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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 5049

03/20/2024 Authored by Hicks
The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law
04/18/2024 Adoption of Report: Amended and re-referred to the Committee on Children and Families Finance and Policy
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act
1.2 relating to family law; providing rights for parents with disabilities; amending
1.3 Minnesota Statutes 2022, sections 259.53, by adding a subdivision; 260C.007,
1.4 subdivision 6; 260C.141, by adding a subdivision; 518.1751, by adding a
1.5 subdivision.

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

1.7 Section 1. Minnesota Statutes 2022, section 259.53, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 7. Supportive parenting services for parents with disabilities. (a) A court or
1.10 agency shall not deny a prospective parent the ability to proceed with an adoption due to
1.11 the prospective parent's disability. A person who raises a prospective parent's disability as
1.12 a basis for denying an adoption has the burden to prove by clear and convincing evidence
1.13 that specific behaviors of the prospective parent would endanger the health or safety of the
1.14 child. If the person meets the burden, the prospective parent with a disability shall have the
1.15 opportunity to demonstrate how implementing supportive services would alleviate any
1.16 concerns.

1.17 (b) The court may require the agency that conducted the postplacement assessment and
1.18 filed the report with the court under subdivision 2 to provide the opportunity to use supportive
1.19 parenting services to a prospective parent, conduct a new postplacement assessment that is
1.20 inclusive of the prospective parent's use of supportive parenting services, and file a revised
1.21 report with the court under subdivision 2. This paragraph does not confer additional
1.22 responsibility to the agency to provide supportive parenting services directly to the
1.23 prospective parent. Within a reasonable period of time, the prospective parent has the right
1.24 to a court hearing to review the need for continuing services.

2.1 (c) If a court denies or limits the ability of a prospective parent with a disability to adopt
2.2 a child, the court shall make specific written findings stating the basis for the determination
2.3 and why providing supportive parenting services is not a reasonable accommodation that
2.4 could prevent the denial or limitation.

2.5 (d) For purposes of this subdivision, "disability" and "supportive parenting services"
2.6 have the meanings given in section 260C.141, subdivision 1a.

2.7 Sec. 2. Minnesota Statutes 2022, section 260C.007, subdivision 6, is amended to read:

2.8 Subd. 6. **Child in need of protection or services.** "Child in need of protection or
2.9 services" means a child who is in need of protection or services because the child:

2.10 (1) is abandoned or without parent, guardian, or custodian;

2.11 (2)(i) has been a victim of physical or sexual abuse as defined in section 260E.03,
2.12 subdivision 18 or 20, (ii) resides with or has resided with a victim of child abuse as defined
2.13 in subdivision 5 or domestic child abuse as defined in subdivision 13, (iii) resides with or
2.14 would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child
2.15 abuse as defined in subdivision 5 or 13, or (iv) is a victim of emotional maltreatment as
2.16 defined in subdivision 15;

2.17 (3) is without necessary food, clothing, shelter, education, or other required care for the
2.18 child's physical or mental health or morals because the child's parent, guardian, or custodian
2.19 is unable or unwilling to provide that care;

2.20 (4) is without the special care made necessary by a physical, mental, or emotional
2.21 condition because the child's parent, guardian, or custodian is unable or unwilling to provide
2.22 that care;

2.23 (5) is medically neglected, which includes, but is not limited to, the withholding of
2.24 medically indicated treatment from an infant with a disability with a life-threatening
2.25 condition. The term "withholding of medically indicated treatment" means the failure to
2.26 respond to the infant's life-threatening conditions by providing treatment, including
2.27 appropriate nutrition, hydration, and medication which, in the treating physician's, advanced
2.28 practice registered nurse's, or physician assistant's reasonable medical judgment, will be
2.29 most likely to be effective in ameliorating or correcting all conditions, except that the term
2.30 does not include the failure to provide treatment other than appropriate nutrition, hydration,
2.31 or medication to an infant when, in the treating physician's, advanced practice registered
2.32 nurse's, or physician assistant's reasonable medical judgment:

2.33 (i) the infant is chronically and irreversibly comatose;

3.1 (ii) the provision of the treatment would merely prolong dying, not be effective in
3.2 ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be
3.3 futile in terms of the survival of the infant; or

3.4 (iii) the provision of the treatment would be virtually futile in terms of the survival of
3.5 the infant and the treatment itself under the circumstances would be inhumane;

3.6 (6) is one whose parent, guardian, or other custodian for good cause desires to be relieved
3.7 of the child's care and custody, including a child who entered foster care under a voluntary
3.8 placement agreement between the parent and the responsible social services agency under
3.9 section 260C.227;

3.10 (7) has been placed for adoption or care in violation of law;

