receiving all services and supports required to meet
35.30 the child's needs as they relate to the child's:

35.31 (i) placement;

35.32 (ii) visitation and contact with siblings;

35.33 (iii) visitation and contact with relatives;

35.34 (iv) medical, mental, and dental health; and

35.35 (v) education.

36.1 (b) When the child is age 16 and older, and as long as the child continues in foster
36.2 care, the court shall also review the agency's planning for the child's independent living
36.3 after leaving foster care including how the agency is meeting the requirements of section
36.4 260C.212, subdivision 1, paragraph (c), clause (11). The court shall use the review
36.5 requirements of section 260C.203, in any review conducted under this paragraph.

36.6 Subd. 5. **Required placement by responsible social services agency.** (a) No
36.7 petition for adoption shall be filed for a child under the guardianship of the commissioner
36.8 unless the child sought to be adopted has been placed for adoption with the adopting
36.9 parent by the responsible social services agency. The court may order the agency to make
36.10 an adoptive placement using standards and procedures under subdivision 6.

36.11 (b) Any relative or the child's foster parent who believes the responsible agency
36.12 has not reasonably considered their request to be considered for adoptive placement as
36.13 required under section 260C.212, subdivision 2, and who wants to be considered for
36.14 adoptive placement of the child shall bring their request for consideration to the attention
36.15 of the court during a review required under this section. The child's guardian ad litem and
36.16 the child may also bring a request for a relative or the child's foster parent to be considered
36.17 for adoptive placement. After hearing from the agency, the court may order the agency to
36.18 take appropriate action regarding the relative's or foster parent's request for consideration
36.19 under section 260C.212, subdivision 2, paragraph (b).

36.20 Subd. 6. **Motion and hearing to order adoptive placement.** (a) At any time after
36.21 the district court orders the child under the guardianship of the commissioner of human
36.22 services, but not later than 30 days after receiving notice required under section 260C.613,
36.23 subdivision 1, paragraph (c), that the agency has made an adoptive placement, a relative
36.24 or the child's foster parent may file a motion for an order for adoptive placement of a
36.25 child who is under the guardianship of the commissioner if the relative or the child's
36.26 foster parent:

36.27 (1) has an adoption home study under section 259.41 approving the relative or foster
36.28 parent for adoption and has been a resident of Minnesota for at least six months before
36.29 filing the motion. The court may waive the residency requirement for the moving party
36.30 if there is a reasonable basis to do so; or

36.31 (2) is not a resident of Minnesota, but has an approved adoption home study by
36.32 an agency licensed or approved to complete an adoption home study in the state of the
36.33 individual's residence and the study is filed with the motion for adoptive placement.

36.34 (b) The motion shall be filed with the court conducting reviews of the child's
36.35 progress toward adoption under this section. The motion and supporting documents must
36.36 make a prima facie showing that the agency has been unreasonable in failing to make the

37.1 requested adoptive placement. The motion must be served according to the requirements
37.2 for motions under the Minnesota Rules of Juvenile Protection Procedure and shall be
37.3 made on all individuals and entities listed in subdivision 2.

37.4 (c) If the motion and supporting documents do not make a prima facie showing for
37.5 the court to determine whether the agency has been unreasonable in failing to make the
37.6 requested adoptive placement, the court shall dismiss the motion. If the court determines a
37.7 prima facie basis is made, the court shall set the matter for evidentiary hearing.

37.8 (d) At the evidentiary hearing the responsible social services agency shall proceed
37.9 first with evidence about the reason for not making the adoptive placement proposed by the
37.10 moving party. The moving party then has the burden of proving by a preponderance of the
37.11 evidence that the agency has been unreasonable in failing to make the adoptive placement.

37.12 (e) At the conclusion of the evidentiary hearing, if the court finds that the agency
37.13 has been unreasonable in failing to make the adoptive placement and that the relative or
37.14 the child's foster parent is the most suitable adoptive home to meet the child's needs
37.15 using the factors in section 260C.212, subdivision 2, paragraph (b), the court may order
37.16 the responsible social services agency to make an adoptive placement in the home of the
37.17 relative or the child's foster parent.

37.18 (f) In order to ensure that a timely adoption may occur, when the court orders the
37.19 responsible social services agency to make an adoptive placement under this subdivision,
37.20 the agency shall:

37.21 (1) make reasonable efforts to obtain a fully executed adoption placement agreement;

37.22 (2) work with the moving party regarding eligibility for adoption assistance as
37.23 required under chapter 259A; and

37.24 (3) if the moving party is not a resident of Minnesota, timely refer the matter for
37.25 approval of the adoptive placement through the Interstate Compact on the Placement of
37.26 Children, section 260.851 et al.

37.27 (g) Denial or granting of a motion for an order for adoptive placement after an
37.28 evidentiary hearing is an order, which may be appealed by the responsible social services
37.29 agency, the moving party, the child, when age ten or over, the child's guardian ad litem,
37.30 and any individual who had a fully executed adoption placement agreement regarding
37.31 the child at the time the motion was filed if the court's order has the effect of terminating
37.32 the adoption placement agreement. An appeal shall be conducted according to the
37.33 requirements of the Rules of Juvenile Protection Procedure.

37.34 **Subd. 7. Changing adoptive plan when parent has consented to adoption.**
37.35 When the child's parent has consented to adoption under section 260C.515, subdivision 3,
37.36 only the person identified by the parent and agreed to by the agency as the prospective

38.1 adoptive parent qualifies for adoptive placement of the child until the responsible social
38.2 services agency has reported to the court and the court has found in a hearing under this
38.3 section that it is not possible to finalize an adoption by the identified prospective adoptive
38.4 parent within 12 months of the execution of the consent to adopt under section 260C.515,
38.5 subdivision 3, unless the responsible social services agency certifies that the failure to
38.6 finalize is not due to either an action or a failure to act by the prospective adoptive parent.

38.7 Subd. 8. **Timing modified.** (a) The court may review the responsible social services
38.8 agency's reasonable efforts to finalize an adoption more frequently than every 90 days
38.9 whenever a more frequent review would assist in finalizing the adoption.

38.10 (b) In appropriate cases, the court may review the responsible social services
38.11 agency's reasonable efforts to finalize an adoption less frequently than every 90 days. The
38.12 court shall not find it appropriate to review progress toward adoption less frequently
38.13 than every 90 days except when:

38.14 (1) the court has approved the agency's reasonable efforts to recruit, identify, and
38.15 place the child in an adoptive home on a continuing basis for at least 24 months after the
38.16 court has issued the order for guardianship;

38.17 (2) the child is at least 16 years old; and

38.18 (3) the child's guardian ad litem agrees that review less frequently than every 90
38.19 days is in the child's best interests.

38.20 (c) In no event shall the court's review be less frequent than every six months.

38.21 **Sec. 34. [260C.609] SOCIAL AND MEDICAL HISTORY.**

38.22 (a) The responsible social services agency shall work with the birth family of the
38.23 child, foster family, medical and treatment providers, and the child's school to ensure there
38.24 is a detailed, thorough, and currently up-to-date social and medical history of the child as
38.25 required under section 259.43 on the forms required by the commissioner.

38.26 (b) When the child continues in foster care, the agency's reasonable efforts to
38.27 complete the history shall begin no later than the permanency progress review hearing
38.28 required under section 260C.204 or six months after the child's placement in foster care.

38.29 (c) The agency shall thoroughly discuss the child's history with the adopting parent
38.30 of the child and shall give a copy of the report of the child's social and medical history
38.31 to the adopting parent. A copy of the child's social and medical history may also be
38.32 given to the child as appropriate.

38.33 (d) The report shall not include information that identifies birth relatives. Redacted
38.34 copies of all the child's relevant evaluations, assessments, and records must be attached
38.35 to the social and medical history.

39.1 Sec. 35. **[260C.611] ADOPTION STUDY REQUIRED.**

39.2 An adoption study under section 259.41 approving placement of the child in the
39.3 home of the prospective adoptive parent shall be completed before placing any child
39.4 under the guardianship of the commissioner in a home for adoption. If a prospective
39.5 adoptive parent has previously held a foster care license or adoptive home study, any
39.6 update necessary to the foster care license, or updated or new adoptive home study, if not
39.7 completed by the licensing authority responsible for the previous license or home study,
39.8 shall include collateral information from the previous licensing or approving agency, if
39.9 available.

39.10 Sec. 36. **[260C.613] SOCIAL SERVICES AGENCY AS COMMISSIONER'S**
39.11 **AGENT.**

39.12 Subdivision 1. **Adoptive placement decisions.** (a) The responsible social services
39.13 agency has exclusive authority to make an adoptive placement of a child under the
39.14 guardianship of the commissioner. The child shall be considered placed for adoption when
39.15 the adopting parent, the agency, and the commissioner have fully executed an adoption
39.16 placement agreement on the form prescribed by the commissioner.

39.17 (b) The responsible social services agency shall use an individualized determination
39.18 of the child's current needs pursuant to section 260C.212, subdivision 2, paragraph (b), to
39.19 determine the most suitable adopting parent for the child in the child's best interests.

39.20 (c) The responsible social services agency shall notify the court and parties entitled
39.21 to notice under section 260C.607, subdivision 2, when there is a fully executed adoption
39.22 placement agreement for the child.

39.23 (d) In the event an adoption placement agreement terminates, the responsible
39.24 social services agency shall notify the court, the parties entitled to notice under section
39.25 260C.607, subdivision 2, and the commissioner that the agreement and the adoptive
39.26 placement have terminated.

39.27 Subd. 2. **Disclosure of data permitted to identify adoptive parent.** The
39.28 responsible social services agency may disclose private data, as defined in section 13.02, to
39.29 prospective adoptive parents for the purpose of identifying an adoptive parent willing and
39.30 able to meet the child's needs as outlined in section 260C.212, subdivision 2, paragraph (b).

39.31 Subd. 3. **Siblings placed together.** The responsible social services agency shall
39.32 place siblings together for adoption according to section 260.012, paragraph (e), clause
39.33 (4), unless:

39.34 (1) the court makes findings required under section 260C.617; and

40.1 (2) the court orders that the adoption or progress toward adoption of the child under
40.2 the court's jurisdiction may proceed notwithstanding that the adoption will result in
40.3 siblings being separated.

40.4 Subd. 4. **Other considerations.** Placement of a child cannot be delayed or denied
40.5 based on the race, color, or national origin of the prospective parent or the child.

40.6 Subd. 5. **Required record keeping.** The responsible social services agency
40.7 shall document, in the records required to be kept under section 259.79, the reasons
40.8 for the adoptive placement decision regarding the child, including the individualized
40.9 determination of the child's needs based on the factors in section 260C.212, subdivision
40.10 2, paragraph (b), and the assessment of how the selected adoptive placement meets the
40.11 identified needs of the child. The responsible social services agency shall retain in the
40.12 records required to be kept under section 259.79, copies of all out-of-home placement
40.13 plans made since the child was ordered under guardianship of the commissioner and all
40.14 court orders from reviews conducted pursuant to section 260C.607.

40.15 Subd. 6. **Death notification.** (a) The agency shall inform the adoptive parents
40.16 that the adoptive parents of an adopted child under age 19 or an adopted person age 19
40.17 or older may maintain a current address on file with the agency and indicate a desire to
40.18 be notified if the agency receives information of the death of a birth parent. The agency
40.19 shall notify the birth parents of the child's death and the cause of death, if known, provided
40.20 that the birth parents desire notice and maintain current addresses on file with the agency.
40.21 The agency shall inform birth parents entitled to notice under section 259.27, that they
40.22 may designate individuals to notify the agency if a birth parent dies and that the agency
40.23 receiving information of the birth parent's death will share the information with adoptive
40.24 parents, if the adopted person is under age 19, or an adopted person age 19 or older who
40.25 has indicated a desire to be notified of the death of a birth parent and who maintains
40.26 a current address on file with the agency.

40.27 (b) Notice to a birth parent that a child has died or to the adoptive parents or an
40.28 adopted person age 19 or older that a birth parent has died shall be provided by an
40.29 employee of the agency through personal and confidential contact, but not by mail.

40.30 Subd. 7. **Terminal illness notification.** If a birth parent or the child is terminally ill,
40.31 the responsible social services agency shall inform the adoptive parents and birth parents
40.32 of a child who is adopted that the birth parents, the adoptive parents of an adopted person
40.33 under age 19, or an adopted person age 19 or older may request to be notified of the
40.34 terminal illness. The agency shall notify the other parties if a request is received under
40.35 this subdivision and upon a party's request the agency shall share information regarding a
40.36 terminal illness with the adoptive or birth parents or an adopted person age 19 or older.

41.1 Subd. 8. **Postadoption search services.** The responsible social services agency
41.2 shall respond to requests from adopted persons aged 19 years and over, adoptive parents
41.3 of a minor child, and birth parents for: social and medical history and genetic health
41.4 conditions of the adopted person's birth family and genetic sibling information, according
41.5 to section 259.83.

41.6 Sec. 37. **[260C.615] DUTIES OF COMMISSIONER.**

41.7 Subdivision 1. **Duties.** (a) For any child who is under the guardianship of the
41.8 commissioner, the commissioner has the exclusive rights to consent to:

41.9 (1) the medical care plan for and treatment of a child who is at imminent risk of death
41.10 or who has a chronic disease that, in a physician's judgment, will result in the child's death
41.11 in the near future, including a physician's order not to resuscitate or intubate the child; and

41.12 (2) the child donating a part of the child's body to another person while the child
41.13 is living. The decision to donate a body part under this subdivision shall take into
41.14 consideration the child's wishes and the child's culture.

41.15 (b) In addition to the exclusive rights under paragraph (a), the commissioner has
41.16 a duty to:

41.17 (1) process any complete and accurate request for home study and placement
41.18 through the Interstate Compact on the Placement of Children under section 260.851;

41.19 (2) process any complete and accurate application for adoption assistance forwarded
41.20 by the responsible social services agency according to chapter 259A;

41.21 (3) complete the execution of an adoption placement agreement forwarded to the
41.22 commissioner by the responsible social services agency and return it to the agency in a
41.23 timely fashion; and

41.24 (4) maintain records as required in chapter 259.

41.25 Subd. 2. **Duties not reserved.** All duties, obligations, and consents not specifically
41.26 reserved to the commissioner in this section are delegated to the responsible social
41.27 services agency.

41.28 Sec. 38. **[260C.617] SIBLING PLACEMENT.**

41.29 (a) The responsible social services agency shall make every effort to place siblings
41.30 together for adoption.

41.31 (b) The court shall review any proposal by the responsible social services agency to
41.32 separate siblings for purposes of adoption.

41.33 (c) If there is venue in more than one county for matters regarding siblings who are
41.34 under the guardianship of the commissioner, the judges conducting reviews regarding

42.1 the siblings shall communicate with each other about the siblings' needs and, where
42.2 appropriate, shall conduct review hearings in a manner that ensures coordinated planning
42.3 by agencies involved in decision making for the siblings.

42.4 (d) After notice to the individuals and entities listed in section 260C.627, the foster
42.5 or prospective adoptive parent of the child, and any foster, adopting, or adoptive parents
42.6 of the child's siblings, or relatives with permanent legal and physical custody of the
42.7 child's sibling, and upon hearing, the court may determine that a child under the court's
42.8 jurisdiction may be separated from the child's sibling for adoption when:

42.9 (1) the responsible social services agency has made reasonable efforts to place the
42.10 siblings together, and after finding reasonable efforts have been made, the court finds
42.11 further efforts would significantly delay the adoption of one or more of the siblings and
42.12 are therefore not in the best interests of one or more of the siblings; or

42.13 (2) the court determines it is not in the best interests of one or more of the siblings to
42.14 be placed together after reasonable efforts by the responsible social services agency to
42.15 place the siblings together.

42.16 Sec. 39. **[260C.619] COMMUNICATION AND CONTACT AGREEMENTS.**

42.17 (a) An adopting parent and a relative or foster parent of the child may enter into an
42.18 agreement regarding communication with or contact between the adopted child, adopting
42.19 parent, and the relative or foster parent. An agreement may be entered between:

42.20 (1) an adopting parent and a birth parent;

42.21 (2) an adopting parent and any relative or foster parent with whom the child resided
42.22 before being adopted; and

42.23 (3) an adopting parent and the parent or legal custodian of a sibling of the child, if
42.24 the sibling is a minor, or any adult sibling of the child.

42.25 (b) An agreement regarding communication with or contact between the child,
42.26 adoptive parents, and a relative or foster parent, is enforceable when the terms of the
42.27 agreement are contained in a written court order. The order must be issued before or at the
42.28 time of the granting of the decree of adoption. The order granting the communication,
42.29 contact, or visitation shall be filed in the adoption file.

42.30 (c) The court shall mail a certified copy of the order to the parties to the agreement or
42.31 their representatives at the addresses provided by the parties to the agreement. Service shall
42.32 be completed in a manner that maintains the confidentiality of confidential information.

42.33 (d) The court shall not enter a proposed order unless the terms of the order have been
42.34 approved in writing by the prospective adoptive parents, the birth relative, the foster

43.1 parent, or the birth parent or legal custodian of the child's sibling who desires to be a party
43.2 to the agreement, and the responsible social services agency.

43.3 (e) An agreement under this section need not disclose the identity of the parties to be
43.4 legally enforceable and when the identity of the parties to the agreement is not disclosed,
43.5 data about the identities in the adoption file shall remain confidential.

43.6 (f) The court shall not enter a proposed order unless the court finds that the
43.7 communication or contact between the minor adoptee, the adoptive parents, and the
43.8 relative, foster parents, or siblings as agreed upon and contained in the proposed order,
43.9 would be in the child's best interests.

43.10 (g) Failure to comply with the terms of an order regarding communication or contact
43.11 that has been entered by the court under this section is not grounds for:

43.12 (1) setting aside an adoption decree; or

43.13 (2) revocation of a written consent to an adoption after that consent has become
43.14 irrevocable.

43.15 (h) An order regarding communication or contact entered under this section may be
43.16 enforced by filing a motion in the existing adoption file with the court that entered the
43.17 contact agreement. Any party to the communication or contact order or the child who is
43.18 the subject of the order has standing to file the motion to enforce the order. The prevailing
43.19 party may be awarded reasonable attorney fees and costs.

43.20 (i) The court shall not modify an order under this section unless it finds that the
43.21 modification is necessary to serve the best interests of the child, and:

43.22 (1) the modification is agreed to by the parties to the agreement; or

43.23 (2) exceptional circumstances have arisen since the order was entered that justified
43.24 modification of the order.

43.25 **Sec. 40. [260C.621] JURISDICTION AND VENUE.**

43.26 **Subdivision 1. Jurisdiction.** (a) The juvenile court has original jurisdiction for all
43.27 adoption proceedings involving the adoption of a child under the guardianship of the
43.28 commissioner, including when the commissioner approves the placement of the child
43.29 through the Interstate Compact on the Placement of Children under section 260.851 for
43.30 adoption outside the state of Minnesota and an adoption petition is filed in Minnesota.

43.31 (b) The receiving state also has jurisdiction to conduct an adoption proceeding for a
43.32 child under the guardianship of the commissioner when the adopting home was approved
43.33 by the receiving state through the interstate compact.

44.1 Subd. 2. **Venue.** (a) Venue for the adoption of a child committed to the guardianship
44.2 of the commissioner of human services shall be the court conducting reviews in the matter
44.3 according to section 260C.607.

44.4 (b) Upon request of the responsible social services agency, the court conducting
44.5 reviews under section 260C.607 may order that filing an adoption petition involving a
44.6 child under the guardianship of the commissioner be permitted in the county where the
44.7 adopting parent resides upon determining that:

44.8 (1) there is no motion for an order for adoptive placement of the child that has been
44.9 filed or is reasonably anticipated by the responsible social services agency to be filed; and

44.10 (2) filing the petition in the adopting parent's county of residence will expedite the
44.11 proceedings and serve the best interests of the child.

44.12 (c) When the court issues an order under paragraph (b), a copy of the court order
44.13 shall be filed together with the adoption petition in the court of the adopting parent's
44.14 county of residence.

44.15 (d) The court shall notify the court conducting reviews under section 260C.607 when
44.16 the adoption is finalized so that the court conducting reviews under section 260C.607 may
44.17 close its jurisdiction and the court record, including the court's electronic case record, in
44.18 the county conducting the reviews, shall reflect that adoption of the child was finalized.

44.19 **Sec. 41. [260C.623] ADOPTION PETITION.**

44.20 Subdivision 1. **Who may petition.** (a) The responsible social services agency may
44.21 petition for the adopting parent to adopt a child who is under the guardianship of the
44.22 commissioner. The petition shall contain or have attached a statement certified by the
44.23 adopting parent that the adopting parent desires that the relationship of parent and child
44.24 be established between the adopting parent and the child and that adoption is in the best
44.25 interests of the child.

44.26 (b) The adopting parent may petition the court for adoption of the child.

44.27 (c) An adopting parent must be at least 21 years of age at the time the adoption
44.28 petition is filed unless the adopting parent is an individual related to the child, as defined
44.29 by section 245A.02, subdivision 13.

44.30 (d) The petition may be filed in Minnesota by an adopting parent who resides within
44.31 or outside the state.

44.32 Subd. 2. **Time for filing petition.** (a) An adoption petition shall be filed not later
44.33 than nine months after the date of the fully executed adoption placement agreement unless
44.34 the court finds that:

45.1 (1) the time for filing a petition be extended because of the child's special needs
45.2 as defined under title IV-E of the federal Social Security Act, United States Code, title
45.3 42, section 672; or

45.4 (2) based on a written plan for completing filing of the petition, including a specific
45.5 timeline, to which the adopting parent has agreed, the time for filing a petition be extended
45.6 long enough to complete the plan because an extension is in the best interests of the child
45.7 and additional time is needed for the child to adjust to the adoptive home.

45.8 (b) If an adoption petition is not filed within nine months of the execution of the
45.9 adoption placement agreement as required under section 260C.613, subdivision 1, and
45.10 after giving the adopting parent written notice of its request together with the date and
45.11 time of the hearing set to consider its report, the responsible social services agency shall
45.12 file a report requesting an order for one of the following:

45.13 (1) that the time for filing a petition be extended because of the child's special needs
45.14 as defined under title IV-E of the federal Social Security Act, United States Code, title
45.15 42, section 673;

45.16 (2) that, based on a written plan for completing filing of the petition, including a
45.17 specific timeline, to which the adopting parent has agreed, the time for filing a petition can
45.18 be extended long enough to complete the plan because an extension is in the best interests
45.19 of the child and additional time is needed for the child to adjust to the adoptive home; or

45.20 (3) that the child can be removed from the adopting home.

45.21 (c) At the conclusion of the review, the court shall issue findings, appropriate orders
45.22 for the parties to take action or steps required to advance the case toward a finalized
45.23 adoption, and set the date and time for the next review hearing.

45.24 **Subd. 3. Requirements of petition.** (a) The petition shall be captioned in the legal
45.25 name of the child as that name is reflected on the child's birth record prior to adoption and
45.26 shall be entitled "Petition to Adopt Child under the Guardianship of the Commissioner
45.27 of Human Services." The actual name of the child shall be supplied to the court by the
45.28 responsible social services agency if unknown to the individual with whom the agency
45.29 has made the adoptive placement.

45.30 (b) The adoption petition shall be verified as required in section 260C.141,
45.31 subdivision 4, and, if filed by the responsible social services agency, signed and approved
45.32 by the county attorney.

45.33 (c) The petition shall state:

45.34 (1) the full name, age, and place of residence of the adopting parent;

45.35 (2) if the adopting parents are married, the date and place of marriage;

45.36 (3) the date the adopting parent acquired physical custody of the child;

46.1 (4) the date of the adoptive placement by the responsible social services agency;

46.2 (5) the date of the birth of the child, if known, and the county, state, and country
46.3 where born;

46.4 (6) the name to be given the child, if a change of name is desired;

46.5 (7) the description and value of any real or personal property owned by the child;

46.6 (8) the relationship of the adopting parent to the child prior to adoptive placement, if
46.7 any;

46.8 (9) whether the Indian Child Welfare Act does or does not apply; and

46.9 (10) the name and address of:

46.10 (i) the child's guardian ad litem;

46.11 (ii) the adoptee, if age ten or older;

46.12 (iii) the child's Indian tribe, if the child is an Indian child; and

46.13 (iv) the responsible social services agency.

46.14 (d) A petition may ask for the adoption of two or more children.

46.15 (e) If a petition is for adoption by a married person, both spouses must sign the
46.16 petition indicating willingness to adopt the child and the petition must ask for adoption by
46.17 both spouses unless the court approves adoption by only one spouse when spouses do not
46.18 reside together or for other good cause shown.

46.19 (f) If the petition is for adoption by a person residing outside the state, the adoptive
46.20 placement must have been approved by the state where the person is a resident through the
46.21 Interstate Compact on the Placement of Children, sections 260.851 to 260.92.

46.22 Subd. 4. **Attachments to the petition.** The following must be filed with the petition:

46.23 (1) the adoption study report required under section 259.41;

46.24 (2) the social and medical history required under sections 259.43 and 260C.609; and

46.25 (3) a document prepared by the petitioner that establishes who must be given notice
46.26 under section 260C.627, subdivision 1, that includes the names and mailing addresses of
46.27 those to be served by the court administrator.

46.28 Sec. 42. **[260C.625] DOCUMENTS FILED BY SOCIAL SERVICES AGENCY.**

46.29 (a) The following shall be filed by the responsible social services agency prior to
46.30 finalization of the adoption:

46.31 (1) a certified copy of the child's birth record;

46.32 (2) a certified copy of the findings and order terminating parental rights or order
46.33 accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for
46.34 guardianship to the commissioner;

46.35 (3) a copy of any communication or contact agreement under section 260C.619;

47.1 (4) certification that the Minnesota Fathers' Adoption Registry has been searched
47.2 which requirement may be met according to the requirements of the Minnesota Rules of
47.3 Adoption Procedure, Rule 32.01, subdivision 2;

47.4 (5) the original of each consent to adoption required, if any, unless the original was
47.5 filed in the permanency proceeding conducted under section 260C.515, subdivision 3, and
47.6 the order filed under clause (2) has a copy of the consent attached; and

47.7 (6) the postplacement assessment report required under section 259.53, subdivision
47.8 2.

47.9 (b) The responsible social services agency shall provide any known aliases of the
47.10 child to the court.

47.11 Sec. 43. **[260C.627] NOTICE OF ADOPTION PROCEEDINGS.**

47.12 Subdivision 1. **To whom given.** (a) Notice of the adoption proceedings shall not
47.13 be given to any parent whose rights have been terminated or who has consented to the
47.14 adoption of the child under this chapter.

47.15 (b) Notice of the adoption proceedings shall be given to the following:

47.16 (1) the child's tribe if the child is an Indian child;

47.17 (2) the responsible social services agency;

47.18 (3) the child's guardian ad litem;

47.19 (4) the child, if the child is age ten or over;

47.20 (5) the child's attorney; and

47.21 (6) the adopting parent.

47.22 (c) Notice of a hearing regarding the adoption petition shall have a copy of the
47.23 petition attached unless service of the petition has already been accomplished.

47.24 Subd. 2. **Method of service.** Notice of adoption proceedings for a child under the
47.25 guardianship of the commissioner may be served by United States mail or any other
47.26 method approved by the Minnesota Rules of Adoption Procedure.

47.27 Sec. 44. **[260C.629] FINALIZATION HEARING.**

47.28 Subdivision 1. **Consent.** (a) A parent whose rights to the child have not been
47.29 terminated must consent to the adoption of the child. A parent may consent to the adoption
47.30 of the child under section 260C.515, subdivision 3, and that consent shall be irrevocable
47.31 upon acceptance by the court except as otherwise provided in section 260C.515,
47.32 subdivision 3, clause (2)(i). A parent of an Indian child may consent to the adoption of
47.33 the child according to United States Code, title 25, section 1913, and that consent may be
47.34 withdrawn for any reason at any time before the entry of a final decree of adoption.

48.1 (b) When the child to be adopted is age 14 years or older, the child's written consent
48.2 to adoption by the adopting parent is required.

48.3 (c) Consent by the responsible social services agency or the commissioner is not
48.4 required because the adoptive placement has been made by the responsible social services
48.5 agency.

48.6 Subd. 2. **Required documents.** In order to issue a decree for adoption and enter
48.7 judgment accordingly, the court must have the following documents in the record:

48.8 (1) original birth record of the child;

48.9 (2) adoption study report including a background study required under section
48.10 259.41;

48.11 (3) a certified copy of the findings and order terminating parental rights or order
48.12 accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for
48.13 guardianship to the commissioner;

48.14 (4) any consents required under subdivision 1;

48.15 (5) child's social and medical history under section 260C.609;

48.16 (6) postplacement assessment report required under section 259.53, subdivision 2,
48.17 unless waived by the court on the record at a hearing under section 260C.607; and

48.18 (7) report from the child's guardian ad litem.

48.19 Sec. 45. **[260C.631] JUDGMENT AND DECREE.**

48.20 (a) After taking testimony from the responsible social services agency, which may
48.21 be by telephone or affidavit if the court has transferred venue of the matter to a county
48.22 not conducting the posttermination of parental rights reviews under section 260C.607,
48.23 and the adopting parent, if the court finds that it is in the best interests of the child that
48.24 the petition be granted, a decree of adoption shall be issued ordering that the child to be
48.25 adopted shall be the child of the adopting parent. In the decree, the court may change the
48.26 name of the adopted child, if a name change is requested.

48.27 (b) After the decree is granted, the court administrator shall mail a copy of the decree
48.28 to the commissioner of human services.

