

Subd. 3. **DATA DISSEMINATION.** Crime prevention block maps and names, home addresses, and telephone numbers of volunteers who participate in community crime prevention programs may be disseminated to volunteers participating in crime prevention programs.

Sec. 7. EFFECTIVE DATE.

Sections 1 to 6 are effective the day following their final enactment.

Presented to the governor May 7, 1997

Signed by the governor May 8, 1997, 11:08 a.m.

CHAPTER 112—S.F.No. 813

An act relating to children; providing for transfer of custody of a child to a relative by a consent decree; authorizing communication or contact agreements between adoptive parents and birth parents; providing for a relative conference and relative care agreement following a report of child abuse or neglect; amending Minnesota Statutes 1996, sections 257.02; 259.59, by adding a subdivision; 260.191, subdivision 3b; 260.241, subdivision 1; and 518.158; proposing coding for new law in Minnesota Statutes, chapters 257; 259; and 626.

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

Section 1. Minnesota Statutes 1996, section 257.02, is amended to read:

257.02 SURRENDER OF PARENTAL RIGHTS.

No person other than the parents or relatives may assume the permanent care and custody of a child under 14 years of age unless authorized so to do by an order or decree of court. However, if a parent of a child who is being cared for by a relative dies, or if the parent is not or cannot fulfill parental duties with respect to the child, the relative may bring a petition under section 260.131. Except in proceedings for adoption or by a consent decree entered under section 257.0215, no parent may assign or otherwise transfer to another parental rights or duties with respect to the permanent care and custody of a child under 14 years of age. Any such transfer shall be void.

Sec. 2. [257.0215] CUSTODY CONSENT DECREE.

A parent may transfer legal and physical custody of a child to a relative by a consent decree entered under this section. The court may approve a proposed consent decree if the custody arrangement is in the best interests of the child and all parties to the decree agree to it after being fully informed of its contents. A consent decree under this section must:

(1) transfer legal and physical custody of the child to a named relative and state that this includes the ability to determine the child's residence; make decisions regarding the child's education, religious training, and health care; and obtain information and public services on behalf of the child in the same manner as a parent;

(2) indicate whether the transfer of custody is temporary or permanent; and

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(3) include an order for child support in the guidelines amount and an allocation of child care costs as provided by section 518.551, subject to income withholding under sections 518.611 and 518.613, and section 518.6111, if enacted, and including an order for medical support under section 518.171.

Either a parent or a relative who is party to a consent decree under this section may file a motion to modify or terminate the consent decree at any time. A party who has custody of a child under this section must seek modification of the consent decree before transferring physical or legal custody of the child to anyone.

For purposes of this section, "relative" means an adult who is a stepparent, grandparent, brother, sister, uncle, aunt, or other extended family member of a minor by blood, marriage, or adoption.

Sec. 3. [259.58] COMMUNICATION OR CONTACT AGREEMENTS.

If an adoptee has resided with a birth relative before being adopted, adoptive parents and that relative may enter an agreement under this section regarding communication with or contact between a minor adoptee, adoptive parents, and a birth relative. For purposes of this section, "birth relative" means a parent, stepparent, grandparent, brother, sister, uncle, or aunt of a minor adoptee. This relationship may be by blood or marriage. For an Indian child, birth relative includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act, United States Code, title 25, section 1903.

(a) An agreement regarding communication with or contact between minor adoptees, adoptive parents, and a birth relative is not legally enforceable unless the terms of the agreement are contained in a written court order entered in accordance with this section. An order must be sought at the same time a petition for adoption is filed. The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, a birth relative who desires to be a party to the agreement, and, if the child is in the custody of an agency, a representative of the agency. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact between the minor adoptee, the adoptive parents, and a birth relative as agreed upon and contained in the proposed order would be in the minor adoptee's best interests.

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

(1) setting aside an adoption decree; or

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

(c) An agreed order entered under this section may be enforced by filing a petition or motion with the family court that includes a certified copy of the order granting the communication, contact, or visitation, but only if the petition or motion is accompanied by an affidavit that the parties have mediated or attempted to mediate any dispute under the agreement or that the parties agree to a proposed modification. The prevailing party may be awarded reasonable attorney's fees and costs. The court shall not modify an agreed

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order under this section unless it finds that the modification is necessary to serve the best interests of the minor adoptee, and:

(1) the modification is agreed to by the adoptive parent and the birth parent or parents; or

(2) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

Sec. 4. Minnesota Statutes 1996, section 259.59, is amended by adding a subdivision to read:

Subd. 3. This section does not prohibit birth relatives and adoptive parents from entering a communication or contact agreement under section 259.58.