3.11 (8) is without proper parental care because of the emotional, mental, or physical disability,
3.12 or state of immaturity of the child's parent, guardian, or other custodian. A child is not
3.13 considered to be without proper parental care based solely on the disability of the child's
3.14 parent, guardian, or custodian;

3.15 (9) is one whose behavior, condition, or environment is such as to be injurious or
3.16 dangerous to the child or others. An injurious or dangerous environment may include, but
3.17 is not limited to, the exposure of a child to criminal activity in the child's home;

3.18 (10) is experiencing growth delays, which may be referred to as failure to thrive, that
3.19 have been diagnosed by a physician and are due to parental neglect;

3.20 (11) is a sexually exploited youth;

3.21 (12) has committed a delinquent act or a juvenile petty offense before becoming ten
3.22 years old;

3.23 (13) is a runaway;

3.24 (14) is a habitual truant;

3.25 (15) has been found incompetent to proceed or has been found not guilty by reason of
3.26 mental illness or mental deficiency in connection with a delinquency proceeding, a
3.27 certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a
3.28 proceeding involving a juvenile petty offense; or

3.29 (16) has a parent whose parental rights to one or more other children were involuntarily
3.30 terminated or whose custodial rights to another child have been involuntarily transferred to
3.31 a relative and there is a case plan prepared by the responsible social services agency

4.1 documenting a compelling reason why filing the termination of parental rights petition under
4.2 section 260C.503, subdivision 2, is not in the best interests of the child.

4.3 Sec. 3. Minnesota Statutes 2022, section 260C.141, is amended by adding a subdivision
4.4 to read:

4.5 Subd. 1a. **Supportive parenting services.** (a) A person or agency shall not file a petition
4.6 alleging that a child is in need of protection or services on the basis of a parent's disability.
4.7 To make a prima facie showing that a child protection matter exists, the petitioner must
4.8 demonstrate in the petition that the child is in need of protection or services due to specific
4.9 behaviors of a parent or household member. The local agency or court must offer a parent
4.10 with a disability the opportunity to use supportive parenting services to assist the parent if
4.11 the petitioner makes a prima facie showing that through specific behaviors, a parent with a
4.12 disability cannot provide for the child's safety, health, or welfare. If a court removes a child
4.13 from a parent's home, the court shall make specific written findings stating the basis for
4.14 removing the child and why providing supportive parenting services is not a reasonable
4.15 accommodation that could prevent the child's out-of-home placement.

4.16 (b) For purposes of this subdivision, "supportive parenting services" means services that
4.17 may assist a parent with a disability in the effective use of techniques and methods to enable
4.18 the parent to discharge the parent's responsibilities to a child as successfully as a parent who
4.19 does not have a disability, including nonvisual techniques for a parent who is blind.

4.20 (c) For purposes of this subdivision, "disability" means:

4.21 (1) physical or mental impairment that substantially limits one or more of a parent's
4.22 major life activities;

4.23 (2) a record of having a physical or mental impairment that substantially limits one or
4.24 more of a parent's major life activities; or

4.25 (3) being regarded as having a physical or mental impairment that substantially limits
4.26 one or more of a parent's major life activities.

4.27 (d) The term "disability" must be construed in accordance with the ADA Amendments
4.28 Act of 2008, Public Law 110-325.

4.29 Sec. 4. Minnesota Statutes 2022, section 518.1751, is amended by adding a subdivision
4.30 to read:

4.31 Subd. 8. **Parents with disabilities.** (a) A court shall not deny nor restrict a parent's
4.32 parenting time or custody due to the parent's disability. A party raising disability as a basis

5.1 for denying or restricting parenting time has the burden to prove by clear and convincing
5.2 evidence that a parent's specific behaviors during parenting time would endanger the health
5.3 or safety of the child. If the party meets the burden, a parent with a disability shall have the
5.4 opportunity to demonstrate how implementing supportive services can alleviate any concerns.
5.5 The court may require a parent with a disability to use supportive parenting services to
5.6 facilitate parenting time.

5.7 (b) If a court denies or limits the right of a parent with a disability to custody of a child
5.8 or visitation with a child, the court shall make specific written findings stating the basis for
5.9 the denial or limitation and why providing supportive parenting services is not a reasonable
5.10 accommodation that could prevent denying or limiting the parent's custody or parenting
5.11 time.

5.12 (c) For purposes of this subdivision, "disability" and "supportive parenting services"
5.13 have the meanings given in section 260C.141, subdivision 1a.

5.14 **Sec. 5. EFFECTIVE DATE.**

5.15 Sections 1 to 4 are effective August 1, 2024, and apply to pleadings and motions pending
5.16 on or after that date.