48.29 Sec. 46. **[260C.633] ADOPTION DENIED.**

48.30 (a) If the court is not satisfied that the proposed adoption is in the best interests of
48.31 the child to be adopted, the court shall deny the petition, and order the responsible social
48.32 services agency to take appropriate action for the protection and safety of the child. If
48.33 venue has been transferred under section 260C.621, subdivision 2, the court denying

49.1 the petition shall notify the court originally conducting the guardianship reviews under
49.2 section 260C.607.

49.3 (b) The court responsible for conducting reviews under section 260C.607 shall set a
49.4 hearing within 30 days of receiving notice of denial of the petition.

49.5 (c) Any appeal of the denial of an adoption petition under this section shall be made
49.6 according to the requirements of the Minnesota Rules of Adoption Procedure.

49.7 Sec. 47. **[260C.635] EFFECT OF ADOPTION.**

49.8 Subdivision 1. **Legal effect.** (a) Upon adoption, the adopted child becomes the legal
49.9 child of the adopting parent and the adopting parent becomes the legal parent of the child
49.10 with all the rights and duties between them of a birth parent and child.

49.11 (b) The child shall inherit from the adoptive parent and the adoptive parent's
49.12 relatives the same as though the child were the birth child of the parent, and in case of the
49.13 child's death intestate, the adoptive parent and the adoptive parent's relatives shall inherit
49.14 the child's estate as if the child had been the adoptive parent's birth child.

49.15 (c) After a decree of adoption is entered, the birth parents or previous legal parents
49.16 of the child shall be relieved of all parental responsibilities for the child except child
49.17 support that has accrued to the date of the order for guardianship to the commissioner
49.18 which continues to be due and owing. The child's birth or previous legal parent shall not
49.19 exercise or have any rights over the adopted child or the adopted child's property, person,
49.20 privacy, or reputation.

49.21 (d) The adopted child shall not owe the birth parents or the birth parent's relatives
49.22 any legal duty nor shall the adopted child inherit from the birth parents or kindred unless
49.23 otherwise provided for in a will of the birth parent or kindred.

49.24 (e) Upon adoption, the court shall complete a certificate of adoption form and mail
49.25 the form to the Office of the State Registrar at the Minnesota Department of Health. Upon
49.26 receiving the certificate of adoption, the State Registrar shall register a replacement vital
49.27 record in the new name of the adopted child as required under section 144.218.

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

49.31 Subd. 3. **Communication or contact agreements.** This section does not prohibit
49.32 birth parents, relatives, birth or legal siblings, and adoptive parents from entering a
49.33 communication or contact agreement under section 260C.619.

50.1 Sec. 48. 260C.637] ACCESS TO ORIGINAL BIRTH RECORD
50.2 INFORMATION.

50.3 An adopted person may ask the commissioner of health to disclose the information
50.4 on the adopted person's original birth record according to section 259.89.

50.5 Sec. 49. Minnesota Statutes 2010, section 541.04, is amended to read:

50.6 **541.04 JUDGMENTS, TEN ~~OR 20~~ YEARS.**

50.7 No action shall be maintained upon a judgment or decree of a court of the United
50.8 States, or of any state or territory thereof, unless begun within ten years after the entry of
50.9 such judgment ~~or, in the case of a judgment for child support, including a judgment by~~
50.10 ~~operation of law, unless begun within 20 years after entry of the judgment.~~

50.11 **EFFECTIVE DATE.** The amendments to this section are effective retroactively
50.12 from April 15, 2010, the date the language stricken in this section was finally enacted.

50.13 Sec. 50. Minnesota Statutes 2010, section 548.09, subdivision 1, is amended to read:

50.14 Subdivision 1. **Entry and docketing; survival of judgment.** Except as provided
50.15 in section 548.091, every judgment requiring the payment of money shall be entered
50.16 by the court administrator when ordered by the court and will be docketed by the court
50.17 administrator upon the filing of an affidavit as provided in subdivision 2. Upon a transcript
50.18 of the docket being filed with the court administrator in any other county, the court
50.19 administrator shall also docket it. From the time of docketing the judgment is a lien, in
50.20 the amount unpaid, upon all real property in the county then or thereafter owned by the
50.21 judgment debtor, but it is not a lien upon registered land unless it is also recorded pursuant
50.22 to sections 508.63 and 508A.63. The judgment survives, and the lien continues, for ten
50.23 years after its entry ~~or, in the case of a judgment for child support, including a judgment~~
50.24 ~~by operation of law, for 20 years after its entry.~~ Child support judgments may be renewed
50.25 pursuant to section 548.091.

50.26 **EFFECTIVE DATE.** The amendments to this section are effective retroactively
50.27 from April 15, 2010, the date the language stricken in this section was finally enacted.

50.28 Sec. 51. Minnesota Statutes 2010, section 609.3785, is amended to read:

50.29 **609.3785 UNHARMED NEWBORNS LEFT AT ~~HOSPITALS~~ SAFE PLACES;**
50.30 **AVOIDANCE OF PROSECUTION.**

50.31 (a) For purposes of this section, "safe place" has the meaning given in section
50.32 260C.217, subdivision 1a.

51.1 (b) A person may leave a newborn with ~~a hospital~~ an employee at a hospital safe
51.2 place or with a 911 responder in this state without being subjected to prosecution for that
51.3 act, provided that:

51.4 (1) the newborn was born within ~~72 hours~~ seven days of being left at ~~the hospital~~ a
51.5 safe place or with a 911 responder, as determined within a reasonable degree of medical
51.6 certainty;

51.7 (2) the newborn is left in an unharmed condition; and

51.8 (3) in cases where the person leaving the newborn is not the newborn's mother, the
51.9 person has the mother's approval to do so.

51.10 Sec. 52. Minnesota Statutes 2010, section 626.556, subdivision 2, is amended to read:

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

51.13 (a) "Family assessment" means a comprehensive assessment of child safety, risk
51.14 of subsequent child maltreatment, and family strengths and needs that is applied to a
51.15 child maltreatment report that does not allege substantial child endangerment. Family
51.16 assessment does not include a determination as to whether child maltreatment occurred
51.17 but does determine the need for services to address the safety of family members and the
51.18 risk of subsequent maltreatment.

51.19 (b) "Investigation" means fact gathering related to the current safety of a child
51.20 and the risk of subsequent maltreatment that determines whether child maltreatment
51.21 occurred and whether child protective services are needed. An investigation must be used
51.22 when reports involve substantial child endangerment, and for reports of maltreatment in
51.23 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to
51.24 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and
51.25 13, and 124D.10; or in a nonlicensed personal care provider association as defined in
51.26 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

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

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

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

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

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

52.4 (5) murder in the first, second, or third degree under section 609.185, 609.19, or
52.5 609.195;

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

52.7 (7) assault in the first, second, or third degree under section 609.221, 609.222, or
52.8 609.223;

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

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

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

52.12 (11) malicious punishment or neglect or endangerment of a child under section
52.13 609.377 or 609.378;

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

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

52.18 (d) "Sexual abuse" means the subjection of a child by a person responsible for the
52.19 child's care, by a person who has a significant relationship to the child, as defined in
52.20 section 609.341, or by a person in a position of authority, as defined in section 609.341,
52.21 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual
52.22 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
52.23 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct
52.24 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual
52.25 abuse also includes any act which involves a minor which constitutes a violation of
52.26 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes
52.27 threatened sexual abuse.

52.28 (e) "Person responsible for the child's care" means (1) an individual functioning
52.29 within the family unit and having responsibilities for the care of the child such as a
52.30 parent, guardian, or other person having similar care responsibilities, or (2) an individual
52.31 functioning outside the family unit and having responsibilities for the care of the child
52.32 such as a teacher, school administrator, other school employees or agents, or other lawful
52.33 custodian of a child having either full-time or short-term care responsibilities including,
52.34 but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching,
52.35 and coaching.

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

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

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

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

53.14 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
53.15 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
53.16 child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

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

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

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

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

53.34 (9) emotional harm from a pattern of behavior which contributes to impaired
53.35 emotional functioning of the child which may be demonstrated by a substantial and
53.36 observable effect in the child's behavior, emotional response, or cognition that is not

54.1 within the normal range for the child's age and stage of development, with due regard to
54.2 the child's culture.

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

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

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

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

54.16 (3) shaking a child under age three;

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

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

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

54.21 (7) striking a child under age one on the face or head;

54.22 (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
54.23 substances which were not prescribed for the child by a practitioner, in order to control or
54.24 punish the child; or other substances that substantially affect the child's behavior, motor
54.25 coordination, or judgment or that results in sickness or internal injury, or subjects the
54.26 child to medical procedures that would be unnecessary if the child were not exposed
54.27 to the substances;

54.28 (9) unreasonable physical confinement or restraint not permitted under section
54.29 609.379, including but not limited to tying, caging, or chaining; or

54.30 (10) in a school facility or school zone, an act by a person responsible for the child's
54.31 care that is a violation under section 121A.58.

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

54.35 (i) "Facility" means:

55.1 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
55.2 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
55.3 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

55.4 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and
55.5 124D.10; or

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

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

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

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

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

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

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

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

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

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

55.31 A child is the subject of a report of threatened injury when the responsible social
55.32 services agency receives birth match data under paragraph (o) from the Department of
55.33 Human Services.

55.34 (o) Upon receiving data under section 144.225, subdivision 2b, contained in a
55.35 birth record or recognition of parentage identifying a child who is subject to threatened
55.36 injury under paragraph (n), the Department of Human Services shall send the data to the

56.1 responsible social services agency. The data is known as "birth match" data. Unless the
56.2 responsible social services agency has already begun an investigation or assessment of the
56.3 report due to the birth of the child or execution of the recognition of parentage and the
56.4 parent's previous history with child protection, the agency shall accept the birth match
56.5 data as a report under this section. The agency may use either a family assessment or
56.6 investigation to determine whether the child is safe. All of the provisions of this section
56.7 apply. If the child is determined to be safe, the agency shall consult with the county
56.8 attorney to determine the appropriateness of filing a petition alleging the child is in need
56.9 of protection or services under section 260C.007, subdivision 6, clause (16), in order to
56.10 deliver needed services. If the child is determined not to be safe, the agency and the county
56.11 attorney shall take appropriate action as required under section 260C.301, subdivision 3.

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

56.16 ~~(q)~~ (q) "Accidental" means a sudden, not reasonably foreseeable, and unexpected
56.17 occurrence or event which:

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

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

56.23 ~~(r)~~ (r) "Nonmaltreatment mistake" means:

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

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

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

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

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

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

57.5 Sec. 53. Minnesota Statutes 2010, section 626.556, subdivision 10f, is amended to read:

57.6 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion
57.7 of a family assessment, the local welfare agency shall notify the parent or guardian
57.8 of the child of the need for services to address child safety concerns or significant risk
57.9 of subsequent child maltreatment. The local welfare agency and the family may also
57.10 jointly agree that family support and family preservation services are needed. Within ten
57.11 working days of the conclusion of an investigation, the local welfare agency or agency
57.12 responsible for assessing or investigating the report shall notify the parent or guardian
57.13 of the child, the person determined to be maltreating the child, and if applicable, the
57.14 director of the facility, of the determination and a summary of the specific reasons for
57.15 the determination. When the investigation involves a child foster care setting that is
57.16 monitored by a private licensing agency under section 245A.16, the local welfare agency
57.17 responsible for assessing or investigating the report shall notify the private licensing
57.18 agency of the determination and shall provide a summary of the specific reasons for
57.19 the determination. The notice to the private licensing agency must include identifying
57.20 private data, but not the identity of the reporter of maltreatment. The notice must also
57.21 include a certification that the information collection procedures under subdivision 10,
57.22 paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to
57.23 obtain access to other private data on the subject collected, created, or maintained under
57.24 this section. In addition, the notice shall include the length of time that the records will be
57.25 kept under subdivision 11c. The investigating agency shall notify the parent or guardian
57.26 of the child who is the subject of the report, and any person or facility determined to
57.27 have maltreated a child, of their appeal or review rights under this section ~~or section~~
57.28 ~~256.022~~. The notice must also state that a finding of maltreatment may result in denial of a
57.29 license application or background study disqualification under chapter 245C related to
57.30 employment or services that are licensed by the Department of Human Services under
57.31 chapter 245A, the Department of Health under chapter 144 or 144A, the Department of
57.32 Corrections under section 241.021, and from providing services related to an unlicensed
57.33 personal care provider organization under chapter 256B.

57.34 Sec. 54. Minnesota Statutes 2010, section 626.556, subdivision 10i, is amended to read:

58.1 Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative
58.2 reconsideration is not applicable in family assessments since no determination concerning
58.3 maltreatment is made. For investigations, except as provided under paragraph (e), an
58.4 individual or facility that the commissioner of human services, a local social service
58.5 agency, or the commissioner of education determines has maltreated a child, an interested
58.6 person acting on behalf of the child, regardless of the determination, who contests
58.7 the investigating agency's final determination regarding maltreatment, may request the
58.8 investigating agency to reconsider its final determination regarding maltreatment. The
58.9 request for reconsideration must be submitted in writing to the investigating agency within
58.10 15 calendar days after receipt of notice of the final determination regarding maltreatment
58.11 or, if the request is made by an interested person who is not entitled to notice, within
58.12 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the
58.13 request for reconsideration must be postmarked and sent to the investigating agency
58.14 within 15 calendar days of the individual's or facility's receipt of the final determination. If
58.15 the request for reconsideration is made by personal service, it must be received by the
58.16 investigating agency within 15 calendar days after the individual's or facility's receipt of the
58.17 final determination. Effective January 1, 2002, an individual who was determined to have
58.18 maltreated a child under this section and who was disqualified on the basis of serious or
58.19 recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration
58.20 of the maltreatment determination and the disqualification. The request for reconsideration
58.21 of the maltreatment determination and the disqualification must be submitted within 30
58.22 calendar days of the individual's receipt of the notice of disqualification under sections
58.23 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment
58.24 determination and the disqualification must be postmarked and sent to the investigating
58.25 agency within 30 calendar days of the individual's receipt of the maltreatment
58.26 determination and notice of disqualification. If the request for reconsideration is made by
58.27 personal service, it must be received by the investigating agency within 30 calendar days
58.28 after the individual's receipt of the notice of disqualification.

58.29 (b) Except as provided under paragraphs (e) and (f), if the investigating agency
58.30 denies the request or fails to act upon the request within 15 working days after receiving
58.31 the request for reconsideration, the person or facility entitled to a fair hearing under section
58.32 256.045 may submit to the commissioner of human services or the commissioner of
58.33 education a written request for a hearing under that section. Section 256.045 also governs
58.34 hearings requested to contest a final determination of the commissioner of education. ~~For~~
58.35 ~~reports involving maltreatment of a child in a facility, an interested person acting on behalf~~
58.36 ~~of the child may request a review by the Child Maltreatment Review Panel under section~~

59.1 ~~256.022 if the investigating agency denies the request or fails to act upon the request or~~
59.2 ~~if the interested person contests a reconsidered determination.~~ The investigating agency
59.3 shall notify persons who request reconsideration of their rights under this paragraph.
59.4 The request must be submitted in writing to the review panel and a copy sent to the
59.5 investigating agency within 30 calendar days of receipt of notice of a denial of a request
59.6 for reconsideration or of a reconsidered determination. The request must specifically
59.7 identify the aspects of the agency determination with which the person is dissatisfied.

59.8 (c) If, as a result of a reconsideration or review, the investigating agency changes
59.9 the final determination of maltreatment, that agency shall notify the parties specified in
59.10 subdivisions 10b, 10d, and 10f.

59.11 (d) Except as provided under paragraph (f), if an individual or facility contests the
59.12 investigating agency's final determination regarding maltreatment by requesting a fair
59.13 hearing under section 256.045, the commissioner of human services shall assure that the
59.14 hearing is conducted and a decision is reached within 90 days of receipt of the request for
59.15 a hearing. The time for action on the decision may be extended for as many days as the
59.16 hearing is postponed or the record is held open for the benefit of either party.

59.17 (e) If an individual was disqualified under sections 245C.14 and 245C.15, on
59.18 the basis of a determination of maltreatment, which was serious or recurring, and
59.19 the individual has requested reconsideration of the maltreatment determination under
59.20 paragraph (a) and requested reconsideration of the disqualification under sections 245C.21
59.21 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the
59.22 disqualification shall be consolidated into a single reconsideration. If reconsideration
59.23 of the maltreatment determination is denied and the individual remains disqualified
59.24 following a reconsideration decision, the individual may request a fair hearing under
59.25 section 256.045. If an individual requests a fair hearing on the maltreatment determination
59.26 and the disqualification, the scope of the fair hearing shall include both the maltreatment
59.27 determination and the disqualification.

59.28 (f) If a maltreatment determination or a disqualification based on serious or recurring
59.29 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing
59.30 sanction under section 245A.07, the license holder has the right to a contested case hearing
59.31 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for
59.32 under section 245A.08, subdivision 2a, the scope of the contested case hearing shall
59.33 include the maltreatment determination, disqualification, and licensing sanction or denial
59.34 of a license. In such cases, a fair hearing regarding the maltreatment determination and
59.35 disqualification shall not be conducted under section 256.045. Except for family child
59.36 care and child foster care, reconsideration of a maltreatment determination as provided

60.1 under this subdivision, and reconsideration of a disqualification as provided under section
60.2 245C.22, shall also not be conducted when:

60.3 (1) a denial of a license under section 245A.05 or a licensing sanction under section
60.4 245A.07, is based on a determination that the license holder is responsible for maltreatment
60.5 or the disqualification of a license holder based on serious or recurring maltreatment;

60.6 (2) the denial of a license or licensing sanction is issued at the same time as the
60.7 maltreatment determination or disqualification; and

60.8 (3) the license holder appeals the maltreatment determination or disqualification, and
60.9 denial of a license or licensing sanction.

60.10 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
60.11 determination or disqualification, but does not appeal the denial of a license or a licensing
60.12 sanction, reconsideration of the maltreatment determination shall be conducted under
60.13 sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the
60.14 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing
60.15 shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and
60.16 626.557, subdivision 9d.

60.17 If the disqualified subject is an individual other than the license holder and upon
60.18 whom a background study must be conducted under chapter 245C, the hearings of all
60.19 parties may be consolidated into a single contested case hearing upon consent of all parties
60.20 and the administrative law judge.

60.21 (g) For purposes of this subdivision, "interested person acting on behalf of the
60.22 child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult
60.23 stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been
60.24 determined to be the perpetrator of the maltreatment.

60.25 Sec. 55. Minnesota Statutes 2010, section 626.556, subdivision 11, is amended to read:

60.26 Subd. 11. **Records.** (a) Except as provided in paragraph (b) ~~or (d)~~ and subdivisions
60.27 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare
60.28 agency or agency responsible for assessing or investigating the report under this
60.29 section, including any written reports filed under subdivision 7, shall be private data on
60.30 individuals, except insofar as copies of reports are required by subdivision 7 to be sent to
60.31 the local police department or the county sheriff. All records concerning determinations
60.32 of maltreatment by a facility are nonpublic data as maintained by the Department of
60.33 Education, except insofar as copies of reports are required by subdivision 7 to be sent
60.34 to the local police department or the county sheriff. Reports maintained by any police
60.35 department or the county sheriff shall be private data on individuals except the reports

61.1 shall be made available to the investigating, petitioning, or prosecuting authority, including
61.2 county medical examiners or county coroners. Section 13.82, subdivisions 8, 9, and 14,
61.3 apply to law enforcement data other than the reports. The local social services agency or
61.4 agency responsible for assessing or investigating the report shall make available to the
61.5 investigating, petitioning, or prosecuting authority, including county medical examiners or
61.6 county coroners or their professional delegates, any records which contain information
61.7 relating to a specific incident of neglect or abuse which is under investigation, petition, or
61.8 prosecution and information relating to any prior incidents of neglect or abuse involving
61.9 any of the same persons. The records shall be collected and maintained in accordance with
61.10 the provisions of chapter 13. In conducting investigations and assessments pursuant to
61.11 this section, the notice required by section 13.04, subdivision 2, need not be provided to a
61.12 minor under the age of ten who is the alleged victim of abuse or neglect. An individual
61.13 subject of a record shall have access to the record in accordance with those sections,
61.14 except that the name of the reporter shall be confidential while the report is under
61.15 assessment or investigation except as otherwise permitted by this subdivision. Any person
61.16 conducting an investigation or assessment under this section who intentionally discloses
61.17 the identity of a reporter prior to the completion of the investigation or assessment is
61.18 guilty of a misdemeanor. After the assessment or investigation is completed, the name of
61.19 the reporter shall be confidential. The subject of the report may compel disclosure of the
61.20 name of the reporter only with the consent of the reporter or upon a written finding by
61.21 the court that the report was false and that there is evidence that the report was made in
61.22 bad faith. This subdivision does not alter disclosure responsibilities or obligations under
61.23 the Rules of Criminal Procedure.

61.24 (b) Upon request of the legislative auditor, data on individuals maintained under
61.25 this section must be released to the legislative auditor in order for the auditor to fulfill the
61.26 auditor's duties under section 3.971. The auditor shall maintain the data in accordance
61.27 with chapter 13.

61.28 (c) The commissioner of education must be provided with all requested data that are
61.29 relevant to a report of maltreatment and are in possession of a school facility as defined
61.30 in subdivision 2, paragraph (i), when the data is requested pursuant to an assessment or
61.31 investigation of a maltreatment report of a student in a school. If the commissioner of
61.32 education makes a determination of maltreatment involving an individual performing
61.33 work within a school facility who is licensed by a board or other agency, the commissioner
61.34 shall provide necessary and relevant information to the licensing entity to enable the
61.35 entity to fulfill its statutory duties. Notwithstanding section 13.03, subdivision 4, data
61.36 received by a licensing entity under this paragraph are governed by section 13.41 or other

62.1 applicable law governing data of the receiving entity, except that this section applies to the
62.2 classification of and access to data on the reporter of the maltreatment.

62.3 ~~(d) The investigating agency shall exchange not public data with the Child~~
62.4 ~~Maltreatment Review Panel under section 256.022 if the data are pertinent and necessary~~
62.5 ~~for a review requested under section 256.022. Upon completion of the review, the not~~
62.6 ~~public data received by the review panel must be returned to the investigating agency.~~

62.7 Sec. 56. **REPEALER.**

62.8 Minnesota Statutes 2010, section 256.022, is repealed.

62.9 **ARTICLE 2**

62.10 **CHILD CARE**

62.11 Section 1. Minnesota Statutes 2010, section 119B.09, subdivision 7, is amended to read:

62.12 Subd. 7. **Date of eligibility for assistance.** (a) The date of eligibility for child care
62.13 assistance under this chapter is the later of the date the application was ~~signed~~ received by
62.14 the county; the beginning date of employment, education, or training; the date the infant is
62.15 born for applicants to the at-home infant care program; or the date a determination has
62.16 been made that the applicant is a participant in employment and training services under
62.17 Minnesota Rules, part 3400.0080, or chapter 256J.

62.18 (b) Payment ceases for a family under the at-home infant child care program when a
62.19 family has used a total of 12 months of assistance as specified under section 119B.035.
62.20 Payment of child care assistance for employed persons on MFIP is effective the date of
62.21 employment or the date of MFIP eligibility, whichever is later. Payment of child care
62.22 assistance for MFIP or DWP participants in employment and training services is effective
62.23 the date of commencement of the services or the date of MFIP or DWP eligibility,
62.24 whichever is later. Payment of child care assistance for transition year child care must be
62.25 made retroactive to the date of eligibility for transition year child care.

62.26 (c) Notwithstanding paragraph (b), payment of child care assistance for participants
62.27 eligible under section 119B.05 may only be made retroactive for a maximum of six
62.28 months from the date of application for child care assistance.

62.29 Sec. 2. Minnesota Statutes 2010, section 119B.12, subdivision 1, is amended to read:

62.30 Subdivision 1. **Fee schedule.** All changes to parent fees must be implemented on
62.31 the first Monday of the service period following the effective date of the change.

62.32 PARENT FEE SCHEDULE. The parent fee schedule is as follows, except as noted
62.33 in subdivision 2:

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63.1	Income Range (as a percent of the state median income, except at the start of the first tier)	Co-payment (as a percentage of adjusted gross income)
63.4	0-74.99% of federal poverty guidelines	\$0/month <u>biweekly</u>
63.5	75.00-99.99% of federal poverty guidelines	\$5/month <u>\$2/biweekly</u>
63.6	100.00% of federal poverty	
63.7	guidelines-27.72%	2.61%
63.8	27.73-29.04%	2.61%
63.9	29.05-30.36%	2.61%
63.10	30.37-31.68%	2.61%
63.11	31.69-33.00%	2.91%
63.12	33.01-34.32%	2.91%
63.13	34.33-35.65%	2.91%
63.14	35.66-36.96%	2.91%
63.15	36.97-38.29%	3.21%
63.16	38.30-39.61%	3.21%
63.17	39.62-40.93%	3.21%
63.18	40.94-42.25%	3.84%
63.19	42.26-43.57%	3.84%
63.20	43.58-44.89%	4.46%
63.21	44.90-46.21%	4.76%
63.22	46.22-47.53%	5.05%
63.23	47.54-48.85%	5.65%
63.24	48.86-50.17%	5.95%
63.25	50.18-51.49%	6.24%
63.26	51.50-52.81%	6.84%
63.27	52.82-54.13%	7.58%
63.28	54.14-55.45%	8.33%
63.29	55.46-56.77%	9.20%
63.30	56.78-58.09%	10.07%
63.31	58.10-59.41%	10.94%
63.32	59.42-60.73%	11.55%
63.33	60.74-62.06%	12.16%
63.34	62.07-63.38%	12.77%
63.35	63.39-64.70%	13.38%
63.36	64.71- 66.99 <u>67.00%</u>	14.00%
63.37	<u>Greater than</u> 67.00%	ineligible

63.38 A family's ~~monthly~~ biweekly co-payment fee is the fixed percentage established for
 63.39 the income range multiplied by the highest possible income within that income range.

63.40 Sec. 3. Minnesota Statutes 2010, section 119B.12, subdivision 2, is amended to read:

63.41 Subd. 2. **Parent fee.** A family must be assessed a parent fee for each service period.
 63.42 A family's parent fee must be a fixed percentage of its annual gross income. Parent fees

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64.1 must apply to families eligible for child care assistance under sections 119B.03 and
64.2 119B.05. Income must be as defined in section 119B.011, subdivision 15. The fixed
64.3 percent is based on the relationship of the family's annual gross income to 100 percent
64.4 of the annual state median income. Parent fees must begin at 75 percent of the poverty
64.5 level. The minimum parent fees for families between 75 percent and 100 percent of
64.6 poverty level must be ~~\$5 per month~~ \$2 per biweekly period. Parent fees must provide
64.7 for graduated movement to full payment. Payment of part or all of a family's parent
64.8 fee directly to the family's child care provider on behalf of the family by a source other
64.9 than the family shall not affect the family's eligibility for child care assistance, and the
64.10 amount paid shall be excluded from the family's income. Child care providers who accept
64.11 third-party payments must maintain family specific documentation of payment source,
64.12 amount, and time period covered by the payment.

64.13 Sec. 4. Minnesota Statutes 2010, section 119B.125, subdivision 1a, is amended to read:

64.14 Subd. 1a. **Background study required.** This subdivision only applies to legal,
64.15 nonlicensed family child care providers. Prior to authorization, and as part of each
64.16 reauthorization required in subdivision 1, the county shall perform a background study on
64.17 every member of the provider's household who is age 13 and older. ~~The background study~~
64.18 ~~shall be conducted according to the procedures under subdivision 2.~~ The county shall also
64.19 perform a background study on an individual who has reached age ten but is not yet age
64.20 13 and is living in the household where the nonlicensed child care will be provided when
64.21 the county has reasonable cause as defined under section 245C.02, subdivision 15.

64.22 Sec. 5. Minnesota Statutes 2010, section 119B.125, subdivision 2, is amended to read:

64.23 Subd. 2. **Persons who cannot be authorized.** (a) ~~When any member of the~~
64.24 ~~legal, nonlicensed family child care provider's household meets any of the conditions~~
64.25 ~~under paragraphs (b) to (n), the provider must not be authorized as a legal nonlicensed~~
64.26 ~~family child care provider. To determine whether any of the listed conditions exist, the~~
64.27 ~~county must request information about the provider and other household members for~~
64.28 ~~whom a background study is required under subdivision 1a from the Bureau of Criminal~~
64.29 ~~Apprehension, the juvenile courts, and social service agencies. When one of the listed~~
64.30 ~~entities does not maintain information on a statewide basis, the county must contact~~
64.31 ~~the entity in the county where the provider resides and any other county in which the~~
64.32 ~~provider or any household member previously resided in the past year. For purposes of~~
64.33 ~~this subdivision, a finding that a delinquency petition is proven in juvenile court must be~~
64.34 ~~considered a conviction in state district court.~~ The provider seeking authorization under

65.1 this section shall collect the information required under section 245C.05, subdivision 1,
65.2 and forward the information to the county agency. The background study must include
65.3 a review of the information required under section 245C.08, subdivisions 2, 3, and 4,
65.4 paragraph (b). A nonlicensed family child care provider is not authorized under this
65.5 section if any household member who is the subject of a background study is determined
65.6 to have a disqualifying characteristic under paragraphs (b) to (e) or under section 245C.14
65.7 or 245C.15. If a county has determined that a provider is able to be authorized in that
65.8 county, and a family in another county later selects that provider, the provider is able to
65.9 be authorized in the second county without undergoing a new background investigation
65.10 unless one of the following conditions exists:

65.11 (1) two years have passed since the first authorization;

65.12 (2) another person age 13 or older has joined the provider's household since the
65.13 last authorization;

65.14 (3) a current household member has turned 13 since the last authorization; or

65.15 (4) there is reason to believe that a household member has a factor that prevents
65.16 authorization.