Sec. 5. Minnesota Statutes 1996, section 260.191, subdivision 3b, is amended to read:

Subd. 3b. **REVIEW OF COURT ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION.** (a) If the court places a child in a residential facility, as defined in section 257.071, subdivision 1, the court shall conduct a hearing to determine the permanent status of the child not later than 12 months after the child was placed out of the home of the parent. Not later than ten days prior to this hearing, the responsible social service agency shall file pleadings to establish the basis for the permanent placement determination. Notice of the hearing and copies of the pleadings must be provided pursuant to section 260.141. If a termination of parental rights petition is filed before the date required for the permanency planning determination, no hearing need be conducted under this section. The court shall determine whether the child is to be returned home or, if not, what permanent placement is consistent with the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated.

If the child is not returned to the home, the dispositions available for permanent placement determination are:

(1) permanent legal and physical custody to a relative pursuant to the standards and procedures applicable under chapter 257 or 518. The social service agency may petition on behalf of the proposed custodian;

(2) termination of parental rights and adoption; the social service agency shall file a petition for termination of parental rights under section 260.231 and all the requirements of sections 260.221 to 260.245 remain applicable. An adoption ordered under this subdivision may include an agreement for communication or contact under section 259.58; or

(3) long-term foster care; transfer of legal custody and adoption are preferred permanency options for a child who cannot return home. The court may order a child into long-term foster care only if it finds that neither an award of legal and physical custody to a relative, nor termination of parental rights nor adoption is in the child's best interests. Further, the court may only order long-term foster care for the child under this section if it finds the following:

(i) the child has reached age 12 and reasonable efforts by the responsible social service agency have failed to locate an adoptive family for the child; or

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

(b) The court may extend the time period for determination of permanent placement to 18 months after the child was placed in a residential facility if:

(1) there is a substantial probability that the child will be returned home within the next six months;

(2) the agency has not made reasonable, or, in the case of an Indian child, active efforts, to correct the conditions that form the basis of the out-of-home placement; or

(3) extraordinary circumstances exist precluding a permanent placement determination, in which case the court shall make written findings documenting the extraordinary circumstances and order one subsequent review after six months to determine permanent placement. A court finding that extraordinary circumstances exist precluding a permanent placement determination must be supported by detailed factual findings regarding those circumstances.

(c) 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.

(d) Once a permanent placement determination has been made and permanent placement has been established, further reviews are only necessary if otherwise required by federal law, an adoption has not yet been finalized, or there is a disruption of the permanent or long-term placement. If required, reviews must take place no less frequently than every six months.

(e) An order under this subdivision 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 parents;

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

(4) whether the conditions which led to the out-of-home placement have been corrected so that the child can return home; and

(5) if the child cannot be returned home, whether there is a substantial probability of the child being able to return home in the next six months.

(f) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social service agency is a party to the proceeding and must receive notice. An order for long-term foster care is reviewable 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.

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Sec. 6. Minnesota Statutes 1996, section 260.241, subdivision 1, is amended to read:

Subdivision 1. If, after a hearing, the court finds by clear and convincing evidence that one or more of the conditions set out in section 260.221 exist, it may terminate parental rights. Upon the termination of parental rights all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support existing between the child and parent shall be severed and terminated and the parent shall have no standing to appear at any further legal proceeding concerning the child. Provided, however, that a parent whose parental rights are terminated:

(1) shall remain liable for the unpaid balance of any support obligation owed under a court order upon the effective date of the order terminating parental rights; and

(2) may be a party to a communication or contact agreement under section 259.58.

Sec. 7. Minnesota Statutes 1996, section 518.158, is amended to read:

518.158 GRANDPARENT RELATIVE EX PARTE TEMPORARY CUSTODY ORDER.

Subdivision 1. **FACTORS.** It is presumed to be in the best interests of the child for the court to grant temporary custody to a grandparent relative under subdivision 2 if a minor child has resided with the grandparent relative for a period of 12 months or more and the following circumstances exist without good cause:

(1) the parent has had no contact with the child on a regular basis and no demonstrated, consistent participation in the child's well-being for six months; or

(2) the parent, during the time the child resided with the grandparent relative, has refused or neglected to comply with the duties imposed upon the parent by the parent and child relationship, including but not limited to providing the child necessary food, clothing, shelter, health care, education, and other care and control necessary for the child's physical, mental, or emotional health and development.

Subd. 2. **EMERGENCY CUSTODY HEARING.** If the parent seeks to remove the child from the home of the grandparent relative and the factors in subdivision 1 exist, the grandparent relative may apply for an ex parte temporary order for custody of the child. The court shall grant temporary custody if it finds, based on the application, that the factors in subdivision 1 exist. If it finds that the factors in subdivision 1 do not exist, the court shall order that the child be returned to the parent. An ex parte temporary custody order under this subdivision is good effective for a fixed period not to exceed 14 days. A temporary custody hearing under this chapter must be set for not later than seven days after issuance of the ex parte temporary custody order. The parent must be promptly served with a copy of the ex parte order and the petition and notice of the date for the hearing.

