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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 3808

04/04/2016 Authored by Persell by request

The bill was read for the first time and referred to the Committee on Civil Law and Data Practices

1.1 A bill for an act
1.2 relating to children; modifying provisions for termination of parental rights;
1.3 amending Minnesota Statutes 2014, section 260C.301, subdivision 1.

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

1.5 Section 1. Minnesota Statutes 2014, section 260C.301, subdivision 1, is amended to
1.6 read:

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

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

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

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

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

1.21 (3) that a parent has been ordered to contribute to the support of the child or
1.22 financially aid in the child's birth and has continuously failed to do so without good cause.

1.23 This clause shall not be construed to state a grounds for termination of parental rights of a

2.1 noncustodial parent if that parent has not been ordered to or cannot financially contribute
2.2 to the support of the child or aid in the child's birth;

2.3 (4) that a parent is palpably unfit to be a party to the parent and child relationship
2.4 because of a consistent pattern of specific conduct before the child or of specific conditions
2.5 directly relating to the parent and child relationship either of which are determined by
2.6 the court to be of a duration or nature that renders the parent unable, for the reasonably
2.7 foreseeable future, to care appropriately for the ongoing physical, mental, or emotional
2.8 needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent
2.9 and child relationship upon a showing that the parent's parental rights to one or more other
2.10 children were involuntarily terminated or that the parent's custodial rights to another child
2.11 have been involuntarily transferred to a relative under Minnesota Statutes 2010, section
2.12 260C.201, subdivision 11, paragraph (e), clause (1), section 260C.515, subdivision 4, or a
2.13 similar law of another jurisdiction;

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

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

2.23 (ii) the court has approved the out-of-home placement plan required under section
2.24 260C.212 and filed with the court under section 260C.178;

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

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

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

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

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

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

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

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

3.10 (E) the parent continues to abuse chemicals.

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

3.15 (7) that in the case of a child born to a mother who was not married to the child's
3.16 father when the child was conceived nor when the child was born the person is not entitled
3.17 to notice of an adoption hearing under section 259.49 and the person has not registered
3.18 with the fathers' adoption registry under section 259.52;

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

3.20 (9) that the parent has been convicted of a crime listed in section 260.012, paragraph
3.21 (g), clauses (1) to (5); or

3.22 (10) that the child was conceived as a result of criminal sexual conduct under
3.23 sections 609.342 to 609.3451, or under a similar law of another state, territory, insular
3.24 possession, or Native American tribe where the offense occurred. A finding under this
3.25 clause must be made by clear and convincing evidence. It is presumed that termination
3.26 of parental rights of the parent that committed the criminal sexual conduct is in the best
3.27 interest of the child if the child was conceived as a result of criminal sexual conduct
3.28 under sections 609.342 to 609.3451. A petition for termination of parental rights under
3.29 this clause may be filed at any time. The court must accept a guilty plea or conviction of
3.30 criminal sexual conduct under sections 609.342 to 609.3451 as conclusive proof that the
3.31 child was conceived as a result of criminal sexual conduct, but a guilty plea or conviction
3.32 is not required in order for a court to make a finding under this clause.

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