65.17 ~~(b) The person has been convicted of one of the following offenses or has admitted to~~
65.18 ~~committing or a preponderance of the evidence indicates that the person has committed an~~
65.19 ~~act that meets the definition of one of the following offenses: sections 609.185 to 609.195,~~
65.20 ~~murder in the first, second, or third degree; 609.2661 to 609.2663, murder of an unborn~~
65.21 ~~child in the first, second, or third degree; 609.322, solicitation, inducement, promotion~~
65.22 ~~of prostitution, or receiving profit from prostitution; 609.342 to 609.345, criminal sexual~~
65.23 ~~conduct in the first, second, third, or fourth degree; 609.352, solicitation of children to~~
65.24 ~~engage in sexual conduct; 609.365, incest; 609.377, felony malicious punishment of a~~
65.25 ~~child; 617.246, use of minors in sexual performance; 617.247, possession of pictorial~~
65.26 ~~representation of a minor; 609.2242 to 609.2243, felony domestic assault; a felony offense~~
65.27 ~~of spousal abuse; a felony offense of child abuse or neglect; a felony offense of a crime~~
65.28 ~~against children; or an attempt or conspiracy to commit any of these offenses as defined in~~
65.29 ~~Minnesota Statutes; or an offense in any other state or country where the elements are~~
65.30 ~~substantially similar to any of the offenses listed in this paragraph.~~

65.31 ~~(c) Less than 15 years have passed since the discharge of the sentence imposed for~~
65.32 ~~the offense and the person has received a felony conviction for one of the following~~
65.33 ~~offenses, or the person has admitted to committing or a preponderance of the evidence~~
65.34 ~~indicates that the person has committed an act that meets the definition of a felony~~
65.35 ~~conviction for one of the following offenses: sections 609.20 to 609.205, manslaughter~~
65.36 ~~in the first or second degree; 609.21, criminal vehicular homicide; 609.215, aiding~~

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66.1 ~~suicide or aiding attempted suicide; 609.221 to 609.2231, assault in the first, second,~~
66.2 ~~third, or fourth degree; 609.224, repeat offenses of fifth-degree assault; 609.228, great~~
66.3 ~~bodily harm caused by distribution of drugs; 609.2325, criminal abuse of a vulnerable~~
66.4 ~~adult; 609.2335, financial exploitation of a vulnerable adult; 609.235, use of drugs to~~
66.5 ~~injure or facilitate a crime; 609.24, simple robbery; 617.241, repeat offenses of obscene~~
66.6 ~~materials and performances; 609.245, aggravated robbery; 609.25, kidnapping; 609.255,~~
66.7 ~~false imprisonment; 609.2664 to 609.2665, manslaughter of an unborn child in the first or~~
66.8 ~~second degree; 609.267 to 609.2672, assault of an unborn child in the first, second, or third~~
66.9 ~~degree; 609.268, injury or death of an unborn child in the commission of a crime; 609.27,~~
66.10 ~~coercion; 609.275, attempt to coerce; 609.324, subdivision 1, other prohibited acts, minor~~
66.11 ~~engaged in prostitution; 609.3451, repeat offenses of criminal sexual conduct in the fifth~~
66.12 ~~degree; 609.378, neglect or endangerment of a child; 609.52, theft; 609.521, possession of~~
66.13 ~~shoplifting gear; 609.561 to 609.563, arson in the first, second, or third degree; 609.582,~~
66.14 ~~burglary in the first, second, third, or fourth degree; 609.625, aggravated forgery; 609.63,~~
66.15 ~~forgery; 609.631, check forgery, offering a forged check; 609.635, obtaining signature~~
66.16 ~~by false pretenses; 609.66, dangerous weapon; 609.665, setting a spring gun; 609.67,~~
66.17 ~~unlawfully owning, possessing, or operating a machine gun; 609.687, adulteration; 609.71,~~
66.18 ~~riot; 609.713, terrorist threats; 609.749, stalking; 260C.301, termination of parental rights;~~
66.19 ~~152.021 to 152.022 and 152.0262, controlled substance crime in the first or second degree;~~
66.20 ~~152.023, subdivision 1, clause (3) or (4), or 152.023, subdivision 2, clause (4), controlled~~
66.21 ~~substance crime in third degree; 152.024, subdivision 1, clause (2), (3), or (4), controlled~~
66.22 ~~substance crime in fourth degree; 617.23, repeat offenses of indecent exposure; an attempt~~
66.23 ~~or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or an~~
66.24 ~~offense in any other state or country where the elements are substantially similar to any of~~
66.25 ~~the offenses listed in this paragraph.~~

66.26 (d) ~~Less than ten years have passed since the discharge of the sentence imposed for~~
66.27 ~~the offense and the person has received a gross misdemeanor conviction for one of the~~
66.28 ~~following offenses or the person has admitted to committing or a preponderance of the~~
66.29 ~~evidence indicates that the person has committed an act that meets the definition of a gross~~
66.30 ~~misdemeanor conviction for one of the following offenses: sections 609.224, fifth-degree~~
66.31 ~~assault; 609.2242 to 609.2243, domestic assault; 518B.01, subdivision 14, violation of~~
66.32 ~~an order for protection; 609.3451, fifth-degree criminal sexual conduct; 609.746, repeat~~
66.33 ~~offenses of interference with privacy; 617.23, repeat offenses of indecent exposure;~~
66.34 ~~617.241, obscene materials and performances; 617.243, indecent literature, distribution;~~
66.35 ~~617.293, disseminating or displaying harmful material to minors; 609.71, riot; 609.66,~~
66.36 ~~dangerous weapons; 609.749, stalking; 609.224, subdivision 2, paragraph (c), fifth-degree~~

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67.1 ~~assault against a vulnerable adult by a caregiver; 609.23, mistreatment of persons~~
67.2 ~~confined; 609.231, mistreatment of residents or patients; 609.2325, criminal abuse of a~~
67.3 ~~vulnerable adult; 609.2335, financial exploitation of a vulnerable adult; 609.233, criminal~~
67.4 ~~neglect of a vulnerable adult; 609.234, failure to report maltreatment of a vulnerable adult;~~
67.5 ~~609.72, subdivision 3, disorderly conduct against a vulnerable adult; 609.265, abduction;~~
67.6 ~~609.378, neglect or endangerment of a child; 609.377, malicious punishment of a child;~~
67.7 ~~609.324, subdivision 1a, other prohibited acts, minor engaged in prostitution; 609.33,~~
67.8 ~~disorderly house; 609.52, theft; 609.582, burglary in the first, second, third, or fourth~~
67.9 ~~degree; 609.631, check forgery, offering a forged check; 609.275, attempt to coerce; an~~
67.10 ~~attempt or conspiracy to commit any of these offenses as defined in Minnesota Statutes; or~~
67.11 ~~an offense in any other state or country where the elements are substantially similar to~~
67.12 ~~any of the offenses listed in this paragraph.~~

67.13 ~~(e) Less than seven years have passed since the discharge of the sentence imposed~~
67.14 ~~for the offense and the person has received a misdemeanor conviction for one of the~~
67.15 ~~following offenses or the person has admitted to committing or a preponderance of the~~
67.16 ~~evidence indicates that the person has committed an act that meets the definition of a~~
67.17 ~~misdemeanor conviction for one of the following offenses: sections 609.224, fifth-degree~~
67.18 ~~assault; 609.2242, domestic assault; 518B.01, violation of an order for protection;~~
67.19 ~~609.3232, violation of an order for protection; 609.746, interference with privacy; 609.79,~~
67.20 ~~obscene or harassing telephone calls; 609.795, letter, telegram, or package opening;~~
67.21 ~~harassment; 617.23, indecent exposure; 609.2672, assault of an unborn child, third degree;~~
67.22 ~~617.293, dissemination and display of harmful materials to minors; 609.66, dangerous~~
67.23 ~~weapons; 609.665, spring guns; an attempt or conspiracy to commit any of these offenses~~
67.24 ~~as defined in Minnesota Statutes; or an offense in any other state or country where the~~
67.25 ~~elements are substantially similar to any of the offenses listed in this paragraph.~~

67.26 ~~(f) The person has been identified by the child protection agency in the county where~~
67.27 ~~the provider resides or a county where the provider has resided or by the statewide child~~
67.28 ~~protection database as a person found by a preponderance of evidence under section~~
67.29 ~~626.556 to be responsible for physical or sexual abuse of a child within the last seven years.~~

67.30 ~~(g) The person has been identified by the adult protection agency in the county~~
67.31 ~~where the provider resides or a county where the provider has resided or by the statewide~~
67.32 ~~adult protection database as the person responsible for abuse or neglect of a vulnerable~~
67.33 ~~adult within the last seven years.~~

67.34 ~~(h) (b) The person has refused to give written consent for disclosure of criminal~~
67.35 ~~history records.~~

68.1 ~~(c)~~ (c) The person has been denied a family child care license or has received a fine
68.2 or a sanction as a licensed child care provider that has not been reversed on appeal.

68.3 ~~(d)~~ (d) The person has a family child care licensing disqualification that has not
68.4 been set aside.

68.5 ~~(e)~~ (e) The person has admitted or a county has found that there is a preponderance
68.6 of evidence that fraudulent information was given to the county for child care assistance
68.7 application purposes or was used in submitting child care assistance bills for payment.

68.8 ~~(f)~~ The person has been convicted of the crime of theft by wrongfully obtaining
68.9 public assistance or has been found guilty of wrongfully obtaining public assistance by a
68.10 federal court, state court, or an administrative hearing determination or waiver, through a
68.11 disqualification consent agreement, as part of an approved diversion plan under section
68.12 401.065, or a court-ordered stay with probationary or other conditions.

68.13 ~~(m)~~ The person has a household member age 13 or older who has access to children
68.14 during the hours that care is provided and who meets one of the conditions listed in
68.15 paragraphs (b) to (l).

68.16 ~~(n)~~ The person has a household member ages ten to 12 who has access to children
68.17 during the hours that care is provided; information or circumstances exist which provide
68.18 the county with articulable suspicion that further pertinent information may exist showing
68.19 the household member meets one of the conditions listed in paragraphs (b) to (l); and the
68.20 household member actually meets one of the conditions listed in paragraphs (b) to (l).

68.21 Sec. 6. Minnesota Statutes 2010, section 119B.125, subdivision 6, is amended to read:

68.22 Subd. 6. **Record-keeping requirement.** All providers receiving child care
68.23 assistance payments must keep daily attendance records for children receiving child care
68.24 assistance and must make those records available immediately to the county upon request.
68.25 The attendance records must be completed daily and include the date, the first and last
68.26 name of each child in attendance, and the times when each child is dropped off and picked
68.27 up. To the extent possible, the times that the child was dropped off to and picked up from
68.28 the child care provider must be entered by the person dropping off or picking up the child.

68.29 The daily attendance records must be retained for six years after the date of service.

68.30 A county may deny authorization as a child care provider to any applicant or rescind
68.31 authorization of any provider when the county knows or has reason to believe that the
68.32 provider has not complied with the record-keeping requirement in this subdivision.

68.33 Sec. 7. Minnesota Statutes 2011 Supplement, section 119B.13, subdivision 1, is
68.34 amended to read:

69.1 Subdivision 1. **Subsidy restrictions.** (a) Beginning October 31, 2011, the maximum
69.2 rate paid for child care assistance in any county or multicounty region under the child care
69.3 fund shall be the rate for like-care arrangements in the county effective July 1, 2006,
69.4 decreased by 2.5 percent.

69.5 (b) ~~Every year~~ Biennially, beginning in 2012, the commissioner shall survey
69.6 rates charged by child care providers in Minnesota to determine the 75th percentile for
69.7 like-care arrangements in counties. When the commissioner determines that, using the
69.8 commissioner's established protocol, the number of providers responding to the survey is
69.9 too small to determine the 75th percentile rate for like-care arrangements in a county or
69.10 multicounty region, the commissioner may establish the 75th percentile maximum rate
69.11 based on like-care arrangements in a county, region, or category that the commissioner
69.12 deems to be similar.

69.13 (c) A rate which includes a special needs rate paid under subdivision 3 or under a
69.14 school readiness service agreement paid under section 119B.231, may be in excess of the
69.15 maximum rate allowed under this subdivision.

69.16 (d) The department shall monitor the effect of this paragraph on provider rates. The
69.17 county shall pay the provider's full charges for every child in care up to the maximum
69.18 established. The commissioner shall determine the maximum rate for each type of care
69.19 on an hourly, full-day, and weekly basis, including special needs and disability care. The
69.20 maximum payment to a provider for one day of care must not exceed the daily rate. The
69.21 maximum payment to a provider for one week of care must not exceed the weekly rate.

69.22 (e) Child care providers receiving reimbursement under this chapter must not be
69.23 paid activity fees or an additional amount above the maximum rates for care provided
69.24 during nonstandard hours for families receiving assistance.

69.25 (f) When the provider charge is greater than the maximum provider rate allowed,
69.26 the parent is responsible for payment of the difference in the rates in addition to any
69.27 family co-payment fee.

69.28 (g) All maximum provider rates changes shall be implemented on the Monday
69.29 following the effective date of the maximum provider rate.

69.30 Sec. 8. Minnesota Statutes 2010, section 119B.13, subdivision 6, is amended to read:

69.31 Subd. 6. **Provider payments.** (a) The provider shall bill for services provided
69.32 within ten days of the end of the service period. If bills are submitted within ten days of
69.33 the end of the service period, payments under the child care fund shall be made within 30
69.34 days of receiving a bill from the provider. Counties or the state may establish policies that
69.35 make payments on a more frequent basis.

70.1 (b) If a provider has received an authorization of care and been issued a billing form
70.2 for an eligible family, the bill must be submitted within 60 days of the last date of service
70.3 on the bill. A bill submitted more than 60 days after the last date of service must be
70.4 paid if the county determines that the provider has shown good cause why the bill was
70.5 not submitted within 60 days. Good cause must be defined in the county's child care
70.6 fund plan under section 119B.08, subdivision 3, and the definition of good cause must
70.7 include county error. Any bill submitted more than a year after the last date of service on
70.8 the bill must not be paid.

70.9 (c) If a provider provided care for a time period without receiving an authorization
70.10 of care and a billing form for an eligible family, payment of child care assistance may only
70.11 be made retroactively for a maximum of six months from the date the provider is issued
70.12 an authorization of care and billing form.

70.13 (d) A county may refuse to issue a child care authorization to a licensed or legal
70.14 nonlicensed provider, revoke an existing child care authorization to a licensed or legal
70.15 nonlicensed provider, stop payment issued to a licensed or legal nonlicensed provider, or
70.16 ~~may~~ refuse to pay a bill submitted by a licensed or legal nonlicensed provider if:

70.17 (1) the provider admits to intentionally giving the county materially false information
70.18 on the provider's billing forms; ~~or~~

70.19 (2) a county finds by a preponderance of the evidence that the provider intentionally
70.20 gave the county materially false information on the provider's billing forms;

70.21 (3) the provider is in violation of licensing or child care assistance program rules and
70.22 the provider has not corrected the violation;

70.23 (4) the provider submits false attendance reports or refuses to provide documentation
70.24 of the child's attendance upon request; or

70.25 (5) the provider gives false child care price information.

70.26 (e) A county's payment policies must be included in the county's child care plan
70.27 under section 119B.08, subdivision 3. If payments are made by the state, in addition to
70.28 being in compliance with this subdivision, the payments must be made in compliance
70.29 with section 16A.124.

70.30 **Sec. 9. CHILD CARE ASSISTANCE PROGRAM RULE CHANGE.**

70.31 The commissioner shall amend Minnesota Rules, part 3400.0035, subpart 2, to
70.32 remove the requirement that applications must be submitted by mail or delivered to the
70.33 agency within 15 calendar days after the date of signature. The commissioner shall
70.34 comply with Minnesota Statutes, section 14.389, in adopting the amendment.

ARTICLE 3

SIMPLIFICATION OF MFIP AND DWP

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Section 1. Minnesota Statutes 2010, section 256J.08, subdivision 11, is amended to read:

Subd. 11. **Caregiver.** "Caregiver" means a minor child's ~~natural~~ birth or adoptive parent or parents and stepparent who live in the home with the minor child. For purposes of determining eligibility for this program, caregiver also means any of the following individuals, if adults, who live with and provide care and support to a minor child when the minor child's ~~natural~~ birth or adoptive parent or parents or stepparents do not reside in the same home: legal custodian or guardian, grandfather, grandmother, brother, sister, half brother, half sister, stepbrother, stepsister, uncle, aunt, first cousin or first cousin once removed, nephew, niece, person of preceding generation as denoted by prefixes of "great," "great-great," or "great-great-great," or a spouse of any person named in the above groups even after the marriage ends by death or divorce.

Sec. 2. Minnesota Statutes 2010, section 256J.24, subdivision 2, is amended to read:

Subd. 2. **Mandatory assistance unit composition.** Except for minor caregivers and their children who must be in a separate assistance unit from the other persons in the household, when the following individuals live together, they must be included in the assistance unit:

- (1) a minor child, including a pregnant minor;
- (2) the minor child's minor siblings, minor half siblings, and minor stepsiblings;
- (3) the minor child's ~~natural~~ birth parents, adoptive parents, and stepparents; and
- (4) the spouse of a pregnant woman.

A minor child must have a caregiver for the child to be included in the assistance unit.

Sec. 3. Minnesota Statutes 2010, section 256J.32, subdivision 6, is amended to read:

Subd. 6. **Recertification.** (a) The county agency shall recertify eligibility in an annual face-to-face interview with the participant and. The county agency may waive the face-to-face interview and conduct a phone interview for participants who qualify under paragraph (b). During the interview the county agency shall verify the following:

- (1) presence of the minor child in the home, if questionable;
- (2) income, unless excluded, including self-employment expenses used as a deduction or deposits or withdrawals from business accounts;
- (3) assets when the value is within \$200 of the asset limit;

72.1 (4) information to establish an exception under section 256J.24, subdivision 9, if
72.2 questionable;

72.3 (5) inconsistent information, if related to eligibility; and

72.4 (6) whether a single caregiver household meets requirements in section 256J.575,
72.5 subdivision 3.

72.6 (b) A participant who is employed any number of hours must be given the option of
72.7 conducting a face-to-face or phone interview to recertify eligibility. The participant must
72.8 be employed at the time the interview is scheduled. If the participant loses the participant's
72.9 job between the time the interview is scheduled and when it is to be conducted, the phone
72.10 interview may still be conducted.

72.11 **EFFECTIVE DATE.** This section is effective October 1, 2012.

72.12 Sec. 4. Minnesota Statutes 2010, section 256J.621, is amended to read:

72.13 **256J.621 WORK PARTICIPATION CASH BENEFITS.**

72.14 (a) Effective October 1, 2009, upon exiting the diversionary work program (DWP)
72.15 or upon terminating the Minnesota family investment program with earnings, a participant
72.16 who is employed may be eligible for work participation cash benefits of \$25 per month
72.17 to assist in meeting the family's basic needs as the participant continues to move toward
72.18 self-sufficiency.

72.19 (b) To be eligible for work participation cash benefits, the participant shall not
72.20 receive MFIP or diversionary work program assistance during the month and the
72.21 participant or participants must meet the following work requirements:

72.22 (1) if the participant is a single caregiver and has a child under six years of age, the
72.23 participant must be employed at least 87 hours per month;

72.24 (2) if the participant is a single caregiver and does not have a child under six years of
72.25 age, the participant must be employed at least 130 hours per month; or

72.26 (3) if the household is a two-parent family, at least one of the parents must be
72.27 employed ~~an average of at least~~ 130 hours per month.

72.28 Whenever a participant exits the diversionary work program or is terminated from
72.29 MFIP and meets the other criteria in this section, work participation cash benefits are
72.30 available for up to 24 consecutive months.

72.31 (c) Expenditures on the program are maintenance of effort state funds under
72.32 a separate state program for participants under paragraph (b), clauses (1) and (2).

72.33 Expenditures for participants under paragraph (b), clause (3), are nonmaintenance of effort

73.1 funds. Months in which a participant receives work participation cash benefits under this
73.2 section do not count toward the participant's MFIP 60-month time limit.

73.3 Sec. 5. Minnesota Statutes 2010, section 256J.68, subdivision 7, is amended to read:

73.4 Subd. 7. **Exclusive procedure.** The procedure established by this section is
73.5 exclusive of all other legal, equitable, and statutory remedies against the state, its political
73.6 subdivisions, or employees of the state or its political subdivisions. The claimant shall
73.7 not be entitled to seek damages from any state, county, tribal, or reservation insurance
73.8 policy or self-insurance program. A provider who accepts or agrees to accept an injury
73.9 protection program payment for services provided to an individual must not require any
73.10 payment from the individual.

73.11 Sec. 6. Minnesota Statutes 2010, section 256J.95, subdivision 3, is amended to read:

73.12 Subd. 3. **Eligibility for diversionary work program.** (a) Except for the categories
73.13 of family units listed ~~below~~ in clauses (1) to (8), all family units who apply for cash
73.14 benefits and who meet MFIP eligibility as required in sections 256J.11 to 256J.15 are
73.15 eligible and must participate in the diversionary work program. Family units or individuals
73.16 that are not eligible for the diversionary work program include:

73.17 (1) child only cases;

73.18 (2) ~~a~~ single-parent family ~~unit~~ units that ~~includes~~ include a child under 12 months of
73.19 age. A parent is eligible for this exception once in a parent's lifetime;

73.20 (3) family units with a minor parent without a high school diploma or its equivalent;

73.21 (4) family units with an 18- or 19-year-old caregiver without a high school diploma
73.22 or its equivalent who chooses to have an employment plan with an education option;

73.23 ~~(5) a caregiver age 60 or over;~~

73.24 ~~(6)~~ (5) family units with a caregiver who received DWP benefits ~~in~~ within the 12
73.25 months prior to the month the family applied for DWP, except as provided in paragraph (c);

73.26 ~~(7)~~ (6) family units with a caregiver who received MFIP within the 12 months prior
73.27 to the month the family ~~unit~~ applied for DWP;

73.28 ~~(8)~~ a (7) family ~~unit~~ units with a caregiver who received 60 or more months of
73.29 TANF assistance; and

73.30 ~~(9)~~ (8) family units with a caregiver who is disqualified from the work participation
73.31 cash benefit program, DWP, or MFIP due to fraud; and

73.32 ~~(10) refugees and asylees as defined in Code of Federal Regulations, title 45, part~~
73.33 ~~400, subpart d, section 400.43, who arrived in the United States in the 12 months prior to~~
73.34 ~~the date of application for family cash assistance.~~

74.1 (b) A two-parent family must participate in DWP unless both caregivers meet the
74.2 criteria for an exception under paragraph (a), clauses (1) through (5), or the family unit
74.3 includes a parent who meets the criteria in paragraph (a), clause (6), (7), or (8), (9), or (10).

74.4 (c) Once DWP eligibility is determined, the four months run consecutively. If a
74.5 participant leaves the program for any reason and reapplies during the four-month period,
74.6 the county must redetermine eligibility for DWP.

74.7 ARTICLE 4

74.8 ADOPTION ASSISTANCE

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

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

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

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

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

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

74.25 Subd. 6. **At-risk child.** "At-risk child" means a child who does not have a
74.26 documented disability but who is at risk of developing a physical, mental, emotional, or
74.27 behavioral disability based on being related within the first or second degree to persons
74.28 who have an inheritable physical, mental, emotional, or behavioral disabling condition, or
74.29 from a background that has the potential to cause the child to develop a physical, mental,
74.30 emotional, or behavioral disability that the child is at risk of developing. The disability
74.31 must manifest during childhood.

74.32 Subd. 7. **Basic maintenance payment.** "Basic maintenance payment" means
74.33 the maintenance payment made on behalf of a child to support the costs an adoptive
74.34 parent incurs to meet a child's needs consistent with the care parents customarily provide,
74.35 including: food, clothing, shelter, daily supervision, school supplies, and child's personal

75.1 incidentals. It also supports reasonable travel to participate in face-to-face visitation
75.2 between child and birth relatives, including siblings.

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

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

75.12 Subd. 10. **Child under guardianship of the commissioner of human services.**
75.13 "Child under guardianship of the commissioner of human services" means a child the
75.14 court has ordered under the guardianship of the commissioner of human services pursuant
75.15 to section 260C.325.

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

75.19 Subd. 12. **Consent of parent to adoption under chapter 260C.** "Consent of
75.20 parent to adoption under chapter 260C" means the consent executed pursuant to section
75.21 260C.515, subdivision 3.

75.22 Subd. 13. **Department.** "Department" means the Minnesota Department of Human
75.23 Services.

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

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

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

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

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

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

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

76.10 Subd. 21. **Parent.** "Parent" has the meaning given in section 257.52. Parent does
76.11 not mean a putative father of a child unless the putative father also meets the requirements
76.12 of section 257.55 or unless the putative father is entitled to notice under section 259.49,
76.13 subdivision 1. For matters governed by the Indian Child Welfare Act, parent includes any
76.14 Indian person who has adopted a child by tribal law or custom, as provided in section
76.15 260.755, subdivision 14, and does not include the unwed father where paternity has not
76.16 been acknowledged or established.

76.17 Subd. 22. **Permanent legal and physical custody.** "Permanent legal and physical
76.18 custody" means permanent legal and physical custody ordered by a Minnesota court under
76.19 section 260C.515, subdivision 4, or for children under tribal court jurisdiction, a similar
76.20 provision under tribal code which means that the individual with permanent legal and
76.21 physical custody of the child has responsibility for the protection, education, care, and
76.22 control of the child and decision making on behalf of the child.

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

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

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

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

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

77.5 Subd. 28. **Social and medical history.** "Social and medical history" means the
77.6 document, on a form or forms prescribed by the commissioner, that contains a child's
77.7 genetic, medical, and family background as well as the history and current status of a
77.8 child's physical and mental health, behavior, demeanor, foster care placements, education,
77.9 and family relationships and has the same meaning as the history required under sections
77.10 259.43 and 260C.609.

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

77.16 Subd. 30. **Termination of parental rights.** "Termination of parental rights" means
77.17 a court order that severs all rights, powers, privileges, immunities, duties, and obligations,
77.18 including any rights to custody, control, visitation, or support, existing between a parent
77.19 and child. For an Indian child who is a ward of tribal court, termination of parental rights
77.20 means any action resulting in the termination or suspension of the parent-child relationship
77.21 when the tribe has made a judicial determination that the child cannot or should not be
77.22 returned to the home of the child's parent or parents.

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

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

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

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

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

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

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

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

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

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

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

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

78.21 (1) be determined to be a child with special needs, according to subdivision 2;

78.22 (2) meet the applicable citizenship and immigration requirements in subdivision
78.23 3; and

78.24 (3)(i) meet the criteria outlined in section 473 of the Social Security Act; or

78.25 (ii) have had foster care payments paid on the child's behalf while in out-of-home
78.26 placement through the county or tribal social service agency and be a child under the
78.27 guardianship of the commissioner or a ward of tribal court.

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

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

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

78.34 (1) court-ordered termination of parental rights;

78.35 (2) petition to terminate parental rights;

- 79.1 (3) consent of parent to adoption accepted by the court under chapter 260C;
79.2 (4) in circumstances where tribal law permits the child to be adopted without a
79.3 termination of parental rights, a judicial determination by tribal court indicating the valid
79.4 reason why the child cannot or should not return home;
79.5 (5) voluntary relinquishment under section 259.25 or 259.47 or, if relinquishment
79.6 occurred in another state, the applicable laws in that state; or
79.7 (6) death of the legal parent, or parents if the child has two legal parents.
79.8 (c) There exists a specific factor or condition because of which it is reasonable to
79.9 conclude that the child cannot be placed with adoptive parents without providing adoption
79.10 assistance as evidenced by:
79.11 (1) determination by the Social Security Administration that the child meets all
79.12 medical or disability requirements of title XVI of the Social Security Act with respect to
79.13 eligibility for Supplemental Security Income benefits;
79.14 (2) documented physical, mental, emotional, or behavioral disability not covered
79.15 under clause (1);
79.16 (3) member in a sibling group being adopted at the same time by the same parent;
79.17 (4) adoptive placement in the home of a parent who previously adopted a sibling for
79.18 whom they receive adoption assistance; or
79.19 (5) documentation that the child is an at-risk child.
79.20 (d) A reasonable but unsuccessful effort was made to place the child with adoptive
79.21 parents without providing adoption assistance as evidenced by:
79.22 (1) documented search for an appropriate adoptive placement; or
79.23 (2) determination by the commissioner that a search under clause (1) is not in the
79.24 best interests of the child.
79.25 (e) The requirement for a documented search for an appropriate adoptive placement
79.26 under paragraph (d), including the registration of the child with the State Adoption
79.27 Exchange and other recruitment methods under paragraph (f), must be waived if:
79.28 (1) the child is being adopted by a relative and it is determined by the child-placing
79.29 agency that adoption by the relative is in the best interests of the child;
79.30 (2) the child is being adopted by a foster parent with whom the child has developed
79.31 significant emotional ties while in their care as a foster child and it is determined by
79.32 the child-placing agency that adoption by the foster parent is in the best interests of the
79.33 child; or
79.34 (3) the child is being adopted by a parent that previously adopted a sibling of the
79.35 child, and it is determined by the child-placing agency that adoption by this parent is
79.36 in the best interests of the child.