Subd. 3. **FURTHER PROCEEDINGS.** If the court orders temporary physical custody to the grandparent relative under subdivision 2 and the grandparent relative or parent seeks to pursue further temporary or permanent custody of the child, the custody issues must be determined pursuant to a petition under this chapter and the other standards and procedures of this chapter apply. This section does not affect any rights or remedies available under other law.

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Subd. 4. **RETURN TO PARENT.** If the court orders permanent custody to a grandparent relative under this section, the court shall set conditions the parent must meet in order to obtain custody. The court may notify the parent that the parent may request assistance from the local social service agency in order to meet the conditions set by the court.

Subd. 5. **DEFINITION.** For purposes of this section, "relative" means an adult who is a stepparent, grandparent, brother, sister, uncle, aunt, or other extended family member of the minor by blood, marriage, or adoption.

For an Indian child, "relative" includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of law or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.

Sec. 8. [626.5565] **RELATIVE CARE AGREEMENT.**

Subdivision 1. **DEFINITIONS.** (a) For purposes of this section, "relative" means an adult who is a stepparent, grandparent, brother, sister, uncle, aunt, or other extended family member of the minor by blood, marriage, or adoption.

For an Indian child, "relative" includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of law or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903.

(b) For purposes of this section, "relative care" means one or more of the following: respite care, a monitoring agreement, a designated parent agreement under chapter 257A, access to information about a child, the right to make decisions about a child's residence, education, religious training, or health care, a custody consent decree under section 257.0215, or joint or sole legal or physical custody of a child.

(c) For purposes of this section, "relative care agreement" means an agreement regarding the care of a child that has been reached by the parents and interested relatives of the child after the parents and interested relatives have participated in a facilitated relative care conference under this section.

Subd. 2. **RELATIVE CARE CONFERENCE.** If, upon assessment of a report of neglect or physical or sexual abuse under section 626.556, a local social service agency determines that child protective services are needed, the local social service agency may proceed under this section if it appears from the circumstances of the individual case that a relative care agreement may be in the best interests of the child. The local social service agency may select a facilitator to convene a relative care conference. A facilitator must be certified under chapter 494.

Written notice of the conference must be provided to the parents and to all relatives who have expressed an interest in participating or have been identified by other relatives. The notice must state that the purpose of the conference is to provide an opportunity for the parents and relatives to reach an agreement regarding the care of the child and explain the forms of relative care listed in subdivision 1. The notice must also inform the parents and relatives of the potential consequences and range of options if they do not enter into a relative care agreement that is in the best interests of the child and that the local service agency may intervene with protective services or determine that the child should be placed out of the home.

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The local social service agency shall participate in a relative care conference for the purposes of protecting the child's best interests but may not be a party to a relative care agreement reached by the parents and any participating relatives. A relative care agreement remains in effect unless it expires by its own terms or a parent or a relative who is a party to the agreement seeks to modify or end the agreement. If a relative care agreement results in a transfer of physical custody under section 257.0215 or chapter 518, a parent who seeks to have the child returned to the home of the parent without the consent of the relative with whom the child is staying shall file a motion with the court that approved the custody consent decree or ordered the transfer of custody under chapter 518. The parent has the burden of establishing that:

(1) the conditions that led to the transfer of physical custody have been corrected;
and

(2) the parent has demonstrated the ability to care for and provide a stable home for the child.

Sec. 9. EFFECTIVE DATE.

Sections 1 to 8 are effective July 1, 1997.

Presented to the governor May 7, 1997

Signed by the governor May 8, 1997, 11:13 a.m.

CHAPTER 113—S.F.No. 333

An act relating to home care; modifying an exemption from the definition of provider; requiring rules to include certain standards; establishing an assisted living home care provider license; redefining elderly housing with services establishment; modifying reimbursement procedures for assisted living services under medical assistance and alternative care; defining certain housing with services establishments as a permitted single family residential use of property for zoning purposes; requiring a study; amending Minnesota Statutes 1996, sections 144A.43, subdivision 4; 144A.45, subdivision 1, and by adding a subdivision; 144A.46, subdivisions 1 and 3; 144D.01, subdivisions 4, 5, 6, and by adding a subdivision; 144D.03, subdivision 1; 144D.06; 157.17, subdivisions 2 and 5; 245A.03, subdivision 2; 256B.0913, subdivision 5; 256B.0915, subdivision 3; 256I.04, subdivision 2a; and 462.357, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 144A; and 144D; repealing Minnesota Statutes 1996, sections 144A.45, subdivision 3; 144A.49; 144B.01; 144B.02; 144B.03; 144B.04; 144B.05; 144B.06; 144B.07; 144B.08; 144B.09; 144B.10; 144B.11; 144B.12; 144B.13; 144B.14; 144B.15; 144B.16; and 144B.17.

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

Section 1. Minnesota Statutes 1996, section 144A.43, subdivision 4, is amended to read:

Subd. 4. **HOME CARE PROVIDER.** "Home care provider" means an individual, organization, association, corporation, unit of government, or other entity that is regularly engaged in the delivery, directly or by contractual arrangement, of home care services

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