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

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

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

80.8 (2) comply with the adoptive placement preferences required under the Indian Child
80.9 Welfare Act when the Indian Child Welfare Act, United States Code, title 25, section
80.10 1915(a), applies;

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

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

80.17 (g) Once the child-placing agency has determined that placement with an identified
80.18 parent is in the child's best interest and has made full written disclosure about the child's
80.19 social and medical history, the agency must ask the prospective adoptive parent if they are
80.20 willing to adopt the child without adoption assistance. If the identified parent is either
80.21 unwilling or unable to adopt the child without adoption assistance, the child-placing
80.22 agency must provide documentation as prescribed by the commissioner to fulfill the
80.23 requirement to make a reasonable effort to place the child without adoption assistance. If
80.24 the identified parent desires to adopt the child without adoption assistance, the parent must
80.25 provide a written statement to this effect to the child-placing agency and the statement must
80.26 be maintained in the permanent adoption record of the child-placing agency. For children
80.27 under guardianship of the commissioner, the child-placing agency shall submit a copy of
80.28 this statement to the commissioner to be maintained in the permanent adoption record.

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

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

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

81.5 (1) a felony conviction at any time for:

81.6 (i) child abuse or neglect;

81.7 (ii) spousal abuse;

81.8 (iii) a crime against children, including child pornography; or

81.9 (iv) a crime involving violence, including rape, sexual assault, or homicide, but not

81.10 including other physical assault or battery; or

81.11 (2) a felony conviction within the past five years for:

81.12 (i) physical assault;

81.13 (ii) battery; or

81.14 (iii) a drug-related offense.

81.15 Subd. 5. **Responsibility for determining adoption assistance eligibility.** The

81.16 state will determine eligibility for:

81.17 (1) a Minnesota child under the guardianship of the commissioner who would

81.18 otherwise remain in foster care;

81.19 (2) a child who is not under the guardianship of the commissioner who meets title

81.20 IV-E eligibility defined in section 473 of the Social Security Act and no state agency has

81.21 legal responsibility for placement and care of the child;

81.22 (3) a Minnesota child under tribal jurisdiction who would otherwise remain in foster

81.23 care; and

81.24 (4) an Indian child being placed in Minnesota who meets title IV-E eligibility defined

81.25 in section 473 of the Social Security Act. The agency or entity assuming responsibility for

81.26 the child is responsible for the nonfederal share of the adoption assistance payment.

81.27 Subd. 6. **Exclusions.** The commissioner shall not enter into an adoption assistance

81.28 agreement with:

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

81.30 (2) a child's relative, according to section 260C.007, subdivision 27, with whom the

81.31 child resided immediately prior to child welfare involvement unless:

81.32 (i) the child was in the custody of a Minnesota county or tribal agency pursuant to

81.33 an order under chapter 260C or equivalent provisions of tribal code and the agency had

81.34 placement and care responsibility for permanency planning for the child; and

81.35 (ii) the child is under guardianship of the commissioner of human services according

81.36 to the requirements of section 260C.325, subdivision 1, paragraphs (a) and (b), or

82.1 subdivision 3, paragraphs (a) and (b), or is a ward of a Minnesota tribal court after
82.2 termination of parental rights, suspension of parental rights, or a finding by the tribal court
82.3 that the child cannot safely return to the care of the parent;

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

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

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

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

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

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

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

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

82.27 (b) In order to receive adoption assistance benefits, a written agreement on a form
82.28 prescribed by the commissioner must be signed by the parent, an approved representative
82.29 from the child-placing agency, and the commissioner prior to the effective date of the
82.30 adoption decree. No later than 30 days after the parent is approved for the adoptive
82.31 placement, the agreement must be negotiated with the parent as required in section
82.32 259A.25, subdivision 1. Adoption assistance must be approved or denied by the
82.33 commissioner no later than 15 business days after the receipt of a complete adoption
82.34 assistance application prescribed by the commissioner. A fully executed copy of the

83.1 signed agreement must be given to each party. Termination or disruption of the adoptive
83.2 placement preceding adoption finalization makes the agreement with that parent void.

83.3 (c) The agreement must specify the following:

83.4 (1) duration of the agreement;

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

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

83.8 (4) the terms of the payment;

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

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

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

83.14 (8) the effective date of the agreement.

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

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

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

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

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

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

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

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

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

84.4	<u>Birth through age five</u>	<u>up to \$247 per month</u>
84.5	<u>Age six through age 11</u>	<u>up to \$277 per month</u>
84.6	<u>Age 12 through age 14</u>	<u>up to \$307 per month</u>
84.7	<u>Age 15 and older</u>	<u>up to \$337 per month</u>

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

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

84.13	<u>Level I</u>	<u>up to \$150 per month</u>
84.14	<u>Level II</u>	<u>up to \$275 per month</u>
84.15	<u>Level III</u>	<u>up to \$400 per month</u>
84.16	<u>Level IV</u>	<u>up to \$500 per month</u>

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

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

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

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

84.30 (1) child care for a child age 12 and younger, or for a child age 13 or 14 who has
84.31 a documented disability that requires special instruction for and services by the child
84.32 care provider. Child care reimbursements may be made if all available adult caregivers
84.33 are employed or attending educational or vocational training programs. If a parent is
84.34 attending an educational or vocational training program, child care reimbursement is
84.35 limited to no more than the time necessary to complete the credit requirements for an
84.36 associate or baccalaureate degree as determined by the educational institution. Child

85.1 care reimbursement is not limited for an adoptive parent completing basic or remedial
85.2 education programs needed to prepare for postsecondary education or employment;

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

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

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

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

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

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

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

85.23 (d) The adoptive parent shall submit statements for expenses incurred between July
85.24 1 and June 30 of a given fiscal year to the state adoption assistance unit within 60 days
85.25 after the end of the fiscal year in order for reimbursement to occur.

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

85.28 **Subdivision 1. Negotiation of adoption assistance agreement.** (a) A monthly
85.29 payment is provided as part of the adoption assistance agreement to support the care of
85.30 a child who has manifested special needs. The amount of the payment made on behalf
85.31 of a child eligible for adoption assistance is determined through negotiation between
85.32 the adoptive parent and the child-placing agency on behalf of the commissioner. The
85.33 negotiation shall take into consideration the circumstances of the adopting parent and the
85.34 needs of the child being adopted. The income of the adoptive parent must not be taken
85.35 into consideration when determining eligibility for adoption assistance or the amount of

86.1 the payments under section 259A.20. At the written request of the adoptive parent, the
86.2 amount of the payment in the agreement may be renegotiated when there is a change in
86.3 the child's needs or the family's circumstances.

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

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

86.21 (b) An adoptive parent of a child with an adoption assistance agreement based on
86.22 the child being an at-risk child may request renegotiation of the agreement to include a
86.23 monthly payment. The parent must have written documentation from a qualified expert
86.24 that the potential disability upon which eligibility for adoption assistance was approved
86.25 has manifested. Documentation of the disability must be limited to evidence deemed
86.26 appropriate by the commissioner. Prior to renegotiating the agreement, a reassessment of
86.27 the child must be conducted using an assessment tool prescribed by the commissioner
86.28 according to section 259A.15, subdivision 3. The reassessment must be used to renegotiate
86.29 the agreement to include an appropriate monthly payment. The agreement must not be
86.30 renegotiated unless the commissioner and the adoptive parent mutually agree to the
86.31 changes. The effective date of any renegotiated agreement must be determined according
86.32 to requirements and procedures prescribed by the commissioner.

86.33 Subd. 3. **Child income or income attributable to the child.** No income received
86.34 by a child will be considered in determining a child's adoption assistance payment
86.35 amount. If a child for whom a parent is receiving adoption assistance is also receiving
86.36 Supplemental Security Income (SSI) or Retirement, Survivors, Disability Insurance

87.1 (RSDI), the certifying agency shall inform the adoptive parent that the child's adoption
87.2 assistance must be reported to the Social Security Administration.

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

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

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

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

87.11 (2) the family's address;

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

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

87.14 (5) the end of an adoptive parent's legal responsibility to support the child based on:

87.15 termination of parental rights of the adoptive parent, transfer of guardianship to another
87.16 person, or transfer of permanent legal and physical custody to another person;

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

87.18 (7) the death of the child;

87.19 (8) the death of the adoptive parent;

87.20 (9) the child enlists in the military;

87.21 (10) the child gets married;

87.22 (11) the child becomes an emancipated minor through legal action;

87.23 (12) the adoptive parents separate or divorce;

87.24 (13) the child is residing outside the adoptive home for a period of more than 30
87.25 consecutive days; and

87.26 (14) the child's status upon which eligibility for extension under section 259A.45,
87.27 subdivision 2 or 3, was based.

87.28 Subd. 2. Correct and true information. If the adoptive parent reports information
87.29 the adoptive parent knows is untrue, the adoptive parent fails to notify the commissioner
87.30 of changes that may affect eligibility, or the agency administering the program receives
87.31 information the adoptive parent did not report, the adoptive parent may be investigated for
87.32 theft and, if charged and convicted, shall be sentenced under section 609.52, subdivision
87.33 3, clauses (1) to (5).

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

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

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

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

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

88.9 (4) the death of the child; or

88.10 (5) the adoptive parent requests in writing termination of the adoption assistance
88.11 agreement.

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

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

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

88.18 (3) death of adoptive parent;

88.19 (4) child enlists in the military;

88.20 (5) child gets married; or

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

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

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

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

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

88.34 (1) the child is determined to be a child with special needs as outlined in section
88.35 259A.10, subdivision 2; and

89.1 (2) the subsequent adoptive parent resides in Minnesota.

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

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

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

89.19 (b) Temporary assignment of adoption assistance may be approved by the
89.20 commissioner for a maximum of six consecutive months from the death of the parent
89.21 or parents and must adhere to the requirements and procedures prescribed by the
89.22 commissioner. If, within six months, the child has not been adopted by a person agreed
89.23 upon by the commissioner, or if a court has not appointed a legal guardian under either
89.24 section 260C.325 or 524.5-313, or similar law of another jurisdiction, the adoption
89.25 assistance shall terminate. Upon assignment of payments pursuant to this subdivision,
89.26 funding shall be from state funds only.

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

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

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

89.34 (c) A signed amendment to the current adoption assistance agreement must be
89.35 fully executed between the adoptive parent and the commissioner at least ten business

90.1 days prior to the termination of the current agreement. The request for extension and the
90.2 fully executed amendment must be made according to the requirements and procedures
90.3 prescribed by the commissioner, including documentation of eligibility, and on forms
90.4 prescribed by the commissioner.

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

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

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

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

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

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

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

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

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

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

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

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

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

90.33 An amount of adoption assistance paid to an adoptive parent in excess of the
90.34 payment that was actually due is recoverable by the commissioner, even when the
90.35 overpayment was caused by agency error or circumstances outside the responsibility and

91.1 control of the parent or provider. Adoption assistance amounts covered by this section
91.2 include basic maintenance needs payments, monthly supplemental maintenance needs
91.3 payments, reimbursement of nonrecurring adoption expenses, reimbursement of special
91.4 nonmedical costs, and reimbursement of medical costs.

91.5 Sec. 12. **[259A.55] APPEALS AND FAIR HEARINGS.**

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

91.14 Subd. 2. Extenuating circumstances. (a) An adoption assistance agreement must
91.15 be signed and fully executed prior to the court order that finalizes the adoption. An
91.16 adoptive parent who believes that extenuating circumstances exist, as to why the adoption
91.17 was finalized prior to fully executing an adoption assistance agreement, may request
91.18 a fair hearing. The parent has the responsibility to prove the existence of extenuating
91.19 circumstances, such as:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

93.6 (ii) is living in another state; and

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

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

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

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

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

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

93.21 Sec. 14. **[259A.70] REIMBURSEMENT OF NONRECURRING ADOPTION**
93.22 **EXPENSES.**

93.23 (a) The commissioner of human services shall provide reimbursement to an adoptive
93.24 parent for costs incurred in an adoption of a child with special needs according to section
93.25 259A.10, subdivision 2. Reimbursement shall be made for expenses that are reasonable
93.26 and necessary for the adoption to occur, subject to a maximum of \$2,000. The expenses
93.27 must directly relate to the legal adoption of the child, not be incurred in violation of state
93.28 or federal law, and must not have been reimbursed from other sources or funds.

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

93.33 (c) An adoptive parent, in consultation with the responsible child-placing agency,
93.34 may request reimbursement of nonrecurring adoption expenses by submitting a complete

94.1 application, according to the requirements and procedures and on forms prescribed by
94.2 the commissioner.

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

94.9 (e) An adoptive parent who has an adoption assistance agreement under section
94.10 259A.15, subdivision 2, is not required to make a separate application for reimbursement
94.11 of nonrecurring adoption expenses for the child who is the subject of that agreement.

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

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

94.17 Subdivision 1. **General information.** (a) Subject to the procedures required by
94.18 the commissioner and the provisions of this section, a Minnesota county or tribal social
94.19 services agency shall receive a reimbursement from the commissioner equal to 100
94.20 percent of the reasonable and appropriate cost for contracted adoption placement services
94.21 identified for a specific child that are not reimbursed under other federal or state funding
94.22 sources.

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

94.27 (c) The commissioner shall set aside an amount not to exceed five percent of the
94.28 total amount of the fiscal year appropriation from the state for the adoption assistance
94.29 program to reimburse placing agencies for child-specific adoption placement services.
94.30 When adoption assistance payments for children's needs exceed 95 percent of the total
94.31 amount of the fiscal year appropriation from the state for the adoption assistance program,
94.32 the amount of reimbursement available to placing agencies for adoption services is
94.33 reduced correspondingly.

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

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

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

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

95.6 (b) A child under the guardianship of the commissioner must have an identified
95.7 adoptive parent and a fully executed adoption placement agreement according to section
95.8 260C.613, subdivision 1, paragraph (a).

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

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

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

95.19 (b) The commissioner shall determine eligibility for reimbursement of adoption
95.20 placement services. If determined eligible, the commissioner of human services shall
95.21 sign the purchase of service agreement, making this a fully executed contract. No
95.22 reimbursement under this section shall be made to an agency for services provided prior to
95.23 the fully executed contract.

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

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

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

95.35 Subd. 6. **Retention of purchase of service records.** Agencies entering into
95.36 purchase of service contracts shall keep a copy of the agreements, service records, and all

96.1 applicable billing and invoicing according to the department's record retention schedule.

96.2 Agency records shall be provided upon request by the commissioner.

96.3 **ARTICLE 5**

96.4 **CHILD PROTECTION**

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

96.6 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**
96.7 **REUNIFICATION; REASONABLE EFFORTS.**

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

96.19 (1) the parent has subjected a child to egregious harm as defined in section
96.20 260C.007, subdivision 14;

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

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

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

96.28 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision
96.29 2, against the child or another child of the parent;

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

96.32 ~~(5)~~ (7) the provision of services or further services for the purpose of reunification is
96.33 futile and therefore unreasonable under the circumstances.

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

97.6 (c) In the case of an Indian child, in proceedings under sections 260B.178 or
97.7 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions
97.8 consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section
97.9 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child
97.10 Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social
97.11 services agency must provide active efforts as required under United States Code, title
97.12 25, section 1911(d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

98.21 (g) Once the court determines that reasonable efforts for reunification are not
98.22 required because the court has made one of the prima facie determinations under paragraph
98.23 (a), the court may only require reasonable efforts for reunification after a hearing according
98.24 to section 260C.163, where the court finds there is not clear and convincing evidence of
98.25 the facts upon which the court based its prima facie determination. In this case when there
98.26 is clear and convincing evidence that the child is in need of protection or services, the
98.27 court may find the child in need of protection or services and order any of the dispositions
98.28 available under section 260C.201, subdivision 1. Reunification of a ~~surviving~~ child with a
98.29 parent is not required if the parent has been convicted of:

98.30 (1) a violation of, or an attempt or conspiracy to commit a violation of, sections
98.31 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the
98.32 parent;

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

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

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

99.3 (5) an offense that requires registration as a predatory offender under section
99.4 243.166, subdivision 1b, paragraph (a) or (b).

99.5 (h) The juvenile court, in proceedings under sections 260B.178 or 260C.178,
99.6 260C.201, and 260C.301 shall make findings and conclusions as to the provision of
99.7 reasonable efforts. When determining whether reasonable efforts have been made, the
99.8 court shall consider whether services to the child and family were:

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

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

99.11 (3) culturally appropriate;

99.12 (4) available and accessible;

99.13 (5) consistent and timely; and

99.14 (6) realistic under the circumstances.

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

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

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

99.31 (k) Reasonable efforts to place a child for adoption or in another permanent
99.32 placement may be made concurrently with reasonable efforts to prevent placement or to
99.33 reunify the child with the parent or guardian from whom the child was removed. When
99.34 the responsible social services agency decides to concurrently make reasonable efforts for
99.35 both reunification and permanent placement away from the parent under paragraph (a), the
99.36 agency shall disclose its decision and both plans for concurrent reasonable efforts to all

100.1 parties and the court. When the agency discloses its decision to proceed on both plans for
100.2 reunification and permanent placement away from the parent, the court's review of the
100.3 agency's reasonable efforts shall include the agency's efforts under both plans.

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

100.5 **260C.001 TITLE, INTENT, AND CONSTRUCTION.**

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

100.8 (b) Juvenile protection proceedings include:

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

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

100.11 (3) postpermanency reviews under sections 260C.521 and 260C.317; and

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

100.14 Subd. 2. ~~Child in need of Juvenile protection services proceedings.~~ (a) The
100.15 paramount consideration in all juvenile protection proceedings ~~concerning a child alleged~~
100.16 ~~or found to be in need of protection or services~~ is the health, safety, and best interests
100.17 of the child. In proceedings involving an American Indian child, as defined in section
100.18 260.755, subdivision 8, the best interests of the child must be determined consistent with
100.19 sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title
100.20 25, sections 1901 to 1923.

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

100.22 (1) to secure for each child ~~alleged or adjudicated in need of protection or services~~

100.23 ~~and~~ under the jurisdiction of the court, the care and guidance, preferably in the child's own
100.24 home, as will best serve the spiritual, emotional, mental, and physical welfare of the child;

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

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

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

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

101.1 (ii) by court order pursuant to section 260C.151, subdivision 6; ~~206C.178; or~~
101.2 260C.178; 260C.201; 260C.325; or 260C.515;

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

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

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

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

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

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

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

101.20 (ii) identifying, locating, and assessing both parents of the child as soon as possible
101.21 and offering reunification services to both parents of the child as required under section
101.22 260.012 and 260C.219;

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

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

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

101.31 Subd. 3. **Permanency ~~and~~, termination of parental rights, and adoption.** The
101.32 purpose of the laws relating to permanency ~~and~~, termination of parental rights, and children
101.33 who come under the guardianship of the commissioner of human services is to ensure that:

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

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

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

102.8 Nothing in this section requires reasonable efforts to prevent placement or to reunify
102.9 the child with the parent or guardian to be made in circumstances where the court has
102.10 determined that the child has been subjected to egregious harm, when the child is an
102.11 abandoned infant, the parent has involuntarily lost custody of another child through a
102.12 proceeding under section ~~260C.201, subdivision 1~~ 260C.515, subdivision 4, or similar
102.13 law of another state, the parental rights of the parent to a sibling have been involuntarily
102.14 terminated, or the court has determined that reasonable efforts or further reasonable efforts
102.15 to reunify the child with the parent or guardian would be futile.

102.16 The paramount consideration in all proceedings for permanent placement of the
102.17 child under ~~section 260C.201, subdivision 1~~ sections 260C.503 to 260C.521, or the
102.18 termination of parental rights is the best interests of the child. In proceedings involving an
102.19 American Indian child, as defined in section 260.755, subdivision 8, the best interests of
102.20 the child must be determined consistent with the Indian Child Welfare Act of 1978, United
102.21 States Code, title 25, section 1901, et seq.

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

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

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

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

102.31 Subd. 26a. **Putative father.** "Putative father" has the meaning given in section
102.32 259.21, subdivision 12.

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

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

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

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

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

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

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

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

103.18 (3) the appointment and removal of a juvenile court guardian for a child, where
103.19 parental rights have been terminated under the provisions of sections 260C.301 to
103.20 260C.328;

103.21 ~~(3) (4) judicial consent to the marriage of a child when required by law;~~

103.22 ~~(4) the juvenile court in those counties in which the judge of the probate-juvenile~~
103.23 ~~court has been admitted to the practice of law in this state shall proceed under the laws~~
103.24 ~~relating to adoptions in all adoption matters. In those counties in which the judge of the~~
103.25 ~~probate-juvenile court has not been admitted to the practice of law in this state the district~~
103.26 ~~court shall proceed under the laws relating to adoptions in~~

103.27 (5) all adoption matters and review of the efforts to finalize the adoption of the child
103.28 under section 260C.317;

103.29 ~~(5) (6) the review of the placement of a child who is in foster care pursuant to a~~
103.30 ~~voluntary placement agreement between the child's parent or parents and the responsible~~
103.31 ~~social services agency under section 260C.212, subdivision 8 260C.227; or between the~~
103.32 ~~child, when the child is over age 18, and the agency under section 260C.229; and~~

103.33 ~~(6) (7) the review of voluntary foster care placement of a child for treatment under~~
103.34 ~~chapter 260D according to the review requirements of that chapter.~~

S.F. No. 1675, 3rd Engrossment - 87th Legislative Session (2011-2012) [S1675-3]

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

104.2 Subdivision 1. **Determining parentage.** (a) A parent and child relationship may be
104.3 established under this chapter ~~according to the requirements of section 257.54 and~~. The
104.4 requirements of the Minnesota Parentage Act, sections 257.51 to 257.74, must be followed
104.5 unless otherwise specified in this section.

104.6 (b) An action to establish a parent and child relationship under this chapter must
104.7 be commenced by motion, which shall be personally served upon the alleged parent and
104.8 served upon all required parties under the Minnesota Parentage Act as provided for service
104.9 of motions in the Minnesota Rules of Juvenile Protection Procedure. The motion shall be
104.10 brought in an existing juvenile protection proceeding and may be brought by any party, a
104.11 putative father, or the county attorney representing the responsible social services agency.

104.12 (c) Notwithstanding any other provisions of law, a motion to establish parentage
104.13 under this section, and any related documents or orders, are not confidential and are
104.14 accessible to the public according to the provisions of the Minnesota Rules of Juvenile
104.15 Protection Procedure. Any hearings related to establishment of paternity under this section
104.16 are accessible to the public according to the Minnesota Rules of Juvenile Protection
104.17 Procedure.

104.18 (d) The court may order genetic testing of any putative father or any man presumed
104.19 to be father of a child who is the subject of a juvenile protection matter unless paternity
104.20 of the child has already been adjudicated under the Minnesota Parentage Act or if a
104.21 recognition of parentage has been fully executed and filed under section 257.75 when the
104.22 recognition of parentage has the force and effect of a judgment or order determining the
104.23 existence of the parent and child relationship under section 257.66. If genetic testing is
104.24 ordered, a positive genetic test under section 257.62, subdivision 5, is required to establish
104.25 paternity for a child under this chapter.

104.26 (e) A copy of the order establishing the parent and child relationship shall be filed
104.27 in family court. Any further proceedings for modification of the child support portion of
104.28 the order that establishes the parent and child relationship shall be brought in the family
104.29 court of the county where the original order was filed. The review shall be under chapters
104.30 518 and 518A. Notice of any family court proceedings shall be provided by the court
104.31 administrator to the responsible social services agency, which shall be a party to the
104.32 family court proceeding.

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

104.34 Subdivision 1. **Investigation.** Upon request of the court the responsible social
104.35 services agency or probation officer shall investigate the personal and family history

105.1 and environment of any minor coming within the jurisdiction of the court under section
105.2 260C.101 and shall report its findings to the court. The court may order any minor coming
105.3 within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or
105.4 psychologist appointed by the court.

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

105.11 Sec. 10. Minnesota Statutes 2010, section 260C.163, subdivision 1, is amended to read:

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

105.19 (b) Except for proceedings involving a child alleged to be in need of protection or
105.20 services and petitions for the termination of parental rights, hearings may be continued or
105.21 adjourned from time to time. In proceedings involving a child alleged to be in need of
105.22 protection or services and ~~petitions~~ for the termination of parental rights, hearings may not
105.23 be continued or adjourned for more than one week unless the court makes specific findings
105.24 that the continuance or adjournment is in the best interests of the child. If a hearing is held
105.25 on a petition involving physical or sexual abuse of a child who is alleged to be in need of
105.26 protection or services or neglected and in foster care, the court shall file the decision with
105.27 the court administrator as soon as possible but no later than 15 days after the matter is
105.28 submitted to the court. When a continuance or adjournment is ordered in any proceeding,
105.29 the court may make any interim orders as it deems in the best interests of the minor in
105.30 accordance with ~~the provisions of sections 260C.001 to 260C.421~~ this chapter.

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

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

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

106.7 Sec. 11. Minnesota Statutes 2010, section 260C.163, subdivision 4, is amended to read:

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

106.12 Sec. 12. Minnesota Statutes 2010, section 260C.178, subdivision 1, is amended to read:

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

106.18 (b) Unless there is reason to believe that the child would endanger self or others or
106.19 not return for a court hearing, or that the child's health or welfare would be immediately
106.20 endangered, the child shall be released to the custody of a parent, guardian, custodian,
106.21 or other suitable person, subject to reasonable conditions of release including, but not
106.22 limited to, a requirement that the child undergo a chemical use assessment as provided in
106.23 section 260C.157, subdivision 1.

106.24 (c) If the court determines there is reason to believe that the child would endanger
106.25 self or others or not return for a court hearing, or that the child's health or welfare would
106.26 be immediately endangered if returned to the care of the parent or guardian who has
106.27 custody and from whom the child was removed, the court shall order the child into
106.28 foster care under the legal responsibility of the responsible social services agency or
106.29 responsible probation or corrections agency for the purposes of protective care as that term
106.30 is used in the juvenile court rules or into the home of a noncustodial parent and order the
106.31 noncustodial parent to comply with any conditions the court determines to be appropriate
106.32 to the safety and care of the child, including cooperating with paternity establishment
106.33 proceedings in the case of a man who has not been adjudicated the child's father. The
106.34 court shall not give the responsible social services legal custody and order a trial home

107.1 visit at any time prior to adjudication and disposition under section 260C.201, subdivision
107.2 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or
107.3 guardian who has custody and from whom the child was removed and order the parent or
107.4 guardian to comply with any conditions the court determines to be appropriate to meet
107.5 the safety, health, and welfare of the child.

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

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

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

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

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

107.34 (f) The court may not order or continue the foster care placement of the child unless
107.35 the court makes explicit, individualized findings that continued custody of the child by

108.1 the parent or guardian would be contrary to the welfare of the child and that placement is
108.2 in the best interest of the child.

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

108.6 (1) the parent has subjected a child to egregious harm as defined in section
108.7 260C.007, subdivision 14;

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

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

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

108.15 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision
108.16 2, against the child or another child of the parent;

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

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

108.21 (h) When a petition to terminate parental rights is required under section 260C.301,
108.22 subdivision 3 or 4, but the county attorney has determined not to proceed with a
108.23 termination of parental rights petition, and has instead filed a petition to transfer permanent
108.24 legal and physical custody to a relative under section ~~260C.201, subdivision 11~~ 260C.507,
108.25 subdivision 4, the court shall schedule a permanency hearing within 30 days of the filing
108.26 of the petition.

108.27 (i) If the county attorney has filed a petition under section 260C.307, the court shall
108.28 schedule a trial under section 260C.163 within 90 days of the filing of the petition except
108.29 when the county attorney determines that the criminal case shall proceed to trial first under
108.30 section ~~260C.201, subdivision 3~~ 260C.503, subdivision 2, paragraph (c).

108.31 (j) If the court determines the child should be ordered into foster care and the child's
108.32 parent refuses to give information to the responsible social services agency regarding the
108.33 child's father or relatives of the child, the court may order the parent to disclose the names,
108.34 addresses, telephone numbers, and other identifying information to the responsible social
108.35 services agency for the purpose of complying with ~~the requirements of~~ sections 260C.151,
108.36 260C.212, and 260C.215.

109.1 (k) If a child ordered into foster care has siblings, whether full, half, or step, who
109.2 are also ordered into foster care, the court shall inquire of the responsible social services
109.3 agency of the efforts to place the children together as required by section 260C.212,
109.4 subdivision 2, paragraph (d), if placement together is in each child's best interests, unless
109.5 a child is in placement for treatment or a child is placed with a previously noncustodial
109.6 parent who is not a parent to all siblings. If the children are not placed together at the time
109.7 of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable
109.8 efforts to place the siblings together, as required under section 260.012. If any sibling is
109.9 not placed with another sibling or siblings, the agency must develop a plan to facilitate
109.10 visitation or ongoing contact among the siblings as required under section 260C.212,
109.11 subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

109.12 (l) When the court has ordered the child into foster care or into the home of a
109.13 noncustodial parent, the court may order a chemical dependency evaluation, mental health
109.14 evaluation, medical examination, and parenting assessment for the parent as necessary
109.15 to support the development of a plan for reunification required under subdivision 7 and
109.16 section 260C.212, subdivision 1, or the child protective services plan under section
109.17 626.556, subdivision 10, and Minnesota Rules, part 9560.0228.

109.18 Sec. 13. Minnesota Statutes 2010, section 260C.178, subdivision 7, is amended to read:

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

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

109.33 (c) The responsible social services agency shall make reasonable ~~attempts~~ efforts
109.34 to engage ~~a parent~~ both parents of the child in case planning. ~~If the parent refuses to~~
109.35 ~~cooperate in the development of the out-of-home placement plan or disagrees with the~~

110.1 ~~services recommended by~~ The responsible social service agency, ~~the agency~~ shall ~~note~~
110.2 ~~such refusal or disagreement for the court~~ report the results of its efforts to engage the
110.3 child's parents in the out-of-home placement plan filed with the court. The agency shall
110.4 notify the court of the services it will provide or efforts it will attempt under the plan
110.5 notwithstanding the parent's refusal to cooperate or disagreement with the services. The
110.6 parent may ask the court to modify the plan to require different or additional services
110.7 requested by the parent, but which the agency refused to provide. The court may approve
110.8 the plan as presented by the agency or may modify the plan to require services requested
110.9 by the parent. The court's approval shall be based on the content of the petition.

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

110.16 Sec. 14. Minnesota Statutes 2010, section 260C.193, subdivision 3, is amended to read:

110.17 Subd. 3. **Best interest of the child in foster care or residential care.** (a) The
110.18 policy of the state is to ensure that the best interests of children in foster ~~or residential~~
110.19 care, who experience transfer of permanent legal and physical custody to a relative under
110.20 section 260C.515, subdivision 4, or adoption under chapter 259 are met by requiring
110.21 individualized determinations under section 260C.212, subdivision 2, paragraph (b), of
110.22 the needs of the child and of how the selected placement home will serve the needs of the
110.23 child ~~in foster care placements~~.

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

110.27 (1) diligent efforts to identify and search for relatives as required under section
110.28 ~~260C.212, subdivision 5, 260C.221; and made~~

110.29 (2) an individualized determination as required under section 260C.212, subdivision
110.30 2, to select a home that meets the needs of the child.

110.31 (c) If the court finds the agency has not made efforts as required under section
110.32 ~~260C.212, subdivision 5~~ 260C.221, and there is a relative who qualifies to be licensed
110.33 to provide family foster care under chapter 245A, the court may order the child placed
110.34 with the relative consistent with the child's best interests.

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

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

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

111.13 ~~(g)~~ (g) Whenever possible, siblings should be placed together unless it is determined
111.14 not to be in the best interests of ~~a sibling~~ siblings. If siblings ~~are~~ were not placed together
111.15 according to section 260C.212, subdivision 2, paragraph (d), the responsible social
111.16 services agency shall report to the court the efforts made to place the siblings together
111.17 and why the efforts were not successful. If the court is not satisfied ~~with that~~ the agency's
111.18 agency has made reasonable efforts to place siblings together, the court ~~may~~ must order
111.19 the agency to make further reasonable efforts. If siblings are not placed together the court
111.20 shall ~~review~~ order the responsible social services ~~agency's~~ agency to implement the plan
111.21 for visitation among siblings required as part of the out-of-home placement plan under
111.22 section 260C.212.

111.23 ~~(h)~~ (h) This subdivision does not affect the Indian Child Welfare Act, United States
111.24 Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation
111.25 Act, sections 260.751 to 260.835.

111.26 Sec. 15. Minnesota Statutes 2010, section 260C.193, subdivision 6, is amended to read:

111.27 Subd. 6. **Jurisdiction to review foster care to age 21, termination of jurisdiction,**
111.28 **jurisdiction to age 18.** (a) Jurisdiction over a child in foster care pursuant to section
111.29 260C.451 ~~may~~ shall continue to age 21 for the purpose of conducting the reviews required
111.30 under section ~~260C.201, subdivision 11, paragraph (d), 260C.212, subdivision 7, or~~
111.31 260C.317, subdivision 3, 260C.203, or 260C.515, subdivision 5 or 6. Jurisdiction over a
111.32 child in foster care pursuant to section 260C.451 shall not be terminated without giving
111.33 the child notice of any motion or proposed order to dismiss jurisdiction and an opportunity
111.34 to be heard on the appropriateness of the dismissal. When a child in foster care pursuant to

112.1 section 260C.451 asks to leave foster care or actually leaves foster care, the court may
112.2 terminate its jurisdiction.

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

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

112.10 ~~(2) continued review under section 260C.203, 260C.515, subdivision 5 or 6, or~~
112.11 ~~260C.317, subdivision 3, is required for a child in foster care under section 260C.451.~~

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

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

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

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

112.22 Sec. 16. Minnesota Statutes 2010, section 260C.201, subdivision 2, is amended to read:

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

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

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

112.30 (3) when legal custody of the child is transferred, the appropriateness of the
112.31 particular placement made or to be made by the placing agency using the factors in section
112.32 260C.212, subdivision 2, paragraph (b);

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

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

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

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

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

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

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

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

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

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

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

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

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

114.15 Sec. 17. Minnesota Statutes 2010, section 260C.201, subdivision 10, is amended to
114.16 read:

114.17 Subd. 10. **Court review of foster care.** (a) If the court orders a child placed
114.18 in foster care, the court shall review the out-of-home placement plan and the child's
114.19 placement at least every 90 days as required in juvenile court rules to determine whether
114.20 continued out-of-home placement is necessary and appropriate or whether the child should
114.21 be returned home. This review is not required if the court has returned the child home,
114.22 ordered the child permanently placed away from the parent under subdivision 11, or
114.23 terminated rights under section 260C.301. Court review for a child permanently placed
114.24 away from a parent, including where the child is under guardianship ~~and legal custody~~ of
114.25 the commissioner, shall be governed by ~~subdivision 11 or section 260C.317, subdivision~~
114.26 ~~3, whichever is applicable~~ 260C.607.

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

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

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

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

115.9 Sec. 18. Minnesota Statutes 2010, section 260C.212, subdivision 5, is amended to read:

115.10 Subd. 5. **Relative search.** (a) The responsible social services agency shall exercise
115.11 due diligence to identify and notify adult relatives prior to placement or within 30 days
115.12 after the child's removal from the parent. The county agency shall consider placement with
115.13 a relative under subdivision 2 without delay and whenever the child must move from or be
115.14 returned to foster care. The relative search required by this section shall be ~~reasonable and~~
115.15 ~~comprehensive in scope and may last up to six months or until a fit and willing relative~~
115.16 ~~is identified~~. After a finding that the agency has made reasonable efforts to conduct the
115.17 relative search under this paragraph, the agency has the continuing responsibility to
115.18 appropriately involve relatives, who have responded to the notice required under this
115.19 paragraph, in planning for the child and to continue to consider relatives according to
115.20 the requirements of section 260C.212, subdivision 2. At any time during the course of
115.21 juvenile protection proceedings, the court may order the agency to reopen its search for
115.22 relatives when it is in the child's best interest to do so. The relative search required by this
115.23 section shall include both maternal relatives ~~of the child~~ and paternal relatives of the child;
115.24 ~~if paternity is adjudicated~~. The search shall also include getting information from the child
115.25 in an age appropriate manner about who the child considers to be family members and
115.26 important friends with whom the child has resided or had significant contact. The relative
115.27 search required under this section must fulfill the agency's duties under the Indian Child
115.28 Welfare Act regarding active efforts to prevent the breakup of the Indian family under
115.29 United States Code, title 25, section 1912(d) and to meet placement preferences under
115.30 United States Code, title 25, section 1915. The relatives must be notified:

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

115.34 (2) of their responsibility to keep the responsible social services agency informed of
115.35 their current address in order to receive notice in the event that a permanent placement is

116.1 sought for the child. A relative who fails to provide a current address to the responsible
116.2 social services agency forfeits the right to notice of the possibility of permanent placement.
116.3 A decision by a relative not to be identified as a potential permanent placement resource
116.4 or participate in planning for the child at the beginning of the case shall not affect whether
116.5 the relative is considered for placement of the child with that relative later;

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

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

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

116.21 (b) A responsible social services agency may disclose private ~~or confidential~~ data,
116.22 as defined in ~~section~~ sections 13.02 and 626.556, to relatives of the child for the purpose
116.23 of locating and assessing a suitable placement and may use any reasonable means of
116.24 identifying and locating relatives including the Internet or other electronic means of
116.25 conducting a search. The agency shall disclose ~~only~~ data that is necessary to facilitate
116.26 possible placement with relatives and to ensure that the relative is informed of the needs
116.27 of the child so the relative can participate in planning for the child and be supportive of
116.28 services to the child and family. If the child's parent refuses to give the responsible social
116.29 services agency information sufficient to identify the maternal and paternal relatives of the
116.30 child, the agency shall ask the juvenile court to order the parent to provide the necessary
116.31 information. If a parent makes an explicit request that relatives or a specific relative not be
116.32 contacted or considered for placement, the agency shall bring the parent's request to the
116.33 attention of the court to determine whether the parent's request is consistent with the best
116.34 interests of the child and the agency shall not contact relatives or a specific relative unless
116.35 authorized to do so by the juvenile court.

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

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

117.7 (2) its decision regarding placing the child with a relative as required under section
117.8 260C.212, subdivision 2, and to ask relatives to visit or maintain contact with the child in
117.9 order to support family connections for the child, when placement with a relative is not
117.10 possible or appropriate.

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

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

117.21 (f) When the placing agency determines that a permanent placement hearing is
117.22 proceedings are necessary because there is a likelihood that the child will not return to a
117.23 parent's care, the agency may must send the notice provided in paragraph (d) (g), may ask
117.24 the court to modify the requirements duty of the agency under this paragraph to send the
117.25 notice required in paragraph (g), or may ask the court to completely relieve the agency
117.26 of the requirements of this paragraph (g). The relative notification requirements of this
117.27 paragraph (g) do not apply when the child is placed with an appropriate relative or a
117.28 foster home that has committed to being the adopting the child or taking permanent legal
117.29 placement for and physical custody of the child and the agency approves of that foster
117.30 home for permanent placement of the child. The actions ordered by the court under this
117.31 section must be consistent with the best interests, safety, permanency, and welfare of
117.32 the child.

117.33 (d) (g) Unless required under the Indian Child Welfare Act or relieved of this duty
117.34 by the court under paragraph (e) (e), when the agency determines that it is necessary to
117.35 prepare for the permanent placement determination hearing proceedings, or in anticipation
117.36 of filing a termination of parental rights petition, the agency shall send notice to the

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118.1 relatives, any adult with whom the child is currently residing, any adult with whom the
118.2 child has resided for one year or longer in the past, and any adults who have maintained a
118.3 relationship or exercised visitation with the child as identified in the agency case plan. The
118.4 notice must state that a permanent home is sought for the child and that the individuals
118.5 receiving the notice may indicate to the agency their interest in providing a permanent
118.6 home. The notice must state that within 30 days of receipt of the notice an individual
118.7 receiving the notice must indicate to the agency the individual's interest in providing
118.8 a permanent home for the child or that the individual may lose the opportunity to be
118.9 considered for a permanent placement.

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

118.13 Sec. 19. Minnesota Statutes 2010, section 260C.212, subdivision 7, is amended to read:

118.14 Subd. 7. **Administrative or court review of placements.** (a) Unless the court is
118.15 conducting the reviews required under section 260C.202, there shall be an administrative
118.16 review of the out-of-home placement plan of each child placed in foster care no later than
118.17 180 days after the initial placement of the child in foster care and at least every six months
118.18 thereafter if the child is not returned to the home of the parent or parents within that time.
118.19 The out-of-home placement plan must be monitored and updated at each administrative
118.20 review. The administrative review shall be conducted by the responsible social services
118.21 agency using a panel of appropriate persons at least one of whom is not responsible for the
118.22 case management of, or the delivery of services to, either the child or the parents who are
118.23 the subject of the review. The administrative review shall be open to participation by the
118.24 parent or guardian of the child and the child, as appropriate.

118.25 (b) As an alternative to the administrative review required in paragraph (a), the court
118.26 may, as part of any hearing required under the Minnesota Rules of Juvenile Protection
118.27 Procedure, conduct a hearing to monitor and update the out-of-home placement plan
118.28 pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph
118.29 (d). The party requesting review of the out-of-home placement plan shall give parties to
118.30 the proceeding notice of the request to review and update the out-of-home placement
118.31 plan. A court review conducted pursuant to section 260C.141, subdivision 2; 260C.193;
118.32 260C.201, subdivision 1 ~~or 11~~; ~~260C.141, subdivision 2~~; ~~260C.317~~ 260C.202; 260C.204;
118.33 260C.317; or 260D.06 shall satisfy the requirement for the review so long as the other
118.34 requirements of this section are met.

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

119.3 (1) the safety, permanency needs, and well-being of the child;

119.4 (2) the continuing necessity for and appropriateness of the placement;

119.5 (3) the extent of compliance with the out-of-home placement plan;

119.6 (4) the extent of progress ~~which~~ that has been made toward alleviating or mitigating
119.7 the causes necessitating placement in foster care;

119.8 (5) the projected date by which the child may be returned to and safely maintained in
119.9 the home or placed permanently away from the care of the parent or parents or guardian;

119.10 and

119.11 (6) the appropriateness of the services provided to the child.

119.12 (d) When a child is age 16 or older, in addition to any administrative review
119.13 conducted by the agency, at the in-court review required under section ~~260C.201,~~

119.14 ~~subdivision 11, or 260C.317, subdivision 3, clause (3), or 260C.515, subdivision 5 or 6,~~

119.15 the court shall review the independent living plan required under section 260C.201,

119.16 subdivision 1, paragraph (c), clause (11), and the provision of services to the child related

119.17 to the well-being of the child as the child prepares to leave foster care. The review shall

119.18 include the actual plans related to each item in the plan necessary to the child's future

119.19 safety and well-being when the child is no longer in foster care.

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

119.22 (1) six months before the child is expected to be discharged from foster care, the
119.23 responsible social services agency shall ~~establish that it has given~~ give the written

119.24 notice required under section ~~260C.456 or Minnesota Rules, part 9560.0660~~ 260C.451,

119.25 subdivision 1, regarding the right to continued access to services for certain children in

119.26 foster care past age 18 and of the right to appeal a denial of social services under section

119.27 256.045. ~~If~~ The agency is ~~unable to establish that~~ shall file a copy of the notice, including

119.28 the right to appeal a denial of social services, ~~has been given,~~ with the court. ~~If the agency~~

119.29 does not file the notice by the time the child is age 17-1/2, the court shall require the

119.30 agency to give it;

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

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

119.34 (ii) the child has completed a driver's education course or has demonstrated the

119.35 ability to use public transportation in the child's community;

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

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

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

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

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

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

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

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

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

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

120.21 ~~(c) When a child is age 17 or older, during the 90-day period immediately prior to~~
120.22 ~~the date the child is expected to be discharged from foster care, the responsible social~~
120.23 ~~services agency is required to provide the child with assistance and support in developing~~
120.24 ~~a transition plan that is personalized at the direction of the child.~~ (f) For a child who
120.25 will be discharged from foster care at age 18 or older, the responsible social services
120.26 agency is required to develop a personalized transition plan as directed by the youth. The
120.27 transition plan must be developed during the 90-day period immediately prior to the
120.28 expected date of discharge. The transition plan must be as detailed as the child may elect
120.29 and include specific options on housing, health insurance, education, local opportunities
120.30 for mentors and continuing support services, and work force supports and employment
120.31 services. The plan must include information on the importance of designating another
120.32 individual to make health care treatment decisions on behalf of the child if the child
120.33 becomes unable to participate in these decisions and the child does not have, or does not
120.34 want, a relative who would otherwise be authorized to make these decisions. The plan
120.35 must provide the child with the option to execute a health care directive as provided
120.36 under chapter 145C. The county shall also provide the individual with appropriate contact

121.1 information if the individual needs more information or needs help dealing with a crisis
121.2 situation through age 21.

121.3 Sec. 20. Minnesota Statutes 2010, section 260C.215, subdivision 4, is amended to read:

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

121.5 The commissioner of human services, ~~after seeking and considering advice from~~
121.6 ~~representatives reflecting diverse populations from the councils established under sections~~
121.7 ~~3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations~~
121.8 shall:

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

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

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

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

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

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

121.22 (iv) issues related to cross-cultural placement;

121.23 (4) ~~develop~~ provide a training curriculum for ~~family and extended family members~~
121.24 all prospective adoptive and foster families that prepares them to care for the needs of
121.25 adoptive and foster children. The curriculum must address issues relating to cross-cultural
121.26 placements as well as issues that arise after a foster or adoptive placement is made taking
121.27 into consideration the needs of children outlined in section 260C.212, subdivision 2,
121.28 paragraph (b); and

121.29 (5) develop and provide to agencies ~~an assessment tool to be used in combination~~
121.30 ~~with group interviews and other preplacement activities~~ a home study format to evaluate
121.31 assess the capacities and needs of prospective adoptive and foster families. The ~~tool~~
121.32 format must assess address problem-solving skills; ~~identify~~ parenting skills; ~~and~~ evaluate
121.33 the degree to which the prospective family has the ability to understand and validate the
121.34 child's cultural background, and other issues needed to provide sufficient information for
121.35 agencies to make an individualized placement decision consistent with section 260C.212,

122.1 subdivision 2. If a prospective adoptive parent has also been a foster parent, any update
122.2 necessary to a home study for the purpose of adoption may be completed by the licensing
122.3 authority responsible for the foster parent's license. If a prospective adoptive parent with an
122.4 approved adoptive home study also applies for a foster care license, the license application
122.5 may be made with the same agency which provided the adoptive home study; and
122.6 (6) shall consult with representatives reflecting diverse populations from the councils
122.7 established under sections 3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and
122.8 community organizations.

122.9 Sec. 21. Minnesota Statutes 2010, section 260C.215, subdivision 6, is amended to read:

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

122.12 (1) develop and follow procedures for implementing the requirements of section
122.13 ~~260C.193, subdivision 3~~ 260C.212, subdivision 2, and the Indian Child Welfare Act,
122.14 United States Code, title 25, sections 1901 to 1923;

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

122.17 The plan must include:

122.18 (i) strategies for using existing resources in diverse communities;

122.19 (ii) use of diverse outreach staff wherever possible;

122.20 (iii) use of diverse foster homes for placements after birth and before adoption; and

122.21 (iv) other techniques as appropriate;

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

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

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

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

122.33 (b) In determining the suitability of a proposed placement of an Indian child, the
122.34 standards to be applied must be the prevailing social and cultural standards of the Indian

123.1 child's community, and the agency shall defer to tribal judgment as to suitability of a
123.2 particular home when the tribe has intervened pursuant to the Indian Child Welfare Act.

123.3 Sec. 22. 260C.229] VOLUNTARY FOSTER CARE FOR CHILDREN OVER
123.4 AGE 18; REQUIRED COURT REVIEW.

123.5 (a) When a child asks to continue or to reenter foster care after age 18 under section
123.6 260C.451, the child and the responsible social services agency may enter into a voluntary
123.7 agreement for the child to be in foster care under the terms of section 260C.451. The
123.8 voluntary agreement must be in writing and on a form prescribed by the commissioner.

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

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

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

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

123.23 Sec. 23. Minnesota Statutes 2010, section 260C.301, subdivision 8, is amended to read:

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

123.26 (1) that reasonable efforts to ~~prevent the placement and~~ finalize the permanency
123.27 plan to reunify the child and the parent were made including individualized and explicit
123.28 findings regarding the nature and extent of efforts made by the social services agency to
123.29 rehabilitate the parent and reunite the family; or

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

123.32 Sec. 24. Minnesota Statutes 2010, section 260C.328, is amended to read:

123.33 **260C.328 CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.**

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

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

124.16 Sec. 25. Minnesota Statutes 2010, section 260C.451, is amended to read:

124.17 **260C.451 FOSTER CARE BENEFITS ~~TO AGE 21~~ PAST AGE 18.**

124.18 Subdivision 1. **Notification of benefits.** ~~Within the~~ Six months prior to the child's
124.19 18th birthday, the ~~local~~ responsible social services agency shall ~~advise~~ provide written
124.20 notice on a form prescribed by the commissioner of human services to any child in foster
124.21 care under this chapter who cannot reasonably be expected to return home or have another
124.22 legally permanent family by the age of 18, the child's parents or legal guardian, if any, and
124.23 the child's guardian ad litem, and the child's foster parents of the availability of benefits of
124.24 the foster care program up to age 21, when the child is eligible under subdivisions 3 and 3a.

124.25 Subd. 2. **Independent living plan.** Upon the request of any child ~~receiving~~ in foster
124.26 care ~~benefits~~ immediately prior to the child's 18th birthday and who is in foster care at
124.27 the time of the request, the ~~local~~ responsible social services agency shall, in conjunction
124.28 with the child and other appropriate parties, update the independent living plan required
124.29 under section 260C.212, subdivision 1, paragraph (c), clause (11), related to the child's
124.30 employment, vocational, educational, social, or maturational needs. The agency shall
124.31 provide continued services and foster care for the child including those services that are
124.32 necessary to implement the independent living plan.

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

125.1 (1) the child can safely return home;

125.2 (2) the child is in placement pursuant to the agency's duties under section 256B.092

125.3 and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the child's needs due to

125.4 developmental disability or related condition, and the child will be served as an adult

125.5 under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016; or

125.6 (3) the child can be adopted or have permanent legal and physical custody

125.7 transferred to a relative prior to the child's 18th birthday.

125.8 Subd. 3a. Eligibility criteria. The child must meet at least one of the following

125.9 conditions to be considered eligible to continue in or return to foster care and remain there

125.10 to age 21. The child must be:

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

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

125.13 education;

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

125.15 employment;

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

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

125.18 medical condition.

125.19 Subd. 4. Foster care benefits. For children between the ages of 18 and 21, "foster

125.20 care benefits" means payment for those foster care settings defined in section 260C.007,

125.21 subdivision 18. Additionally, foster care benefits means payment for a supervised

125.22 setting, approved by the responsible social services agency, in which a child may live

125.23 independently.

125.24 Subd. 5. ~~Permanent decision~~ Foster care setting. The particular foster care

125.25 setting, including supervised settings, shall be selected by the agency and the child

125.26 based on the best interest of the child consistent with section 260C.212, subdivision 2.

125.27 Supervision in approved settings must be determined by an individual determination of

125.28 the child's needs by the responsible social services agency and consistent with section

125.29 260C.212, subdivision 4a.

125.30 Subd. 6. ~~Individual plan to age 21~~ Reentering foster care and accessing services

125.31 after age 18. (a) Upon request of an individual between the ages of 18 and 21 who;

125.32 ~~within six months of the individual's 18th birthday,~~ had been under the guardianship of the

125.33 commissioner and who has left foster care without being adopted, the responsible social

125.34 services agency which had been the commissioner's agent for purposes of the guardianship

125.35 shall develop with the individual a plan ~~related to the individual's vocational, educational,~~

125.36 ~~social, or maturational needs~~ to increase the individual's ability to live safely and

126.1 independently using the plan requirements of section 260C.212, subdivision 1, paragraph
126.2 (b), clause (11), and to assist the individual to meet one or more of the eligibility criteria in
126.3 subdivision 4 if the individual wants to reenter foster care. The agency shall provide foster
126.4 care with maintenance and counseling benefits as required to implement the plan. The
126.5 agency shall enter into a voluntary placement agreement under section 260C.229 with the
126.6 individual if the plan includes foster care.

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

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

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

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

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

126.27 Subd. 7. **Jurisdiction.** ~~Notwithstanding that the court retains jurisdiction pursuant~~
126.28 ~~to this section,~~ Individuals in foster care pursuant to this section are adults for all purposes
126.29 except the continued provision of foster care. Any order establishing guardianship under
126.30 section 260C.325, any legal custody order under section 260C.201, subdivision 1, and
126.31 any order for legal custody associated with an order for ~~long-term foster care~~ permanent
126.32 custody under section ~~260C.201, subdivision 11~~ 260C.515, subdivision 5, terminates on
126.33 the child's 18th birthday. The responsible social services agency has legal responsibility
126.34 for the individual's placement and care when the matter continues under court jurisdiction
126.35 pursuant to section 260C.193 or when the individual and the responsible agency execute a
126.36 voluntary placement agreement pursuant to section 260C.229.

127.1 Subd. 8. **Notice of termination of foster care.** When a child in foster care between
127.2 the ages of 18 and 21 ceases to meet one of the eligibility criteria of subdivision 3a, the
127.3 responsible social services agency shall give the child written notice that foster care will
127.4 terminate 30 days from the date the notice is sent. The child or the child's guardian ad
127.5 litem may file a motion asking the court to review the agency's determination within 15
127.6 days of receiving the notice. The child shall not be discharged from foster care until the
127.7 motion is heard. The agency shall work with the child to transition out of foster care as
127.8 required under section 260C.203, paragraph (e). The written notice of termination of
127.9 benefits shall be on a form prescribed by the commissioner and shall also give notice of
127.10 the right to have the agency's determination reviewed by the court in the proceeding where
127.11 the court conducts the reviews required under sections 260C.203, 260C.515, subdivisions
127.12 5 or 6, or 260C.317. A copy of the termination notice shall be sent to the child and the
127.13 child's attorney, if any, the foster care provider, the child's guardian ad litem, and the
127.14 court. The agency is not responsible for paying foster care benefits for any period of time
127.15 after the child actually leaves foster care.

127.16 Sec. 26. **[260C.503] PERMANENCY PROCEEDINGS.**

127.17 Subdivision 1. **Required permanency proceedings.** Except for children in foster
127.18 care pursuant to chapter 260D, where the child is in foster care or in the care of a
127.19 noncustodial or nonresident parent, the court shall commence proceedings to determine
127.20 the permanent status of a child by holding the admit-deny hearing required under section
127.21 260C.507 not later than 12 months after the child is placed in foster care or in the care of a
127.22 noncustodial or nonresident parent. Permanency proceedings for children in foster care
127.23 pursuant to chapter 260D shall be according to section 260D.07.

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

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

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

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

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

128.1 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision
128.2 2, against the child or another child of the parent;

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

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

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

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

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

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

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

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

128.28 **Subd. 3. Calculating time to required permanency proceedings.** (a) For
128.29 purposes of this section, the date of the child's placement in foster care is the earlier of
128.30 the first court-ordered placement or 60 days after the date on which the child has been
128.31 voluntarily placed in foster care by the child's parent or guardian. For purposes of this
128.32 section, time spent by a child in the home of the noncustodial parent pursuant to court
128.33 order under section 260C.178 or under the protective supervision of the responsible
128.34 social services agency in the home of the noncustodial parent pursuant to an order under
128.35 section 260C.201, subdivision 1, counts towards the requirement of a permanency hearing
128.36 under this section. Time spent on a trial home visit counts towards the requirement of a

129.1 permanency hearing under this section and the permanency progress review required
129.2 under section 260C.204.

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

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

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

129.14 (c) If the child is on a trial home visit 12 months after the child was placed in foster
129.15 care or in the care of a noncustodial parent, the responsible social services agency may file
129.16 a report with the court regarding the child's and parent's progress on the trial home visit and
129.17 the agency's reasonable efforts to finalize the child's safe and permanent return to the care
129.18 of the parent in lieu of filing the petition required under section 260C.505. The court shall
129.19 make findings regarding the reasonable efforts of the agency to finalize the child's return
129.20 home as the permanency disposition order in the best interests of the child. The court may
129.21 continue the trial home visit to a total time not to exceed six months as provided in section
129.22 260C.201, subdivision 1, paragraph (a), clause (3). If the court finds the agency has not
129.23 made reasonable efforts to finalize the child's return home as the permanency disposition
129.24 order in the child's best interests, the court may order other or additional efforts to support
129.25 the child remaining in the care of the parent. If a trial home visit ordered or continued at
129.26 permanency proceedings under sections 260C.503 to 260C.521 terminates, the court shall
129.27 commence or recommence permanency proceedings under this chapter no later than 30
129.28 days after the child is returned to foster care or to the care of a noncustodial parent.

129.29 **Sec. 27. [260C.505] PETITION.**

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

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

130.5 Sec. 28. **[260C.507] ADMIT-DENY HEARING.**

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

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

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

130.18 Sec. 29. **[260C.509] TRIAL.**

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

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

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

130.28 Sec. 30. **[260C.511] BEST INTERESTS OF THE CHILD.**

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

130.31 (b) In making a permanency disposition order or termination of parental rights,
130.32 the court must be governed by the best interests of the child, including a review of the

131.1 relationship between the child and relatives and the child and other important persons with
131.2 whom the child has resided or had significant contact.

131.3 Sec. 31. **[260C.513] PERMANENCY DISPOSITIONS WHEN CHILD CANNOT**
131.4 **RETURN HOME.**

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

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

131.14 Sec. 32. **[260C.515] PERMANENCY DISPOSITION ORDERS.**

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

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

131.19 (1) termination of parental rights when the requirements of sections 260C.301 to
131.20 260C.328 are met; or

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

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

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

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

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

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

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

132.9 (4) the court must review the matter at least every 90 days under section 260C.317;

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

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

132.15 (7) if an adoption is not finalized by the identified prospective adoptive parent within
132.16 six months of the execution of the consent to adopt under this clause, the responsible
132.17 social services agency shall pursue adoptive placement in another home unless the court
132.18 finds in a hearing under section 260C.317 that the failure to finalize is not due to either an
132.19 action or a failure to act by the prospective adoptive parent;

132.20 (8) notwithstanding clause (7), the responsible social services agency must pursue
132.21 adoptive placement in another home as soon as the agency determines that finalization
132.22 of the adoption with the identified prospective adoptive parent is not possible, that the
132.23 identified prospective adoptive parent is not willing to adopt the child, or that the identified
132.24 prospective adoptive parent is not cooperative in completing the steps necessary to finalize
132.25 the adoption;

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

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

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

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

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

133.6 (4) a permanent legal and physical custodian may not return a child to the permanent
133.7 care of a parent from whom the court removed custody without the court's approval and
133.8 without notice to the responsible social services agency;

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

133.11 (6) another party to the permanency proceeding regarding the child may file a
133.12 petition to transfer permanent legal and physical custody to a relative, but the petition must
133.13 be filed not later than the date for the required admit/deny hearing under section 260C.507;
133.14 or if the agency's petition is filed under section 260C.503, subdivision 2, the petition must
133.15 be filed not later than 30 days prior to the trial required under section 260C.509; and

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

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

133.25 (1) the child has reached age 12;

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

133.28 (3) the responsible social services agency has made reasonable efforts to locate and
133.29 place the child with an adoptive family or a fit and willing relative who would either agree
133.30 to adopt the child or to a transfer of permanent legal and physical custody of the child, but
133.31 these efforts have not proven successful; and

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

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

- 134.1 (1) the sole basis for an adjudication that the child is in need of protection or services
134.2 is the child's behavior;
- 134.3 (2) the court finds that foster care for a specified period of time is in the best interests
134.4 of the child;
- 134.5 (3) the court approves the responsible social services agency's compelling reasons
134.6 that neither an award of permanent legal and physical custody to a relative, nor termination
134.7 of parental rights is in the child's best interests; and
- 134.8 (4) the order specifies that the child continue in foster care no longer than one year.

134.9 Sec. 33. **[260C.517] FINDINGS AND CONTENT OF ORDER FOR**
134.10 **PERMANENCY DISPOSITION.**

- 134.11 (a) Except for an order terminating parental rights, an order permanently placing
134.12 a child out of the home of the parent or guardian must include the following detailed
134.13 findings:
- 134.14 (1) how the child's best interests are served by the order;
- 134.15 (2) the nature and extent of the responsible social services agency's reasonable
134.16 efforts, or, in the case of an Indian child, active efforts to reunify the child with the parent
134.17 or guardian where reasonable efforts are required;
- 134.18 (3) the parent's or parents' efforts and ability to use services to correct the conditions
134.19 which led to the out-of-home placement; and
- 134.20 (4) that the conditions which led to the out-of-home placement have not been
134.21 corrected so that the child can safely return home.
- 134.22 (b) The court shall issue an order required under section 260C.515 and this section
134.23 within 15 days of the close of the proceedings. The court may extend issuing the order
134.24 an additional 15 days when necessary in the interests of justice and the best interests of
134.25 the child.

134.26 Sec. 34. **[260C.519] FURTHER COURT HEARINGS.**

- 134.27 Once a permanency disposition order has been made, further court hearings are
134.28 necessary if:
- 134.29 (1) the child is ordered on a trial home visit or under the protective supervision
134.30 of the responsible social services agency;
- 134.31 (2) the child continues in foster care;
- 134.32 (3) the court orders further hearings in a transfer of permanent legal and physical
134.33 custody matter including if a party seeks to modify an order under section 260C.521,
134.34 subdivision 2;

- 135.1 (4) an adoption has not yet been finalized; or
135.2 (5) the child returns to foster care after the court has entered an order for a
135.3 permanency disposition under this section.

135.4 Sec. 35. **[260C.521] COURT REVIEWS AFTER PERMANENCY DISPOSITION**
135.5 **ORDER.**

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

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

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

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

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

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

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

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

135.28 (2) identify a specific foster home for the child, if one has not already been identified;

135.29 (3) support continued placement of the child in the identified home, if one has been
135.30 identified;

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

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

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

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

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

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

136.14 Subd. 3. **Modifying order for permanent custody to agency for placement in**
136.15 **foster care.** (a) A parent may seek modification of an order for permanent custody of the
136.16 child to the responsible social services agency for placement in foster care upon motion
136.17 and a showing by the parent of a substantial change in the parent's circumstances such
136.18 that the parent could provide appropriate care for the child and that removal of the child
136.19 from the permanent custody of the agency and the return to the parent's care would be
136.20 in the best interests of the child.

136.21 (b) The responsible social services agency may ask the court to vacate an order for
136.22 permanent custody to the agency upon a petition and hearing pursuant to section 260C.163
136.23 establishing the basis for the court to order another permanency disposition under this
136.24 chapter, including termination of parental rights based on abandonment if the parent
136.25 has not visited the child, maintained contact with the child, or participated in planning
136.26 for the child as required under section 260C.515, subdivision 5. The responsible social
136.27 services agency must establish that the proposed permanency disposition order is in the
136.28 child's best interests. Upon a hearing where the court determines the petition is proved,
136.29 the court may vacate the order for permanent custody and enter a different order for a
136.30 permanent disposition that is in the child's best interests. The court shall not require further
136.31 reasonable efforts to reunify the child with the parent or guardian as a basis for vacating
136.32 the order for permanent custody to the agency and ordering a different permanency
136.33 disposition in the child's best interests. The county attorney must file the petition and give
136.34 notice as required under the Minnesota Rules of Juvenile Protection Procedure in order to
136.35 modify an order for permanent custody under this subdivision.

137.1 **ARTICLE 6**

137.2 **CHILD SUPPORT**

137.3 Section 1. Minnesota Statutes 2011 Supplement, section 256.01, subdivision 14b,
137.4 is amended to read:

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

137.22 (b) For the purposes of this section, "American Indian child" means a person under
137.23 ~~18 years of age~~ 21 years old and who is a tribal member or eligible for membership in
137.24 one of the tribes chosen for a project under this subdivision and who is residing on the
137.25 reservation of that tribe.

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

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

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

137.29 (3) have a substantial number of children for whom determinations of maltreatment
137.30 have occurred;

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

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

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

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

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

138.5 (2) family preservation;

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

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

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

138.11 (e) When a tribe has initiated a project and has been approved by the commissioner
138.12 to assume child welfare responsibilities for American Indian children of that tribe under
138.13 this section, the affected county social service agency is relieved of responsibility for
138.14 responding to reports of abuse and neglect under section 626.556 for those children
138.15 during the time within which the tribal project is in effect and funded. The commissioner
138.16 shall work with tribes and affected counties to develop procedures for data collection,
138.17 evaluation, and clarification of ongoing role and financial responsibilities of the county
138.18 and tribe for child welfare services prior to initiation of the project. Children who have not
138.19 been identified by the tribe as participating in the project shall remain the responsibility
138.20 of the county. Nothing in this section shall alter responsibilities of the county for law
138.21 enforcement or court services.

138.22 (f) Participating tribes may conduct children's mental health screenings under section
138.23 245.4874, subdivision 1, paragraph (a), clause (14), for children who are eligible for the
138.24 initiative and living on the reservation and who meet one of the following criteria:

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

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

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

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

138.31 (g) Participating tribes may establish a local child mortality review panel. In
138.32 establishing a local child mortality review panel, the tribe agrees to conduct local child
138.33 mortality reviews for child deaths or near-fatalities occurring on the reservation under
138.34 subdivision 12. Tribes with established child mortality review panels shall have access
138.35 to nonpublic data and shall protect nonpublic data under subdivision 12, paragraphs (c)
138.36 to (e). The tribe shall provide written notice to the commissioner and affected counties

139.1 when a local child mortality review panel has been established and shall provide data upon
139.2 request of the commissioner for purposes of sharing nonpublic data with members of the
139.3 state child mortality review panel in connection to an individual case.

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

139.8 (i) In consultation with the White Earth Band, the commissioner shall develop
139.9 and submit to the chairs and ranking minority members of the legislative committees
139.10 with jurisdiction over health and human services a plan to transfer legal responsibility
139.11 for providing child protective services to White Earth Band member children residing in
139.12 Hennepin County to the White Earth Band. The plan shall include a financing proposal,
139.13 definitions of key terms, statutory amendments required, and other provisions required to
139.14 implement the plan. The commissioner shall submit the plan by January 15, 2012.

139.15 Sec. 2. Minnesota Statutes 2010, section 257.75, subdivision 7, is amended to read:

139.16 Subd. 7. **Hospital and Department of Health ~~distribution of educational~~**
139.17 **~~materials; recognition form.~~** Hospitals that provide obstetric services and the state
139.18 registrar of vital statistics shall distribute the educational materials and recognition
139.19 of parentage forms prepared by the commissioner of human services to new parents;
139.20 ~~and~~ shall assist parents in understanding the recognition of parentage form, including
139.21 following the provisions for notice under subdivision 5; shall aid new parents in properly
139.22 completing the recognition of parentage form, including providing notary services; and
139.23 shall timely file the completed recognition of parentage form with the office of the state
139.24 registrar of vital statistics. On and after January 1, 1994, hospitals may not distribute the
139.25 declaration of parentage forms.

139.26 Sec. 3. Minnesota Statutes 2010, section 518C.205, is amended to read:

139.27 **518C.205 CONTINUING, EXCLUSIVE JURISDICTION.**

139.28 (a) A tribunal of this state issuing a support order consistent with the law of this state
139.29 has continuing, exclusive jurisdiction over a child support order unless:

139.30 (1) ~~as long as~~ this state ~~remains~~ is no longer the residence of the obligor, the
139.31 individual obligee, ~~or~~ and the child for whose benefit the support order is issued; or

139.32 (2) ~~until~~ all of the parties who are individuals have filed written consents with
139.33 the tribunal of this state for a tribunal of another state to modify the order and assume
139.34 continuing, exclusive jurisdiction.

140.1 (b) A tribunal of this state issuing a child support order consistent with the law of
140.2 this state may not exercise its continuing jurisdiction to modify the order if the order has
140.3 been modified by a tribunal of another state pursuant to this chapter or a law substantially
140.4 similar to this chapter.

140.5 (c) If a child support order of this state is modified by a tribunal of another state
140.6 pursuant to this chapter or a law substantially similar to this chapter, a tribunal of this state
140.7 loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the
140.8 order issued in this state, and may only:

140.9 (1) enforce the order that was modified as to amounts accruing before the
140.10 modification;

140.11 (2) enforce nonmodifiable aspects of that order; and

140.12 (3) provide other appropriate relief for violations of that order which occurred before
140.13 the effective date of the modification.

140.14 (d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a
140.15 tribunal of another state which has issued a child support order pursuant to this chapter or
140.16 a law substantially similar to this chapter.

140.17 (e) A temporary support order issued ex parte or pending resolution of a jurisdictional
140.18 conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

140.19 (f) A tribunal of this state issuing a support order consistent with the law of this
140.20 state has continuing, exclusive jurisdiction over a spousal support order throughout the
140.21 existence of the support obligation. A tribunal of this state may not modify a spousal
140.22 support order issued by a tribunal of another state having continuing, exclusive jurisdiction
140.23 over that order under the law of that state.

140.24 **Sec. 4. RECIPROCAL AGREEMENT; CHILD SUPPORT ENFORCEMENT.**

140.25 The commissioner of human services shall initiate procedures no later than July
140.26 1, 2012, to enter into a reciprocal agreement with Bermuda for the establishment and
140.27 enforcement of child support obligations pursuant to United States Code, title 42, section
140.28 659a(d).

140.29 **EFFECTIVE DATE.** This section is effective upon Bermuda's written acceptance
140.30 and agreement to enforce Minnesota child support orders. If Bermuda does not accept and
140.31 declines to enforce Minnesota orders, this section expires December 31, 2013.

ARTICLE 7

TECHNICAL AND CONFORMING AMENDMENTS

141.1

141.2

141.3 Section 1. Minnesota Statutes 2010, section 257.01, is amended to read:

141.4

257.01 RECORDS REQUIRED.

141.5

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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.

141.16

Sec. 2. Minnesota Statutes 2010, section 259.69, is amended to read:

141.17

259.69 TRANSFER OF FUNDS.

141.18

141.19

The commissioner of human services may transfer funds into the ~~subsidized~~ adoption assistance account when a deficit in the ~~subsidized~~ adoption assistance program occurs.

141.20

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

141.21

259.73 REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.

141.22

141.23

141.24

141.25

141.26

141.27

141.28

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

141.29

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

141.30

141.31

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

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

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

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

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

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

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

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

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

143.1 (ii) the court has approved the out-of-home placement plan required under section
143.2 260C.212 and filed with the court under section 260C.178;

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

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

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

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

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

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

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

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

143.23 (E) the parent continues to abuse chemicals.

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

143.28 (7) that in the case of a child born to a mother who was not married to the child's
143.29 father when the child was conceived nor when the child was born the person is not entitled
143.30 to notice of an adoption hearing under section 259.49 and the person has not registered
143.31 with the fathers' adoption registry under section 259.52;

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

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

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

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

144.5 **260D.08 ANNUAL REVIEW.**

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

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

144.15 (1) ensure that the agreement for voluntary foster care is the most appropriate legal
144.16 arrangement to meet the child's safety, health, and best interests and to conduct a genuine
144.17 examination of whether there is another permanency disposition order under chapter
144.18 260C, including returning the child home, that would better serve the child's need for a
144.19 stable and permanent home;

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

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

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

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

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

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

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

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

145.4 (a) "Family assessment" means a comprehensive assessment of child safety, risk
145.5 of subsequent child maltreatment, and family strengths and needs that is applied to a
145.6 child maltreatment report that does not allege substantial child endangerment. Family
145.7 assessment does not include a determination as to whether child maltreatment occurred
145.8 but does determine the need for services to address the safety of family members and the
145.9 risk of subsequent maltreatment.

145.10 (b) "Investigation" means fact gathering related to the current safety of a child
145.11 and the risk of subsequent maltreatment that determines whether child maltreatment
145.12 occurred and whether child protective services are needed. An investigation must be used
145.13 when reports involve substantial child endangerment, and for reports of maltreatment in
145.14 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to
145.15 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and
145.16 13, and 124D.10; or in a nonlicensed personal care provider association as defined in
145.17 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

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

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

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

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

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

145.29 (5) murder in the first, second, or third degree under section 609.185, 609.19, or
145.30 609.195;

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

145.32 (7) assault in the first, second, or third degree under section 609.221, 609.222, or
145.33 609.223;

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

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

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

146.1 (11) malicious punishment or neglect or endangerment of a child under section
146.2 609.377 or 609.378;

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

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

146.7 (d) "Sexual abuse" means the subjection of a child by a person responsible for the
146.8 child's care, by a person who has a significant relationship to the child, as defined in
146.9 section 609.341, or by a person in a position of authority, as defined in section 609.341,
146.10 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual
146.11 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
146.12 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct
146.13 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual
146.14 abuse also includes any act which involves a minor which constitutes a violation of
146.15 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes
146.16 threatened sexual abuse which includes the status of a parent or household member
146.17 who has committed a violation which requires registration as an offender under section
146.18 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section
146.19 243.166, subdivision 1b, paragraph (a) or (b).

146.20 (e) "Person responsible for the child's care" means (1) an individual functioning
146.21 within the family unit and having responsibilities for the care of the child such as a
146.22 parent, guardian, or other person having similar care responsibilities, or (2) an individual
146.23 functioning outside the family unit and having responsibilities for the care of the child
146.24 such as a teacher, school administrator, other school employees or agents, or other lawful
146.25 custodian of a child having either full-time or short-term care responsibilities including,
146.26 but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching,
146.27 and coaching.

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

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

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

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

147.5 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
147.6 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
147.7 child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

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

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

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

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

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

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

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

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

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

148.9 (3) shaking a child under age three;

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

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

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

148.14 (7) striking a child under age one on the face or head;

148.15 (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
148.16 substances which were not prescribed for the child by a practitioner, in order to control or
148.17 punish the child; or other substances that substantially affect the child's behavior, motor
148.18 coordination, or judgment or that results in sickness or internal injury, or subjects the
148.19 child to medical procedures that would be unnecessary if the child were not exposed
148.20 to the substances;

148.21 (9) unreasonable physical confinement or restraint not permitted under section
148.22 609.379, including but not limited to tying, caging, or chaining; or

148.23 (10) in a school facility or school zone, an act by a person responsible for the child's
148.24 care that is a violation under section 121A.58.

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

148.28 (i) "Facility" means:

148.29 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
148.30 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
148.31 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

148.32 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and
148.33 124D.10; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

149.34 (q) "Nonmaltreatment mistake" means:

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

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

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

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

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

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

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

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

150.20 (1) shall conduct an investigation on reports involving substantial child
150.21 endangerment;

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

150.25 (3) may conduct a family assessment for reports that do not allege substantial child
150.26 endangerment. In determining that a family assessment is appropriate, the local welfare
150.27 agency may consider issues of child safety, parental cooperation, and the need for an
150.28 immediate response; and

150.29 (4) may conduct a family assessment on a report that was initially screened and
150.30 assigned for an investigation. In determining that a complete investigation is not required,
150.31 the local welfare agency must document the reason for terminating the investigation and
150.32 notify the local law enforcement agency if the local law enforcement agency is conducting
150.33 a joint investigation.

150.34 If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian,
150.35 or individual functioning within the family unit as a person responsible for the child's

151.1 care, or sexual abuse by a person with a significant relationship to the child when that
151.2 person resides in the child's household or by a sibling, the local welfare agency shall
151.3 immediately conduct a family assessment or investigation as identified in clauses (1) to
151.4 (4). In conducting a family assessment or investigation, the local welfare agency shall
151.5 gather information on the existence of substance abuse and domestic violence and offer
151.6 services for purposes of preventing future child maltreatment, safeguarding and enhancing
151.7 the welfare of the abused or neglected minor, and supporting and preserving family
151.8 life whenever possible. If the report alleges a violation of a criminal statute involving
151.9 sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the
151.10 local law enforcement agency and local welfare agency shall coordinate the planning and
151.11 execution of their respective investigation and assessment efforts to avoid a duplication of
151.12 fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of
151.13 the results of its investigation. In cases of alleged child maltreatment resulting in death,
151.14 the local agency may rely on the fact-finding efforts of a law enforcement investigation
151.15 to make a determination of whether or not maltreatment occurred. When necessary the
151.16 local welfare agency shall seek authority to remove the child from the custody of a parent,
151.17 guardian, or adult with whom the child is living. In performing any of these duties, the
151.18 local welfare agency shall maintain appropriate records.

151.19 If the family assessment or investigation indicates there is a potential for abuse of
151.20 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,
151.21 the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota
151.22 Rules, part 9530.6615.

151.23 (b) When a local agency receives a report or otherwise has information indicating
151.24 that a child who is a client, as defined in section 245.91, has been the subject of physical
151.25 abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section
151.26 245.91, it shall, in addition to its other duties under this section, immediately inform the
151.27 ombudsman established under sections 245.91 to 245.97. The commissioner of education
151.28 shall inform the ombudsman established under sections 245.91 to 245.97 of reports
151.29 regarding a child defined as a client in section 245.91 that maltreatment occurred at a
151.30 school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

151.31 (c) Authority of the local welfare agency responsible for assessing or investigating
151.32 the child abuse or neglect report, the agency responsible for assessing or investigating
151.33 the report, and of the local law enforcement agency for investigating the alleged abuse or
151.34 neglect includes, but is not limited to, authority to interview, without parental consent,
151.35 the alleged victim and any other minors who currently reside with or who have resided
151.36 with the alleged offender. The interview may take place at school or at any facility or

152.1 other place where the alleged victim or other minors might be found or the child may be
152.2 transported to, and the interview conducted at, a place appropriate for the interview of a
152.3 child designated by the local welfare agency or law enforcement agency. The interview
152.4 may take place outside the presence of the alleged offender or parent, legal custodian,
152.5 guardian, or school official. For family assessments, it is the preferred practice to request
152.6 a parent or guardian's permission to interview the child prior to conducting the child
152.7 interview, unless doing so would compromise the safety assessment. Except as provided in
152.8 this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible
152.9 local welfare or law enforcement agency no later than the conclusion of the investigation
152.10 or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota
152.11 Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte
152.12 motion by the local welfare agency, order that, where reasonable cause exists, the agency
152.13 withhold notification of this interview from the parent, legal custodian, or guardian. If the
152.14 interview took place or is to take place on school property, the order shall specify that
152.15 school officials may not disclose to the parent, legal custodian, or guardian the contents
152.16 of the notification of intent to interview the child on school property, as provided under
152.17 this paragraph, and any other related information regarding the interview that may be a
152.18 part of the child's school record. A copy of the order shall be sent by the local welfare or
152.19 law enforcement agency to the appropriate school official.

152.20 (d) When the local welfare, local law enforcement agency, or the agency responsible
152.21 for assessing or investigating a report of maltreatment determines that an interview should
152.22 take place on school property, written notification of intent to interview the child on school
152.23 property must be received by school officials prior to the interview. The notification
152.24 shall include the name of the child to be interviewed, the purpose of the interview, and
152.25 a reference to the statutory authority to conduct an interview on school property. For
152.26 interviews conducted by the local welfare agency, the notification shall be signed by the
152.27 chair of the local social services agency or the chair's designee. The notification shall be
152.28 private data on individuals subject to the provisions of this paragraph. School officials
152.29 may not disclose to the parent, legal custodian, or guardian the contents of the notification
152.30 or any other related information regarding the interview until notified in writing by the
152.31 local welfare or law enforcement agency that the investigation or assessment has been
152.32 concluded, unless a school employee or agent is alleged to have maltreated the child.
152.33 Until that time, the local welfare or law enforcement agency or the agency responsible
152.34 for assessing or investigating a report of maltreatment shall be solely responsible for any
152.35 disclosures regarding the nature of the assessment or investigation.

153.1 Except where the alleged offender is believed to be a school official or employee,
153.2 the time and place, and manner of the interview on school premises shall be within the
153.3 discretion of school officials, but the local welfare or law enforcement agency shall have
153.4 the exclusive authority to determine who may attend the interview. The conditions as to
153.5 time, place, and manner of the interview set by the school officials shall be reasonable and
153.6 the interview shall be conducted not more than 24 hours after the receipt of the notification
153.7 unless another time is considered necessary by agreement between the school officials and
153.8 the local welfare or law enforcement agency. Where the school fails to comply with the
153.9 provisions of this paragraph, the juvenile court may order the school to comply. Every
153.10 effort must be made to reduce the disruption of the educational program of the child, other
153.11 students, or school staff when an interview is conducted on school premises.

153.12 (e) Where the alleged offender or a person responsible for the care of the alleged
153.13 victim or other minor prevents access to the victim or other minor by the local welfare
153.14 agency, the juvenile court may order the parents, legal custodian, or guardian to produce
153.15 the alleged victim or other minor for questioning by the local welfare agency or the local
153.16 law enforcement agency outside the presence of the alleged offender or any person
153.17 responsible for the child's care at reasonable places and times as specified by court order.

153.18 (f) Before making an order under paragraph (e), the court shall issue an order to
153.19 show cause, either upon its own motion or upon a verified petition, specifying the basis for
153.20 the requested interviews and fixing the time and place of the hearing. The order to show
153.21 cause shall be served personally and shall be heard in the same manner as provided in
153.22 other cases in the juvenile court. The court shall consider the need for appointment of a
153.23 guardian ad litem to protect the best interests of the child. If appointed, the guardian ad
153.24 litem shall be present at the hearing on the order to show cause.

153.25 (g) The commissioner of human services, the ombudsman for mental health and
153.26 developmental disabilities, the local welfare agencies responsible for investigating reports,
153.27 the commissioner of education, and the local law enforcement agencies have the right to
153.28 enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,
153.29 including medical records, as part of the investigation. Notwithstanding the provisions of
153.30 chapter 13, they also have the right to inform the facility under investigation that they are
153.31 conducting an investigation, to disclose to the facility the names of the individuals under
153.32 investigation for abusing or neglecting a child, and to provide the facility with a copy of
153.33 the report and the investigative findings.

153.34 (h) The local welfare agency responsible for conducting a family assessment or
153.35 investigation shall collect available and relevant information to determine child safety,
153.36 risk of subsequent child maltreatment, and family strengths and needs and share not public

154.1 information with an Indian's tribal social services agency without violating any law of the
154.2 state that may otherwise impose duties of confidentiality on the local welfare agency in
154.3 order to implement the tribal state agreement. The local welfare agency or the agency
154.4 responsible for investigating the report shall collect available and relevant information
154.5 to ascertain whether maltreatment occurred and whether protective services are needed.
154.6 Information collected includes, when relevant, information with regard to the person
154.7 reporting the alleged maltreatment, including the nature of the reporter's relationship to the
154.8 child and to the alleged offender, and the basis of the reporter's knowledge for the report;
154.9 the child allegedly being maltreated; the alleged offender; the child's caretaker; and other
154.10 collateral sources having relevant information related to the alleged maltreatment. The
154.11 local welfare agency or the agency responsible for ~~assessing or~~ investigating the report
154.12 may make a determination of no maltreatment early in an ~~assessment~~ investigation, and
154.13 close the case and retain immunity, if the collected information shows no basis for a
154.14 full ~~assessment or~~ investigation.

154.15 Information relevant to the assessment or investigation must be asked for, and
154.16 may include:

154.17 (1) the child's sex and age, prior reports of maltreatment, information relating
154.18 to developmental functioning, credibility of the child's statement, and whether the
154.19 information provided under this clause is consistent with other information collected
154.20 during the course of the assessment or investigation;

154.21 (2) the alleged offender's age, a record check for prior reports of maltreatment, and
154.22 criminal charges and convictions. The local welfare agency or the agency responsible for
154.23 assessing or investigating the report must provide the alleged offender with an opportunity
154.24 to make a statement. The alleged offender may submit supporting documentation relevant
154.25 to the assessment or investigation;

154.26 (3) collateral source information regarding the alleged maltreatment and care of the
154.27 child. Collateral information includes, when relevant: (i) a medical examination of the
154.28 child; (ii) prior medical records relating to the alleged maltreatment or the care of the
154.29 child maintained by any facility, clinic, or health care professional and an interview with
154.30 the treating professionals; and (iii) interviews with the child's caretakers, including the
154.31 child's parent, guardian, foster parent, child care provider, teachers, counselors, family
154.32 members, relatives, and other persons who may have knowledge regarding the alleged
154.33 maltreatment and the care of the child; and

154.34 (4) information on the existence of domestic abuse and violence in the home of
154.35 the child, and substance abuse.

155.1 Nothing in this paragraph precludes the local welfare agency, the local law
155.2 enforcement agency, or the agency responsible for assessing or investigating the report
155.3 from collecting other relevant information necessary to conduct the assessment or
155.4 investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare
155.5 agency has access to medical data and records for purposes of clause (3). Notwithstanding
155.6 the data's classification in the possession of any other agency, data acquired by the
155.7 local welfare agency or the agency responsible for assessing or investigating the report
155.8 during the course of the assessment or investigation are private data on individuals and
155.9 must be maintained in accordance with subdivision 11. Data of the commissioner of
155.10 education collected or maintained during and for the purpose of an investigation of
155.11 alleged maltreatment in a school are governed by this section, notwithstanding the data's
155.12 classification as educational, licensing, or personnel data under chapter 13.

155.13 In conducting an assessment or investigation involving a school facility as defined
155.14 in subdivision 2, paragraph (i), the commissioner of education shall collect investigative
155.15 reports and data that are relevant to a report of maltreatment and are from local law
155.16 enforcement and the school facility.

155.17 (i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face
155.18 contact with the child reported to be maltreated and with the child's primary caregiver
155.19 sufficient to complete a safety assessment and ensure the immediate safety of the child.
155.20 The face-to-face contact with the child and primary caregiver shall occur immediately
155.21 if substantial child endangerment is alleged and within five calendar days for all other
155.22 reports. If the alleged offender was not already interviewed as the primary caregiver, the
155.23 local welfare agency shall also conduct a face-to-face interview with the alleged offender
155.24 in the early stages of the assessment or investigation. At the initial contact, the local child
155.25 welfare agency or the agency responsible for assessing or investigating the report must
155.26 inform the alleged offender of the complaints or allegations made against the individual in
155.27 a manner consistent with laws protecting the rights of the person who made the report.
155.28 The interview with the alleged offender may be postponed if it would jeopardize an active
155.29 law enforcement investigation.

155.30 (j) When conducting an investigation, the local welfare agency shall use a question
155.31 and answer interviewing format with questioning as nondirective as possible to elicit
155.32 spontaneous responses. For investigations only, the following interviewing methods and
155.33 procedures must be used whenever possible when collecting information:

- 155.34 (1) audio recordings of all interviews with witnesses and collateral sources; and
155.35 (2) in cases of alleged sexual abuse, audio-video recordings of each interview with
155.36 the alleged victim and child witnesses.

156.1 (k) In conducting an assessment or investigation involving a school facility as
156.2 defined in subdivision 2, paragraph (i), the commissioner of education shall collect
156.3 available and relevant information and use the procedures in paragraphs (i), (k), and
156.4 subdivision 3d, except that the requirement for face-to-face observation of the child
156.5 and face-to-face interview of the alleged offender is to occur in the initial stages of the
156.6 assessment or investigation provided that the commissioner may also base the assessment
156.7 or investigation on investigative reports and data received from the school facility and
156.8 local law enforcement, to the extent those investigations satisfy the requirements of
156.9 paragraphs (i) and (k), and subdivision 3d.

156.10 Sec. 9. Minnesota Statutes 2010, section 626.556, subdivision 10e, is amended to read:

156.11 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family
156.12 assessment or the investigation within 45 days of the receipt of a report. The conclusion of
156.13 the assessment or investigation may be extended to permit the completion of a criminal
156.14 investigation or the receipt of expert information requested within 45 days of the receipt
156.15 of the report.

156.16 (b) After conducting a family assessment, the local welfare agency shall determine
156.17 whether services are needed to address the safety of the child and other family members
156.18 and the risk of subsequent maltreatment.

156.19 (c) After conducting an investigation, the local welfare agency shall make two
156.20 determinations: first, whether maltreatment has occurred; and, second, whether child
156.21 protective services are needed. No determination of maltreatment shall be made when the
156.22 alleged perpetrator is a child under the age of ten.

156.23 (d) If the commissioner of education conducts an assessment or investigation,
156.24 the commissioner shall determine whether maltreatment occurred and what corrective
156.25 or protective action was taken by the school facility. If a determination is made that
156.26 maltreatment has occurred, the commissioner shall report to the employer, the school
156.27 board, and any appropriate licensing entity the determination that maltreatment occurred
156.28 and what corrective or protective action was taken by the school facility. In all other cases,
156.29 the commissioner shall inform the school board or employer that a report was received,
156.30 the subject of the report, the date of the initial report, the category of maltreatment alleged
156.31 as defined in paragraph (f), the fact that maltreatment was not determined, and a summary
156.32 of the specific reasons for the determination.

156.33 (e) When maltreatment is determined in an investigation involving a facility,
156.34 the investigating agency shall also determine whether the facility or individual was
156.35 responsible, or whether both the facility and the individual were responsible for the

157.1 maltreatment using the mitigating factors in paragraph (i). Determinations under this
157.2 subdivision must be made based on a preponderance of the evidence and are private data
157.3 on individuals or nonpublic data as maintained by the commissioner of education.

157.4 (f) For the purposes of this subdivision, "maltreatment" means any of the following
157.5 acts or omissions:

157.6 (1) physical abuse as defined in subdivision 2, paragraph (g);

157.7 (2) neglect as defined in subdivision 2, paragraph (f);

157.8 (3) sexual abuse as defined in subdivision 2, paragraph (d);

157.9 (4) mental injury as defined in subdivision 2, paragraph (m); or

157.10 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

157.11 (g) For the purposes of this subdivision, a determination that child protective
157.12 services are needed means that the local welfare agency has documented conditions
157.13 during the assessment or investigation sufficient to cause a child protection worker, as
157.14 defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of
157.15 maltreatment if protective intervention is not provided and that the individuals responsible
157.16 for the child's care have not taken or are not likely to take actions to protect the child
157.17 from maltreatment or risk of maltreatment.

157.18 (h) This subdivision does not mean that maltreatment has occurred solely because
157.19 the child's parent, guardian, or other person responsible for the child's care in good faith
157.20 selects and depends upon spiritual means or prayer for treatment or care of disease
157.21 or remedial care of the child, in lieu of medical care. However, if lack of medical care
157.22 may result in serious danger to the child's health, the local welfare agency may ensure
157.23 that necessary medical services are provided to the child.

157.24 (i) When determining whether the facility or individual is the responsible party, or
157.25 whether both the facility and the individual are responsible for determined maltreatment in
157.26 a facility, the investigating agency shall consider at least the following mitigating factors:

157.27 (1) whether the actions of the facility or the individual caregivers were according to,
157.28 and followed the terms of, an erroneous physician order, prescription, individual care plan,
157.29 or directive; however, this is not a mitigating factor when the facility or caregiver was
157.30 responsible for the issuance of the erroneous order, prescription, individual care plan, or
157.31 directive or knew or should have known of the errors and took no reasonable measures to
157.32 correct the defect before administering care;

157.33 (2) comparative responsibility between the facility, other caregivers, and
157.34 requirements placed upon an employee, including the facility's compliance with related
157.35 regulatory standards and the adequacy of facility policies and procedures, facility training,

158.1 an individual's participation in the training, the caregiver's supervision, and facility staffing
158.2 levels and the scope of the individual employee's authority and discretion; and

158.3 (3) whether the facility or individual followed professional standards in exercising
158.4 professional judgment.

158.5 The evaluation of the facility's responsibility under clause (2) must not be based on the
158.6 completeness of the risk assessment or risk reduction plan required under section 245A.66,
158.7 but must be based on the facility's compliance with the regulatory standards for policies
158.8 and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota
158.9 Rules.

158.10 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been
158.11 committed by an individual who is also the facility license holder, both the individual and
158.12 the facility must be determined responsible for the maltreatment, and both the background
158.13 study disqualification standards under section 245C.15, subdivision 4, and the licensing
158.14 actions under sections 245A.06 or 245A.07 apply.

158.15 (k) Individual counties may implement more detailed definitions or criteria that
158.16 indicate which allegations to investigate, as long as a county's policies are consistent
158.17 with the definitions in the statutes and rules and are approved by the county board. Each
158.18 local welfare agency shall periodically inform mandated reporters under subdivision 3
158.19 who work in the county of the definitions of maltreatment in the statutes and rules and any
158.20 additional definitions or criteria that have been approved by the county board.

158.21 Sec. 10. Minnesota Statutes 2010, section 626.556, subdivision 10f, is amended to read:

158.22 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion
158.23 of a family assessment, the local welfare agency shall notify the parent or guardian
158.24 of the child of the need for services to address child safety concerns or significant risk
158.25 of subsequent child maltreatment. The local welfare agency and the family may also
158.26 jointly agree that family support and family preservation services are needed. Within ten
158.27 working days of the conclusion of an investigation, the local welfare agency or agency
158.28 responsible for ~~assessing or~~ investigating the report shall notify the parent or guardian
158.29 of the child, the person determined to be maltreating the child, and if applicable, the
158.30 director of the facility, of the determination and a summary of the specific reasons for
158.31 the determination. When the investigation involves a child foster care setting that is
158.32 monitored by a private licensing agency under section 245A.16, the local welfare agency
158.33 responsible for ~~assessing or~~ investigating the report shall notify the private licensing
158.34 agency of the determination and shall provide a summary of the specific reasons for
158.35 the determination. The notice to the private licensing agency must include identifying

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159.1 private data, but not the identity of the reporter of maltreatment. The notice must also
159.2 include a certification that the information collection procedures under subdivision 10,
159.3 paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to
159.4 obtain access to other private data on the subject collected, created, or maintained under
159.5 this section. In addition, the notice shall include the length of time that the records will be
159.6 kept under subdivision 11c. The investigating agency shall notify the parent or guardian
159.7 of the child who is the subject of the report, and any person or facility determined to
159.8 have maltreated a child, of their appeal or review rights under this section or section
159.9 256.022. The notice must also state that a finding of maltreatment may result in denial of a
159.10 license application or background study disqualification under chapter 245C related to
159.11 employment or services that are licensed by the Department of Human Services under
159.12 chapter 245A, the Department of Health under chapter 144 or 144A, the Department of
159.13 Corrections under section 241.021, and from providing services related to an unlicensed
159.14 personal care provider organization under chapter 256B.

159.15 Sec. 11. Minnesota Statutes 2010, section 626.556, subdivision 10i, is amended to read:

159.16 Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative
159.17 reconsideration is not applicable in family assessments since no determination concerning
159.18 maltreatment is made. For investigations, except as provided under paragraph (e), an
159.19 individual or facility that the commissioner of human services, a local social service
159.20 agency, or the commissioner of education determines has maltreated a child, an interested
159.21 person acting on behalf of the child, regardless of the determination, who contests
159.22 the investigating agency's final determination regarding maltreatment, may request the
159.23 investigating agency to reconsider its final determination regarding maltreatment. The
159.24 request for reconsideration must be submitted in writing to the investigating agency within
159.25 15 calendar days after receipt of notice of the final determination regarding maltreatment
159.26 or, if the request is made by an interested person who is not entitled to notice, within
159.27 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the
159.28 request for reconsideration must be postmarked and sent to the investigating agency
159.29 within 15 calendar days of the individual's or facility's receipt of the final determination. If
159.30 the request for reconsideration is made by personal service, it must be received by the
159.31 investigating agency within 15 calendar days after the individual's or facility's receipt of the
159.32 final determination. Effective January 1, 2002, an individual who was determined to have
159.33 maltreated a child under this section and who was disqualified on the basis of serious or
159.34 recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration
159.35 of the maltreatment determination and the disqualification. The request for reconsideration

160.1 of the maltreatment determination and the disqualification must be submitted within 30
160.2 calendar days of the individual's receipt of the notice of disqualification under sections
160.3 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment
160.4 determination and the disqualification must be postmarked and sent to the investigating
160.5 agency within 30 calendar days of the individual's receipt of the maltreatment
160.6 determination and notice of disqualification. If the request for reconsideration is made by
160.7 personal service, it must be received by the investigating agency within 30 calendar days
160.8 after the individual's receipt of the notice of disqualification.

160.9 (b) Except as provided under paragraphs (e) and (f), if the investigating agency
160.10 denies the request or fails to act upon the request within 15 working days after receiving
160.11 the request for reconsideration, the person or facility entitled to a fair hearing under
160.12 section 256.045 may submit to the commissioner of human services or the commissioner
160.13 of education a written request for a hearing under that section. Section 256.045 also
160.14 governs hearings requested to contest a final determination of the commissioner of
160.15 education. ~~For reports involving maltreatment of a child in a facility, an interested person~~
160.16 ~~acting on behalf of the child may request a review by the Child Maltreatment Review~~
160.17 ~~Panel under section 256.022 if the investigating agency denies the request or fails to act~~
160.18 ~~upon the request or if the interested person contests a reconsidered determination. The~~
160.19 ~~investigating agency shall notify persons who request reconsideration of their rights under~~
160.20 ~~this paragraph. The request must be submitted in writing to the review panel and a copy~~
160.21 ~~sent to the investigating agency within 30 calendar days of receipt of notice of a denial~~
160.22 ~~of a request for reconsideration or of a reconsidered determination. The request must~~
160.23 ~~specifically identify the aspects of the agency determination with which the person is~~
160.24 ~~dissatisfied. The hearings specified under this section are the only administrative appeal of~~
160.25 ~~a decision issued under paragraph (a). Determinations under this section are not subject to~~
160.26 ~~accuracy and completeness challenges under section 13.04.~~

160.27 (c) If, as a result of a reconsideration or review, the investigating agency changes
160.28 the final determination of maltreatment, that agency shall notify the parties specified in
160.29 subdivisions 10b, 10d, and 10f.

160.30 (d) Except as provided under paragraph (f), if an individual or facility contests the
160.31 investigating agency's final determination regarding maltreatment by requesting a fair
160.32 hearing under section 256.045, the commissioner of human services shall assure that the
160.33 hearing is conducted and a decision is reached within 90 days of receipt of the request for
160.34 a hearing. The time for action on the decision may be extended for as many days as the
160.35 hearing is postponed or the record is held open for the benefit of either party.

161.1 (e) If an individual was disqualified under sections 245C.14 and 245C.15, on
161.2 the basis of a determination of maltreatment, which was serious or recurring, and
161.3 the individual has requested reconsideration of the maltreatment determination under
161.4 paragraph (a) and requested reconsideration of the disqualification under sections 245C.21
161.5 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the
161.6 disqualification shall be consolidated into a single reconsideration. If reconsideration
161.7 of the maltreatment determination is denied and the individual remains disqualified
161.8 following a reconsideration decision, the individual may request a fair hearing under
161.9 section 256.045. If an individual requests a fair hearing on the maltreatment determination
161.10 and the disqualification, the scope of the fair hearing shall include both the maltreatment
161.11 determination and the disqualification.

161.12 (f) If a maltreatment determination or a disqualification based on serious or recurring
161.13 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing
161.14 sanction under section 245A.07, the license holder has the right to a contested case hearing
161.15 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for
161.16 under section 245A.08, subdivision 2a, the scope of the contested case hearing shall
161.17 include the maltreatment determination, disqualification, and licensing sanction or denial
161.18 of a license. In such cases, a fair hearing regarding the maltreatment determination and
161.19 disqualification shall not be conducted under section 256.045. Except for family child
161.20 care and child foster care, reconsideration of a maltreatment determination as provided
161.21 under this subdivision, and reconsideration of a disqualification as provided under section
161.22 245C.22, shall also not be conducted when:

161.23 (1) a denial of a license under section 245A.05 or a licensing sanction under section
161.24 245A.07, is based on a determination that the license holder is responsible for maltreatment
161.25 or the disqualification of a license holder based on serious or recurring maltreatment;

161.26 (2) the denial of a license or licensing sanction is issued at the same time as the
161.27 maltreatment determination or disqualification; and

161.28 (3) the license holder appeals the maltreatment determination or disqualification, and
161.29 denial of a license or licensing sanction.

161.30 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
161.31 determination or disqualification, but does not appeal the denial of a license or a licensing
161.32 sanction, reconsideration of the maltreatment determination shall be conducted under
161.33 sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the
161.34 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing
161.35 shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and
161.36 626.557, subdivision 9d.

162.1 If the disqualified subject is an individual other than the license holder and upon
162.2 whom a background study must be conducted under chapter 245C, the hearings of all
162.3 parties may be consolidated into a single contested case hearing upon consent of all parties
162.4 and the administrative law judge.

162.5 (g) For purposes of this subdivision, "interested person acting on behalf of the
162.6 child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult
162.7 stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been
162.8 determined to be the perpetrator of the maltreatment.

162.9 Sec. 12. Minnesota Statutes 2010, section 626.556, subdivision 10k, is amended to
162.10 read:

162.11 Subd. 10k. **Release of certain assessment or investigative records to other**
162.12 **counties.** Records maintained under subdivision 11c, paragraph (a), may be shared with
162.13 another local welfare agency that requests the information because it is conducting an
162.14 assessment or investigation under this section of the subject of the records.

162.15 Sec. 13. **REVISOR'S INSTRUCTION.**

162.16 (a) The revisor of statutes shall renumber each section of Minnesota Statutes listed
162.17 in column A with the number listed in column B.

	<u>Column A</u>	<u>Column B</u>
162.18	<u>259.69</u>	<u>259A.05, subd. 5</u>
162.19	<u>260C.217</u>	<u>260C.139</u>
162.20	<u>260C.501</u>	<u>260C.177</u>
162.21	<u>260C.201, subd. 10</u>	<u>260C.202</u>
162.22	<u>260C.212, subd. 7</u>	<u>260C.203</u>
162.23	<u>260C.201, subd. 11a</u>	<u>260C.204</u>
162.24	<u>260C.212, subd. 4</u>	<u>260C.219</u>
162.25	<u>260C.212, subd. 5</u>	<u>260C.221</u>
162.26	<u>260C.213</u>	<u>260C.223</u>
162.27	<u>260C.206</u>	<u>260C.225</u>
162.28	<u>260C.212, subd. 8</u>	<u>260C.227</u>
162.29	<u>260C.212, subd. 6</u>	<u>260C.521, subd. 4</u>
162.30	<u>260C.205</u>	<u>260D.11</u>
162.31		

162.32 (b) The revisor of statutes shall make necessary cross-reference changes in
162.33 Minnesota Statutes and Minnesota Rules consistent with the numbering in articles 1 and
162.34 2 and the renumbering in paragraph (a).

162.35 Sec. 14. **REPEALER.**

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- 163.1 (a) Minnesota Statutes 2010, sections 256.022; 259.67; 259.71; 260C.201,
163.2 subdivision 11; 260C.215, subdivision 2; and 260C.456, are repealed.
- 163.3 (b) Minnesota Rules, parts 9560.0071; 9560.0082; 9560.0083; 9560.0091;
163.4 9560.0093, subparts 1, 3, and 4; 9560.0101; and 9560.0102, are repealed.

APPENDIX
Article locations in S1675-3

ARTICLE 1	CHILDREN AND FAMILIES POLICY PROVISIONS	Page.Ln 1.28
ARTICLE 2	CHILD CARE	Page.Ln 62.9
ARTICLE 3	SIMPLIFICATION OF MFIP AND DWP	Page.Ln 71.1
ARTICLE 4	ADOPTION ASSISTANCE	Page.Ln 74.7
ARTICLE 5	CHILD PROTECTION	Page.Ln 96.3
ARTICLE 6	CHILD SUPPORT	Page.Ln 137.1
ARTICLE 7	TECHNICAL AND CONFORMING AMENDMENTS	Page.Ln 141.1

256.022 CHILD MALTREATMENT REVIEW PANEL.

256.022 CHILD MALTREATMENT REVIEW PANEL.

Subdivision 1. **Creation.** The commissioner of human services shall establish a review panel for purposes of reviewing investigating agency determinations regarding maltreatment of a child in a facility in response to requests received under section 626.556, subdivision 10i, paragraph (b). The review panel consists of the commissioners of health; human services; education; public safety; and corrections; and the ombudsman for mental health and developmental disabilities; or their designees.

Subd. 2. **Review procedure.** (a) The panel shall hold quarterly meetings for purposes of conducting reviews under this section. If an interested person acting on behalf of a child requests a review under this section, the panel shall review the request at its next quarterly meeting. If the next quarterly meeting is within ten days of the panel's receipt of the request for review, the review may be delayed until the next subsequent meeting. The panel shall review the request and the final determination regarding maltreatment made by the investigating agency and may review any other data on the investigation maintained by the agency that are pertinent and necessary to its review of the determination. If more than one person requests a review under this section with respect to the same determination, the review panel shall combine the requests into one review. Upon receipt of a request for a review, the panel shall notify the alleged perpetrator of maltreatment that a review has been requested and provide an approximate timeline for conducting the review.

(b) Within 30 days of the review under this section, the panel shall notify the investigating agency and the interested person who requested the review as to whether the panel agrees with the determination or whether the investigating agency must reconsider the determination. If the panel determines that the agency must reconsider the determination, the panel must make specific investigative recommendations to the agency. Within 30 days the investigating agency shall conduct a review and report back to the panel with its reconsidered determination and the specific rationale for its determination.

Subd. 3. **Report.** By January 15 of each year, the panel shall submit a report to the committees of the legislature with jurisdiction over section 626.556 regarding the number of requests for review it receives under this section, the number of cases where the panel requires the investigating agency to reconsider its final determination, the number of cases where the final determination is changed, and any recommendations to improve the review or investigative process.

Subd. 4. **Data.** Data of the review panel created as part of a review under this section are private data on individuals as defined in section 13.02.

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Subd. 4. **Data.** Data of the review panel created as part of a review under this section are private data on individuals as defined in section 13.02.

259.67 ADOPTION ASSISTANCE PROGRAM.

Subdivision 1. **Adoption assistance.** (a) The commissioner of human services shall enter into an adoption assistance agreement with an adoptive parent or parents of an eligible child. To be eligible for adoption assistance a child must:

(1) be determined to be a child with special needs, according to subdivision 4; and

(2)(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 tribe, and be either under the guardianship of the commissioner or under the jurisdiction of a Minnesota tribe, with adoption in accordance with tribal law as the child's documented permanency plan.

(b) Notwithstanding any provision to the contrary, no child on whose behalf federal title IV-E adoption assistance payments are to be made may be placed in an adoptive home unless a criminal background check under section 259.41, subdivision 3, paragraph (b), has been completed on the prospective adoptive parents and no disqualifying condition exists. A disqualifying condition exists if:

(1) a criminal background check reveals a felony conviction for child abuse; for spousal abuse; for a crime against children (including child pornography); or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or

(2) a criminal background check reveals a felony conviction within the past five years for physical assault, battery, or a drug-related offense.

(c) 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. 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.

(d) Subject to commissioner approval, the legally responsible agency shall make a title IV-E adoption assistance eligibility determination for each child. Children who meet all eligibility criteria except those specific to title IV-E adoption assistance shall receive adoption assistance paid through state funds.

(e) Payments for adoption assistance shall not be made to a biological parent of the child who later adopts the same child. Direct placement adoptions under section 259.47 or the equivalent in tribal code are not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian is not eligible for state-funded adoption assistance. A child who is adopted by the child's legal custodian or guardian may be eligible for title IV-E adoption assistance if all required eligibility factors are met. International adoptions are not eligible for adoption assistance unless the adopted child has been placed into foster care through the public child welfare system subsequent to the failure of the adoption and all required eligibility factors are met.

Subd. 2. **Adoption assistance agreement.** The placing agency shall certify a child as eligible for adoption assistance according to rules promulgated by the commissioner. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. Not later than 30 days after a parent or parents are found and approved for adoptive placement of a child certified as eligible for adoption assistance, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be fully completed by the placing agency and in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the anticipated duration of the adoption assistance

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agreement, the nature and amount of any payment, services, and assistance to be provided under such agreement, the child's eligibility for Medicaid services, eligibility for reimbursement of nonrecurring expenses associated with adopting the child, to the extent that total cost does not exceed \$2,000 per child, provisions for modification of the terms of the agreement, the effective date of the agreement, that the agreement must remain in effect regardless of the state of which the adoptive parents are residents at any given time, and the payment terms. The agreement is effective the date of the adoption decree. The adoption assistance agreement shall be subject to the commissioner's approval, which must be granted or denied not later than 15 days after the agreement is entered. The agreement must be negotiated with the adoptive parent or parents. 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 adoption assistance shall be determined through agreement with the adoptive parents. The agreement shall take into consideration the circumstances of the adopting parent or parents, the needs of the child being adopted and may provide ongoing monthly assistance, supplemental maintenance expenses related to the child's special needs, nonmedical expenses periodically necessary for purchase of services, items, or equipment related to the special needs, and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support the need for adoption assistance payments. The commissioner may require periodic reevaluation of adoption assistance payments. The amount of ongoing monthly adoption assistance granted may in no case exceed the payment schedule outlined in subdivision 2a and, for state-funded cases, is subject to the availability of state funds.

Subd. 2a. **Benefits and payments.** (a) Eligibility for medical assistance for children receiving adoption assistance is as specified in section 256B.055.

(b) Basic maintenance payments are available for all children eligible for adoption assistance except those eligible solely based on high risk of developing a disability. Basic maintenance payments must be made according to the following schedule:

Birth through age five	up to \$247 per month
Age six through age 11	up to \$277 per month
Age 12 through age 14	up to \$307 per month
Age 15 and older	up to \$337 per month

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

(c) Supplemental adoption assistance needs payments, in addition to basic maintenance payments, are available for a child whose disability necessitates care, supervision, and structure beyond that ordinarily provided in a family setting to persons of the same age. These payments are related to the severity of a child's disability and the level of parenting required to care for the child, and must be made according to the following schedule:

Level I	up to \$150 per month
Level II	up to \$275 per month
Level III	up to \$400 per month
Level IV	up to \$500 per month

A child's level shall be assessed on a supplemental maintenance needs assessment form prescribed by the commissioner. A child must receive the maximum payment amount for the child's assessed level, unless a lesser amount is negotiated with and agreed to by the prospective adoptive parent.

Subd. 3. **Modification, termination, or extension of adoption assistance agreement.**

The adoption assistance agreement shall continue in accordance with its terms as long as the need for adoption assistance continues and the adopted child is the legal or financial dependent of the adoptive parent or parents or guardian or conservator and is under 18 years of age. If the commissioner determines that the adoptive parents are no longer legally responsible for support of the child or are no longer providing financial support to the child, the agreement shall terminate. Under certain limited circumstances, the adoption assistance agreement may be extended to age 22 as allowed by rules adopted by the commissioner. An application for extension must be completed and submitted by the adoptive parent prior to the date the child attains age 18. The application for extension must be made according to policies and procedures prescribed by the commissioner, including documentation of eligibility, and on forms prescribed by the commissioner. Termination or modification of the adoption assistance agreement may be

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requested by the adoptive parents or subsequent guardian or conservator at any time. When an adoptive parent requests modification of the adoption assistance agreement, a reassessment of the child must be completed consistent with subdivision 2a. If the reassessment indicates that the child's level has changed or, for a high-risk child, that the potential disability upon which eligibility for the agreement was based has manifested itself, the agreement shall be renegotiated to include an appropriate payment, consistent with subdivision 2a. The agreement must not be modified unless the commissioner and the adoptive parent mutually agree to the changes. When the commissioner determines that a child is eligible for extension of title IV-E adoption assistance under section 473 of the Social Security Act, the commissioner shall require the adoptive parents to submit the necessary documentation in order to obtain the funds under that act.

Subd. 3a. **Recovery of overpayments.** An amount of adoption assistance paid to an adoptive parent in excess of the payment due is recoverable by the commissioner, even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the family or provider. Adoption assistance amounts covered by this subdivision include basic maintenance needs payments, monthly supplemental maintenance needs payments, reimbursement of nonrecurring adoption expenses, reimbursement of special nonmedical costs, and reimbursement of medical costs.

Subd. 3b. **Extension; adoption finalized after age 16.** A child who has attained the age of 16 prior to finalization of the child's adoption is eligible for extension of the adoption assistance agreement to the date the child attains age 21 if the child is:

- (1) completing a secondary education program or a program leading to an equivalent credential;
- (2) enrolled in an institution which 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 which incapability is supported by regularly updated information in the case plan of the child.

Subd. 4. **Special needs determination.** (a) A child is considered a child with special needs under this section if the following criteria are met:

- (1) Due to the child's characteristics or circumstances it would be difficult to provide the child an adoptive home without adoption assistance.
- (2)(i) A placement agency has made reasonable efforts to place the child for adoption without adoption assistance, but has been unsuccessful;
- (ii) the child's licensed foster parents desire to adopt the child and it is determined by the placing agency that the adoption is in the best interest of the child;
- (iii) the child's relative, as defined in section 260C.007, subdivision 27, desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child; or
- (iv) for a non-Indian child, the family that previously adopted a child of the same mother or father desires to adopt the child, and it is determined by the placing agency that the adoption is in the best interest of the child.
- (3) 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:
 - (i) a court-ordered termination of parental rights;
 - (ii) a petition to terminate parental rights;
 - (iii) a consent to adopt accepted by the court under sections 259.24 and 260C.201, subdivision 11;
 - (iv) 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;
 - (v) a voluntary relinquishment under section 259.25 or 259.47 or, if relinquishment occurred in another state, the applicable laws in that state; or
 - (vi) the death of the legal parent.
- (b) The characteristics or circumstances that may be considered in determining whether a child meets the requirements of paragraph (a), clause (1), or section 473(c)(2)(A) of the Social Security Act, are the following:

- (1) The child is a member of a sibling group to be adopted at the same time by the same parent.

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(2) The child has been determined by the Social Security Administration to meet all medical or disability requirements of title XVI of the Social Security Act with respect to eligibility for Supplemental Security Income benefits.

(3) The child has documented physical, mental, emotional, or behavioral disabilities not covered under clause (2).

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

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

(6) The child is placed for adoption in the home of a parent who previously adopted another child born of the same mother or father for whom they receive adoption assistance.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability upon which eligibility for the agreement was based manifests itself as documented by an appropriate professional.

(d) Documentation must be provided to verify that a child meets the special needs criteria in this subdivision. Documentation is limited to evidence deemed appropriate by the commissioner.

Subd. 5. Determination of residency. A child placed in the state from another state or a tribe outside of the state is not eligible for state-funded adoption assistance through the state. A child placed in the state from another state or a tribe outside of the state may be eligible for title IV-E adoption assistance through the state of Minnesota if all eligibility factors are met and there is no state agency that has responsibility for placement and care of the child. A child who is a resident of any county in this state when eligibility for adoption assistance is certified shall remain eligible and receive adoption assistance in accordance with the terms of the adoption assistance agreement, regardless of the domicile or residence of the adopting parents at the time of application for adoptive placement, legal decree of adoption, or thereafter.

Subd. 6. Right of appeal. (a) The adoptive parents have the right to appeal to the commissioner pursuant to section 256.045, when the commissioner denies, discontinues, or modifies the agreement.

(b) Adoptive parents who believe that their adopted child was incorrectly denied adoption assistance, or who did not seek adoption assistance on the child's behalf because of being provided with inaccurate or insufficient information about the child or the adoption assistance program, may request a hearing under section 256.045. Notwithstanding subdivision 2, the purpose of the hearing shall be to determine whether, under standards established by the federal Department of Health and Human Services, the circumstances surrounding the child's adoption warrant making an adoption assistance agreement on behalf of the child after the final decree of adoption has been issued. The commissioner shall enter into an adoption assistance agreement on the child's behalf if it is determined that:

(1) at the time of the adoption and at the time the request for a hearing was submitted the child was eligible for adoption assistance under United States Code, title 42, chapter 7, subchapter IV, part E, sections 670 to 679a, at the time of the adoption or for state funded adoption assistance under subdivision 4; and

(2) an adoption assistance agreement was not entered into on behalf of the child before the final decree of adoption because of extenuating circumstances as the term is used in the standards established by the federal Department of Health and Human Services. An adoption assistance agreement made under this paragraph shall be effective the date the request for a hearing was received by the commissioner or the local agency.

Subd. 7. Reimbursement of costs. (a) Subject to rules of the commissioner, and the provisions of this subdivision a child-placing agency licensed in Minnesota or any other state, or local or tribal social services agency shall receive a reimbursement from the commissioner equal to 100 percent of the reasonable and appropriate cost of providing child-specific adoption services. Adoption services under this subdivision may include child-specific recruitment, training, and home studies for prospective adoptive parents, and placement services.

(b) An eligible child must have a goal of adoption, which may include an adoption in accordance with tribal law, and meet one of the following criteria:

(1) is a ward of the commissioner of human services or a ward of tribal court pursuant to section 260.755, subdivision 20, who meets one of the criteria in subdivision 4, paragraph (a), clause (3), and one of the criteria in subdivision 4, paragraph (b); or

(2) is under the guardianship of a Minnesota-licensed child-placing agency who meets one of the criteria in subdivision 4, paragraph (b), clause (1), (2), (3), (5), or (6).

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(c) A child-placing agency licensed in Minnesota or any other state shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. Tribal social services shall receive reimbursement for adoption services it purchases for or directly provides to an eligible child. A local social services agency shall receive reimbursement only for adoption services it purchases for an eligible child.

Before providing adoption services for which reimbursement will be sought under this subdivision, a reimbursement agreement, on the designated format, must be entered into with the commissioner. No reimbursement under this subdivision shall be made to an agency for services provided prior to entering a reimbursement agreement. Separate reimbursement agreements shall be made for each child and separate records shall be kept on each child for whom a reimbursement agreement is made. Reimbursement shall not be made unless the commissioner agrees that the reimbursement costs are reasonable and appropriate. The commissioner may spend up to \$16,000 for each purchase of service agreement. Only one agreement per child is allowed, unless an exception is granted by the commissioner and agreed to in writing by the commissioner prior to commencement of services. Funds encumbered and obligated under such an agreement for the child remain available until the terms of the agreement are fulfilled or the agreement is terminated.

The commissioner shall make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement, and if the request for reimbursement is submitted by the local or tribal social services agency along with a verification that the service was provided.

Subd. 8. **Indian children.** The commissioner is encouraged to work with American Indian organizations to assist in the establishment of American Indian child adoption organizations able to be licensed as child-placing agencies. Children certified as eligible for adoption assistance under this section who are protected under the federal Indian Child Welfare Act of 1978 should, whenever possible, be served by the tribal governing body, tribal courts, or a licensed Indian child-placing agency.

Subd. 9. **Effect on other aid.** Adoption assistance payments received under this section shall not affect eligibility for any other financial payments to which a person may otherwise be entitled.

Subd. 10. **Rules.** The commissioner shall promulgate rules necessary to implement this section and to comply with the adoption assistance requirements of the Social Security Act to qualify for funds available under the act.

Subd. 11. **Promotion of programs.** The commissioner or the commissioner's designee shall actively seek ways to promote the adoption assistance program, including information to prospective adoptive parents of eligible children under the commissioner's guardianship of the availability of adoption assistance. All families who adopt children under the commissioner's guardianship must also be informed as to the adoption tax credit.

259.71 INTERSTATE ADOPTION COMPACTS; SERVICE PAYMENTS.

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

(a) Enter into interstate agreements with agencies of other states for the protection of children for whom the commissioner is providing adoption assistance.

(b) Provide procedures for interstate assistance payments, including medical payments, for eligible children who are adopted interstate 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 shall have the meanings given them, unless the context clearly indicates otherwise.

(a) "Adoption assistance state" means the state that signs an adoption assistance agreement in a particular case.

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

(c) "Resident state" means the state of which the child is a resident because of the residence of the adoptive parents.

(d) "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, the 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 the purposes of Laws 1984, chapter 422. When entered into, the compact will have the force and effect of law.

Subd. 4. **Contents of compacts.** A compact entered into under Laws 1984, chapter 422, must include:

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

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(b) a provision for withdrawal from the compact upon written notice to the parties. The provision must require a period of one year between the date of the notice and the effective date of the withdrawal;

(c) 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 adoptive parents and the child are resident;

(d) 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 parents and the state child welfare agency of the state which provides the adoption assistance, and that the agreement be expressly for the benefit of the adopted child and enforceable by the adoptive parents and the state agency providing the adoption assistance; and

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

A compact entered into under Laws 1984, chapter 422, may contain provisions establishing procedures and entitlements to medical, developmental, child care, or other social services for the child under state law, even though the child and the adoptive parents are in a state other than the one responsible for or providing the services or funds to pay part of or all of the costs.

Subd. 5. Medical assistance; duties of the commissioner of human services. The commissioner of human services shall:

(a) Issue a medical assistance identification card to any child with special needs who is title IV-E eligible, or who is not title IV-E eligible but was determined by another state to have a special need for medical or rehabilitative care, and who is a resident in this state and is the subject of an adoption assistance agreement with another state when a certified copy of the adoption assistance agreement obtained from the adoption assistance state has been filed with the commissioner. The adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(b) Consider the holder of a medical assistance identification card under this subdivision as any other recipient of medical assistance under chapter 256B; process and make payment on claims for the recipient in the same manner as for other recipients of medical assistance.

(c) Provide coverage and benefits for a child who is title IV-E eligible or who is not title IV-E eligible but was determined to have a special need for medical or rehabilitative care and who is in another state and who is covered by an adoption assistance agreement made by the commissioner for the coverage or benefits, if any, which is not provided by the resident state. The adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the resident state and shall be reimbursed. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third-party medical contract or arrangement held by the child or the adoptive parents.

(d) Publish rules implementing this subdivision. Such rules shall include procedures to be followed in obtaining prior approvals for services which are required for the assistance.

Subd. 6. Penalties for false claims. Any person who submits a claim or makes a statement for payment or reimbursement for services or benefits under subdivision 5 which the maker or claimant knows or should know to be false, misleading, or fraudulent is guilty of perjury. That person shall also be subject to a fine of not more than \$5,000 or imprisonment for not more than three years, or both.

Subd. 7. Federal participation. Consistent with federal law, the commissioner shall, in connection with the administration of Laws 1984, chapter 422, and any compact under Laws 1984, chapter 422, include in any state plan made under the Adoption Assistance and Child Welfare Act of 1980, Titles IV(e) and XIX of the Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The commissioner shall apply for and administer all relevant aid in accordance with state and federal law.

260C.201 DISPOSITIONS; CHILDREN IN NEED OF PROTECTION OR SERVICES OR NEGLECTED AND IN FOSTER CARE.

Subd. 11. Review of court-ordered placements; permanent placement determination.

(a) This subdivision and subdivision 11a do not apply to cases where the child is in foster care for treatment of the child's developmental disability or emotional disturbance under chapter 260D. Foster care placements of children for treatment are governed by chapter 260D. In all other cases where the child is in foster care or in the care of a noncustodial parent under subdivision 1, the court shall commence proceedings to determine the permanent status of a child not later than 12 months after the child is placed in foster care or in the care of a noncustodial parent. At the admit-deny hearing commencing such proceedings, the court shall determine whether there

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is a prima facie basis for finding that the agency made reasonable efforts, or in the case of an Indian child active efforts, required under section 260.012 and proceed according to the rules of juvenile court.

For purposes of this subdivision, 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 subdivision, time spent by a child under the protective supervision of the responsible social services agency in the home of a noncustodial parent pursuant to an order under subdivision 1 counts towards the requirement of a permanency hearing under this subdivision or subdivision 11a. Time spent on a trial home visit counts towards the requirement of a permanency hearing under this subdivision and a permanency review for a child under eight years of age under subdivision 11a.

For purposes of this subdivision, 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.

(b) Unless the responsible social services agency recommends return of the child to the custodial parent or parents, not later than 30 days prior to the admit-deny hearing required under paragraph (a) and the rules of juvenile court, the responsible social services agency shall file pleadings in juvenile court to establish the basis for the juvenile court to order permanent placement of the child, including a termination of parental rights petition, according to paragraph (d). Notice of the hearing and copies of the pleadings must be provided pursuant to section 260C.152.

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

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

(2) order a permanent placement or termination of parental rights if permanent placement or termination of parental rights is in the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated. Transfer of permanent legal and physical custody, termination of parental rights, or guardianship and legal custody to the commissioner through a consent to adopt are preferred permanency options for a child who cannot return home.

(d) If the child is not returned to the home, the court must order one of the following dispositions:

(1) permanent legal and physical custody to a relative in the best interests of the child according to the following conditions:

(i) 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;

(ii) 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 set out in the juvenile court rules;

(iii) an order establishing permanent legal and physical custody under this subdivision must be filed with the family court;

(iv) 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;

(v) the social services agency may bring a petition or motion naming a fit and willing relative as a proposed permanent legal and physical custodian. The commissioner of human services shall annually prepare for counties information that must be given to proposed custodians about their legal rights and obligations as custodians together with information on financial and medical benefits for which the child is eligible; and

(vi) 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 or for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met;

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(2) termination of parental rights when the requirements of sections 260C.301 to 260C.328 are met or according to the following conditions:

(i) order the 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; and

(ii) an adoption completed subsequent to a determination under this subdivision may include an agreement for communication or contact under section 259.58;

(3) long-term foster care according to the following conditions:

(i) the court may order a child into long-term foster care only if it approves the responsible social service 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;

(ii) further, the court may only order long-term foster care for the child under this section if it finds the following:

(A) the child has reached age 12 and the responsible social services agency has made reasonable efforts to locate and place the child with an adoptive family or with a fit and willing relative who will agree to a transfer of permanent legal and physical custody of the child, but such efforts have not proven successful; or

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

(iii) at least annually, the responsible social services agency reconsiders its provision of services to the child and the child's placement in long-term foster care to ensure that:

(A) long-term foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability, including whether there is another permanent placement option under this chapter that would better serve the child's needs and best interests;

(B) whenever possible, there is an identified long-term foster care family that is committed to being the foster family for the child as long as the child is a minor or under the jurisdiction of the court;

(C) the child is receiving appropriate services or assistance to maintain or build connections with the child's family and community;

(D) the child's physical and mental health needs are being appropriately provided for; and

(E) the child's educational needs are being met;

(4) foster care for a specified period of time according to the following conditions:

(i) foster care for a specified period of time may be ordered only if:

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

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

(C) 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;

(ii) the order does not specify that the child continue in foster care for any period exceeding one year; or

(5) guardianship and legal custody to the commissioner of human services under the following procedures and conditions:

(i) there is an identified prospective adoptive home agreed to by the responsible social services agency having legal custody of the child pursuant to court order under this section that has agreed to adopt the child and the court accepts the parent's voluntary consent to adopt under section 259.24, except that such consent executed by a parent under this item, following proper notice that consent given under this provision is irrevocable upon acceptance by the court, shall be irrevocable unless fraud is established and an order issues permitting revocation as stated in item (vii);

(ii) if the court accepts a consent to adopt in lieu of ordering one of the other enumerated permanency dispositions, the court must review the matter at least every 90 days. The review will address the reasonable efforts of the agency to achieve a finalized adoption;

(iii) a consent to adopt under this clause vests all legal authority regarding the child, including guardianship and legal custody of the child, with the commissioner of human services as if the child were a state ward after termination of parental rights;

(iv) the court must forward a copy of the consent to adopt, together with a certified copy of the order transferring guardianship and legal custody to the commissioner, to the commissioner;

(v) if an adoption is not finalized by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under this clause, the commissioner of human services or the commissioner's delegate shall pursue adoptive placement in another home unless

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the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent;

(vi) notwithstanding item (v), the commissioner of human services or the commissioner's designee must pursue adoptive placement in another home as soon as the commissioner or commissioner's designee determines that finalization of the adoption with the identified prospective adoptive parent is not possible, that the identified prospective adoptive parent is not willing to adopt the child, that the identified prospective adoptive parent is not cooperative in completing the steps necessary to finalize the adoption, or upon the commissioner's determination to withhold consent to the adoption.

(vii) unless otherwise required by the Indian Child Welfare Act, United States Code, title 25, section 1913, a consent to adopt executed under this section, following proper notice that consent given under this provision is irrevocable upon acceptance by the court, shall be irrevocable upon acceptance by the court except upon order permitting revocation issued by the same court after written findings that consent was obtained by fraud.

(e) In ordering a permanent placement of a child, 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. 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.

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews are necessary if:

- (1) the placement is long-term foster care or foster care for a specified period of time;
- (2) the court orders further hearings because it has retained jurisdiction of a transfer of permanent legal and physical custody matter;
- (3) an adoption has not yet been finalized; or
- (4) there is a disruption of the permanent or long-term placement.

(g) Court reviews of an order for long-term foster care, whether under this section or section 260C.317, subdivision 3, paragraph (d), must be conducted at least yearly at an in-court appearance hearing and must review the child's out-of-home placement plan and the reasonable efforts of the agency to finalize the permanent plan for the child including the agency's efforts to:

- (1) ensure that long-term 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 permanent placement option under this chapter that would better serve the child's needs and best interests;
- (2) identify a specific long-term foster home for the child, if one has not already been identified;
- (3) support continued placement of the child in the identified home, if one has been identified;
- (4) ensure appropriate services are provided to address the physical health, mental health, and educational needs of the child during the period of long-term foster care and also ensure appropriate services or assistance to maintain relationships with appropriate family members and the child's community; and
- (5) plan for the child's independence upon the child's leaving long-term foster care living as required under section 260C.212, subdivision 1.

(h) In the event it is necessary for a child that has been ordered into foster care for a specified period of time to be in foster care longer than one year after the permanency hearing held under this section, not later than 12 months after the time the child was ordered into foster care for a specified period of time, the matter must be returned to court for a review of the appropriateness of continuing the child in foster care and of the responsible social services agency's reasonable efforts to finalize a permanent plan for the child; if it is in the child's best interests to continue the order for foster care for a specified period of time past a total of 12 months, the court shall set objectives for the child's continuation in foster care, specify any further amount of time the child may be in foster care, and review the plan for the safe return of the child to the parent.

(i) 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 service 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

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

(j) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social services agency is a party to the proceeding and must receive notice. A parent may only seek modification of an order for long-term foster care upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child. The responsible social services agency may ask the court to vacate an order for long-term foster care upon a prima facie showing that there is a factual basis for the court to order another permanency option under this chapter and that such an option is in the child's best interests. Upon a hearing where the court determines that there is a factual basis for vacating the order for long-term foster care and that another permanent order regarding the placement of the child is in the child's best interests, the court may vacate the order for long-term foster care and enter a different order for permanent placement 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 long-term foster care and ordering a different permanent placement in the child's best interests. The county attorney must file pleadings and give notice as required under the rules of juvenile court in order to modify an order for long-term foster care under this paragraph.

(k) The court shall issue an order required under this section 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.

(l) This paragraph applies to proceedings required under this subdivision when the child is on a trial home visit:

(1) 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 as calculated in this subdivision, 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 its reasonable efforts to finalize the child's safe and permanent return to the care of the parent in lieu of filing the pleadings required under paragraph (b). The court shall make findings regarding reasonableness of the responsible social services efforts to finalize the child's return home as the permanent 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 subdivision 1. If the court finds the responsible social services agency has not made reasonable efforts to finalize the child's return home as the permanent order in the best interests of the child, the court may order other or additional efforts to support the child remaining in the care of the parent; and

(2) if a trial home visit ordered or continued at proceedings under this subdivision terminates, the court shall recommence proceedings under this subdivision to determine the permanent status of the child not later than 30 days after the child is returned to foster care.

260C.215 WELFARE OF CHILDREN.

Subd. 2. **Duties of commissioner.** The commissioner of human services shall:

(1) in cooperation with child-placing agencies, develop a cost-effective campaign using radio and television to recruit adoptive and foster families that reflect the ethnic and racial diversity of children in the state for whom adoptive and foster homes are needed; and

(2) require that agency staff people who work in the area of adoption and foster family recruitment participate in cultural competency training.

260C.456 FOSTER CARE BENEFITS UNTIL AGE 21.

Upon the request of a person, at any time, between the ages of 18 and 21 who had been receiving foster care benefits in the six consecutive months prior to the person's 18th birthday, or who was discharged while on runaway status after age 15, the local agency shall develop, in conjunction with the person and other appropriate parties, a specific plan related to that person's vocational, educational, social, or maturational needs and, to the extent funds are available, shall ensure that any foster care, housing, or counseling benefits are tied to that plan. Youth who left foster care while under state guardianship as dependent or neglected retain their ability to return to foster care for placement at any time between the ages of 18 and 21.

9560.0071 APPLICABILITY AND PURPOSE.

Subpart 1. **Applicability.** Parts 9560.0071 to 9560.0102 establish the procedures and standards for determining a child's eligibility for an adoption subsidy and the terms of the adoption subsidy.

Subp. 2. **Purpose.** The purpose of the adoption subsidy program is to make possible adoptive placement of children whose special needs prevent adoption without subsidy assistance.

9560.0082 CERTIFICATION.

Subpart 1. **Certification criteria.** A child is eligible for certification for an adoption subsidy if the child:

- A. is a Minnesota resident;
- B. is under the legal guardianship of the commissioner or of a Minnesota licensed child placing agency; and
- C. has special needs that prevent adoptive placement without an adoption subsidy.

Subp. 2. **Certification criteria for foster children.** A child whose foster parents desire to adopt the child is eligible for certification for an adoption subsidy if:

- A. the child meets the requirements of subpart 1;
- B. the placing agency determines that adoption by the child's foster parents is in the best interest of the child according to part 9560.0050; and
- C. the child's special needs make it difficult to provide the child an adoptive home without subsidy.

Subp. 3. **Eligibility period.** A child is not eligible for certification after a final decree of adoption has been issued for the child.

Subp. 4. **Certification by placing agency.** A child is certified as eligible for an adoption subsidy by the placing agency. The placing agency shall certify a child as eligible if:

- A. the child meets the certification criteria in subpart 1 or 2; and
- B. the placing agency has made reasonable efforts without success to place the child in an adoptive home without an adoption subsidy. These efforts must include:
 - (1) registration of the child with the state adoption exchange;
 - (2) contact with Hennepin, Ramsey, and St. Louis counties and Minnesota licensed child placing agencies for potential adoptive homes; and
 - (3) at least one additional special effort to locate an adoptive home, such as use of photo listing services, newsletters, or adoption exchange services.

The requirements in item B may be waived by the state adoption unit if an eligible child's specific condition requires recruitment of a particular family able to care for that child, or if the child is in a foster home and will be adopted by the foster parents.

Subp. 5. **Written certification statement.** The placing agency shall certify a child's eligibility for an adoption subsidy in writing in the format prescribed by the commissioner. The certification statement must include:

- A. a description of the special needs of the child upon which eligibility is based;
- B. applicable supporting documents, such as:
 - (1) a social history summary;
 - (2) a medical evaluation;
 - (3) a psychological evaluation; and
 - (4) a special education evaluation (IEP); and
- C. the signature of the director of the placing agency or the director's designee.

Subp. 6. **Commissioner review.** The commissioner shall review the facts upon which eligibility is based. The placing agency shall provide verification of eligibility factors at the request of the commissioner.

Subp. 7. **Eligibility for federal adoption assistance.** The placing agency shall determine the child's eligibility for federal adoption assistance under Title IV-E of the Social Security Act.

9560.0083 DETERMINATION OF AMOUNT OF ADOPTION SUBSIDY.

Subpart 1. [Repealed, L 2009 c 163 art 2 s 39]

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Subp. 2. **Identification of alternative resources.** The placing agency must identify resources available to meet the child's special needs before the amount of adoption subsidy payment is determined. Available resources include public income support programs, medical assistance, health insurance coverage, services available through community resources, and any other private or public benefits or resources available to the family or to the child to meet the child's special needs.

Subp. 3. **Basis for subsidy.** The amount of an adoption subsidy is based on the special needs of the child and the determination that other resources to meet those special needs are not available.

Subp. 4. **Payment limit.** The amount of a monthly subsidy payment must not exceed the monthly foster care maintenance payment rate and difficulty of care payment that would be allowable for the child.

Subp. 5. [Repealed, L 2009 c 163 art 2 s 39]

Subp. 6. [Repealed, L 2009 c 163 art 2 s 39]

Subp. 7. **Special nonmedical needs.** Adoption subsidy is available for nonmedical services, items, or equipment periodically required to meet special needs documented at the time the child was certified as eligible for an adoption subsidy. Payment for nonmedical services, items, or equipment under this part is limited to:

A. Services for children under age three who are developmentally delayed if the programs are prescribed by a physician, psychologist, or developmental specialist and are not available through the public school system.

B. Child care during the adoptive parents' employment, training, or education hours if the child requires a caregiver trained to meet the child's special needs. The amount of subsidy payment is limited to:

(1) the amount the local social service agency would pay for a trained caregiver in the home or in a licensed day care facility; or

(2) the amount adoptive parents would pay under the child care sliding fee program authorized under Minnesota Statutes, section 268.91.

C. Family counseling required to meet the child's needs. Subsidy payments are limited to the prorated portion of the counseling fees allotted to the family when the family's insurance or the medical assistance program pays for the child's counseling but does not cover all fees for counseling the rest of the family.

D. Postadoption counseling to promote the child's integration into the adoptive family, provided by the placing agency during the first year following the date of the adoption decree. Subsidy payment is limited to 12 sessions of postadoption counseling.

E. Respite care provided in or out of the family residence for the relief of the child's family. Subsidy payments are limited to payment for 504 hours of respite care annually. If respite care is provided by the local social service agency, that amount of time is subtracted from the 504 hour annual total. Payment shall be no more than the respite care rate paid by the local social service agency.

F. The parental fee counties are authorized to charge parents under Minnesota Statutes, section 252.27, when a child is in 24 hour out-of-home care in a licensed residential facility. Subsidy payments shall not exceed the basic maintenance rate applicable under part 9560.0083, subpart 5.

G. Burial expenses up to \$1,000 if the special needs upon which eligibility for subsidy was based result in the death of the child.

H. Camping programs adapted to meet the child's special needs. Subsidy payments are limited to two weeks of camp per year.

I. Specialized communications equipment prescribed through the local school district but not covered through educational, vocational, or other rehabilitation resources.

J. The following alterations to the family home or vehicle to accommodate the child's special physical needs:

(1) Home:

(a) wheelchair ramps;

(b) handrail and grab bars;

(c) accessible shower;

(d) elevated bathtubs and toilets;

(e) widened doorways;

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- (f) shatterproof windows;
 - (g) blinking lights and tactile alarms as alternate warning systems;
 - (h) lowered kitchen work surfaces;
 - (i) modified cabinets and sinks that provide wheelchair space;
 - (j) handles and hoses for showerheads;
 - (k) door hinge replacements;
 - (l) lifting devices;
 - (m) special communication devices that enable caregivers not immediately present to monitor and respond to a child;
 - (n) air conditioning required due to a child's medical condition;
 - (o) special covers such as Plexiglas for appliances, windows, fireplaces, and radiators required to protect the child; and
 - (p) door opening devices; and
- (2) Vehicle:
- (a) door widening;
 - (b) lifting devices;
 - (c) wheelchair securing devices;
 - (d) adapted seats;
 - (e) handrails and grab bars;
 - (f) door handle replacements; and
 - (g) air conditioning required due to a child's medical condition.

K. Nonrecurring adoption expenses, up to \$2,000, for:

- (1) agency adoption fees;
- (2) travel, meal, and lodging expenses at the time of placement;
- (3) attorney fees;
- (4) court filing fee; and
- (5) replacement birth record fee.

Subp. 8. **Medical needs.** Children for whom a subsidy agreement has been executed are eligible for the medical assistance program until they reach age 21.

A. The placing agency shall assist in establishing a child's eligibility at the time of adoptive placement by:

- (1) notifying the medical assistance program of the child's eligibility for medical assistance;
- (2) providing the adoptive parent or parents with medical assistance program information;
- (3) informing the adoptive parent or parents of the procedure required to establish initial and continuing eligibility for medical assistance;
- (4) assisting the adoptive parent or parents with completion of the medical assistance application forms;
- (5) assisting the adoptive parent or parents, if the child is covered under family health insurance, with the insurance information and assignment forms required by the medical assistance program within 30 days of placement; and
- (6) providing insurance documentation to the state adoption unit, including the adoptive parents' health insurance carrier, policy number, insurance holder, and the amount of deductible under the policy.

B. Subsidy payment is not available for any service or item covered under the medical assistance program. Subsidy payment is not available for any service or item that the medical assistance program has determined is not medically necessary.

9560.0091 SUBSIDY AGREEMENT.

Subpart 1. **Written subsidy agreement.** Before the final decree of adoption is issued, the placing agency, the adoptive parent or parents, and the commissioner shall enter into a written agreement stating the terms of the adoption subsidy.

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Subp. 2. **Form of subsidy agreement.** The subsidy agreement must be in the form prescribed by the commissioner and must state:

- A. the responsibilities of the parties;
- B. the anticipated duration of the subsidy agreement;
- C. the payment terms;
- D. provision for modification of the terms of the agreement; and
- E. the effective date, which is the date the final decree of adoption is issued.

Subp. 3. **Preparation of subsidy agreement.** The placing agency shall prepare and submit to the commissioner for review an initial draft of the subsidy agreement. After the placing agency, the adoptive parent or parents, and the commissioner have agreed to the terms of the subsidy agreement, the placing agency shall:

- A. prepare six written copies;
- B. ensure that all copies are signed by the adoptive parent or parents and the placing agency director or the director's designee; and
- C. submit all copies to the state adoption unit for the commissioner's final approval and signature.

Subp. 4. **Duration.** The subsidy agreement continues in effect if the conditions in items A and B are met:

- A. the special needs upon which eligibility for subsidy was based continue; and
 - B. the child remains dependent on the adoptive parent or parents for care and financial support.
- C. [Repealed, L 2009 c 163 art 2 s 39]

Subp. 5. **Extension to age 22.** The subsidy agreement continues beyond the child's 18th birthday if the adopted person:

- A. meets the requirements in subpart 4; and
- B. is enrolled in a secondary education program as a full-time student; or is incapable of self sustaining employment because of a physical or mental disability upon which eligibility for subsidy was based.

Within 30 days of each birthday, the adopted person must apply to the local social service agency and to the Social Security Administration for services and financial benefits to meet the person's special needs.

Written documentation that services are not available or that financial benefits are not adequate to meet those special needs must be submitted to the commissioner.

Subp. 6. **Out-of-state residence.** A subsidy agreement remains in effect regardless of the state of residence of the adoptive parent or parents.

Subp. 7. **Subsidy payment upon death of the adoptive parent or parents or termination of parental rights.** The subsidy agreement ends upon the death or upon the termination of parental rights of adoptive parents who are parties to a subsidy agreement except in the following circumstances:

- A. if the need for subsidy continues and the subsidy agreement provides for assignment to a guardian or conservator; or
- B. for up to six months pending the appointment of a guardian or conservator if the child is placed in the temporary custody of a family member or other individual.

If the child is placed under the custody of an authorized child placing agency, payment of the subsidy must cease.

9560.0093 MODIFICATION OF THE SUBSIDY.

Subpart 1. **Modification or termination.** The parties to the subsidy agreement may at any time request modification or termination of the subsidy agreement. The subsidy agreement is subject to modification when a significant change in the child's circumstances affects the need for or amount of the subsidy. Requests for modification or termination must be made in writing.

The adoptive parent or parents shall notify the state adoption unit in writing within 30 days of any event affecting the need for or amount of subsidy payment, including:

- A. marriage of the child or adoptive parent;
- B. separation or divorce of the adoptive parents;

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C. residence of the child outside the adoptive home for a period exceeding 30 consecutive days; or

D. death of the child or adoptive parent or parents.

The notification must describe the effect of the event on the need for subsidy.

9560.0093 MODIFICATION OF THE SUBSIDY.

Subp. 3. **Appeal.** When the commissioner denies payment or otherwise modifies or discontinues the subsidy agreement, the adoptive parent or parents may appeal the commissioner's action under Minnesota Statutes, section 256.045.

9560.0093 MODIFICATION OF THE SUBSIDY.

Subp. 4. **Local social service agency assistance.** Upon request, the local social service agency in the county where the child resides shall assist the commissioner and the adoptive parent or parents with review or modification of the subsidy.

9560.0101 REIMBURSEMENT PROCEDURES.

Subpart 1. **Payment schedule.** Subsidy payments for basic maintenance and supplemental maintenance are made monthly to the adoptive parent or parents.

Subp. 2. **Payment of special nonmedical and medical expenses.** When requesting subsidy payment for special nonmedical or medical expenses provided for in the subsidy agreement, the adoptive parent or parents shall submit the expense statement to the state adoption unit for reimbursement.

Subp. 3. **Expenses not specified in subsidy agreement.** When requesting subsidy payment for expenses not specifically provided for in the subsidy agreement, the adoptive parent or parents shall follow the procedures in items A and B.

A. The adoptive parent or parents shall contact the local social service agency to determine whether the local social service plan includes services to meet the child's needs. If services are available, the adoptive parent or parents shall complete a local social service application. The adoptive parent or parents shall send a copy of the local social service agency response to their request for service to the state adoption unit or shall inform the state adoption unit in writing if the local social service agency refuses to accept an application.

B. The adoptive parent or parents shall apply for other services to meet the child's needs when other resources are identified by the state adoption unit, for example:

- (1) the adoptive parent's or parents' insurance carrier;
- (2) the medical assistance program;
- (3) the community mental health center;
- (4) the local public school system; or
- (5) the local public health department.

Subp. 4. **Response time.** The state adoption unit shall answer requests for special expense authorizations within 30 days.

Subp. 5. **Cost estimates.** Requests for special equipment under part 9560.0083, subpart 7, item J, must include three estimates of cost.

Subp. 6. **Fiscal year.** The adoptive parent or parents shall submit statements for expenses incurred between July 1 and June 30 of a given fiscal year to the state adoption unit within 60 days after the end of the fiscal year in order for reimbursement to occur.

Subp. 7. **Address changes.** The adoptive parent or parents shall notify the state adoption unit of address changes.

9560.0102 REIMBURSEMENT FOR PLACING AGENCY.

Subpart 1. **General provisions.** Within the limitations of subpart 2, the commissioner shall reimburse placing agencies for the portion of costs of providing or purchasing adoption services for children certified as eligible for adoption subsidy that are not reimbursed under other federal or state funding sources.

Subp. 2. **Reimbursement limitations.** Reimbursement to placing agencies is subject to the following limitations:

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A. The commissioner shall set aside an amount not to exceed five percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption subsidy program to reimburse placing agencies for adoption services.

B. When subsidy payments for children's needs exceed 95 percent of the total amount of fiscal year appropriation from the state of Minnesota for the adoption subsidy program, the amount of reimbursement available to placing agencies for adoption services is reduced correspondingly.

C. [Repealed, L 2007 c 147 art 2 s 63]

D. Adoption services for which subsidy reimbursement is available are limited to services provided before the adoption decree including recruitment, counseling, and training of the adoptive family; preparation and placement of the child in an adoptive home; case management and supervision of the adoptive placement before a final decree of adoption; and referral services.

Subp. 3. **Procedures for reimbursement.** Placing agencies seeking reimbursement for the costs of adoption services provided for a child certified as eligible for adoption subsidy shall follow the procedures in items A to C. The Minnesota placing agency financially responsible for the child shall:

A. submit to the state adoption unit a statement describing the adoption services to be provided and the estimated costs;

B. submit to the state adoption unit itemized statements within 60 days after adoptive placement and within 60 days after the adoption decree is issued that list the adoption services provided and the cost for each service; and

C. use the purchase of service agreement form prescribed by the commissioner when adoption services are provided under a purchase of service agreement and submit to the state adoption unit for the commissioner's approval and signature a purchase of service agreement signed by the vendor of services.