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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **1943**

03/04/2021 Authored by Pinto and Miller

The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act

1.2 relating to human services; modifying child welfare and maltreatment provisions;

1.3 amending Minnesota Statutes 2020, sections 260.761, subdivision 2; 260C.007,

1.4 subdivision 14; 260E.01; 260E.02, subdivision 1; 260E.03, subdivision 22, by

1.5 adding subdivisions; 260E.14, subdivisions 2, 5; 260E.17, subdivision 1; 260E.18;

1.6 260E.20, subdivision 2; 260E.24, subdivisions 2, 7; 260E.33, subdivision 1;

1.7 260E.35, subdivision 6.

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

1.9 Section 1. Minnesota Statutes 2020, section 260.761, subdivision 2, is amended to read:

1.10 Subd. 2. **Agency and court notice to tribes.** (a) When a local social services agency

1.11 has information that a family assessment ~~or~~ investigation, or noncaregiver sex trafficking

1.12 assessment being conducted may involve an Indian child, the local social services agency

1.13 shall notify the Indian child's tribe of the family assessment ~~or~~ investigation, or noncaregiver

1.14 sex trafficking assessment according to section 260E.18. The local social services agency

1.15 shall provide initial notice ~~shall be provided~~ by telephone and by e-mail or facsimile. The

1.16 local social services agency shall request that the tribe or a designated tribal representative

1.17 participate in evaluating the family circumstances, identifying family and tribal community

1.18 resources, and developing case plans.

1.19 (b) When a local social services agency has information that a child receiving services

1.20 may be an Indian child, the local social services agency shall notify the tribe by telephone

1.21 and by e-mail or facsimile of the child's full name and date of birth, the full names and dates

1.22 of birth of the child's biological parents, and, if known, the full names and dates of birth of

1.23 the child's grandparents and of the child's Indian custodian. This notification must be provided

1.24 ~~so for~~ for the tribe ~~can~~ to determine if the child is enrolled in the tribe or eligible for tribal

membership, and ~~must be provided~~ the agency must provide this notification to the tribe
within seven days of receiving information that the child may be an Indian child. If
information regarding the child's grandparents or Indian custodian is not available within
the seven-day period, the local social services agency shall continue to request this
information and shall notify the tribe when it is received. Notice shall be provided to all
tribes to which the child may have any tribal lineage. If the identity or location of the child's
parent or Indian custodian and tribe cannot be determined, the local social services agency
shall provide the notice required in this paragraph to the United States secretary of the
interior.

(c) In accordance with sections 260C.151 and 260C.152, when a court has reason to
believe that a child placed in emergency protective care is an Indian child, the court
administrator or a designee shall, as soon as possible and before a hearing takes place, notify
the tribal social services agency by telephone and by e-mail or facsimile of the date, time,
and location of the emergency protective case hearing. The court shall make efforts to allow
appearances by telephone for tribal representatives, parents, and Indian custodians.

(d) A local social services agency must provide the notices required under this subdivision
at the earliest possible time to facilitate involvement of the Indian child's tribe. Nothing in
this subdivision is intended to hinder the ability of the local social services agency and the
court to respond to an emergency situation. Lack of participation by a tribe shall not prevent
the tribe from intervening in services and proceedings at a later date. A tribe may participate
in a case at any time. At any stage of the local social services agency's involvement with
an Indian child, the agency shall provide full cooperation to the tribal social services agency,
including disclosure of all data concerning the Indian child. Nothing in this subdivision
relieves the local social services agency of satisfying the notice requirements in the Indian
Child Welfare Act.

Sec. 2. Minnesota Statutes 2020, section 260C.007, subdivision 14, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. Minnesota Statutes 2020, section 260E.01, is amended to read:

260E.01 POLICY.

(a) The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through maltreatment. While it is recognized that most parents want to keep their children safe, sometimes circumstances or conditions interfere with their ability to do so. When this occurs, the health and safety of the children must be of paramount concern. Intervention and prevention efforts must address immediate concerns for child safety and the ongoing risk of maltreatment and should engage the protective capacities of families. In furtherance of this public policy, it is the intent of the legislature under this chapter to:

(1) protect children and promote child safety;

4.1 (2) strengthen the family;

4.2 (3) make the home, school, and community safe for children by promoting responsible
4.3 child care in all settings; and

4.4 (4) provide, when necessary, a safe temporary or permanent home environment for
4.5 maltreated children.

4.6 (b) In addition, it is the policy of this state to:

4.7 (1) require the reporting of maltreatment of children in the home, school, and community
4.8 settings;

4.9 (2) provide for ~~the~~ voluntary reporting of maltreatment of children;

4.10 (3) require an investigation when the report alleges sexual abuse or substantial child
4.11 endangerment, except when the report alleges sex trafficking by a noncaregiver sex trafficker;

4.12 (4) provide a family assessment, if appropriate, when the report does not allege sexual
4.13 abuse or substantial child endangerment; ~~and~~

4.14 (5) provide a noncaregiver sex trafficking assessment when the report alleges sex
4.15 trafficking by a noncaregiver sex trafficker; and

4.16 (6) provide protective, family support, and family preservation services when needed
4.17 in appropriate cases.

4.18 Sec. 4. Minnesota Statutes 2020, section 260E.02, subdivision 1, is amended to read:

4.19 Subdivision 1. **Establishment of team.** A county shall establish a multidisciplinary
4.20 child protection team that may include, but is not ~~be~~ limited to, the director of the local
4.21 welfare agency or designees, the county attorney or designees, the county sheriff or designees,
4.22 representatives of health and education, representatives of mental health, representatives of
4.23 agencies providing specialized services or responding to youth who experience or are at
4.24 risk of experiencing sex trafficking or sexual exploitation, or other appropriate human
4.25 services or community-based agencies, and parent groups. As used in this section, a
4.26 "community-based agency" may include, but is not limited to, schools, social services
4.27 agencies, family service and mental health collaboratives, children's advocacy centers, early
4.28 childhood and family education programs, Head Start, or other agencies serving children
4.29 and families. A member of the team must be designated as the lead person of the team
4.30 responsible for the planning process to develop standards for the team's activities with
4.31 battered women's and domestic abuse programs and services.

5.1 Sec. 5. Minnesota Statutes 2020, section 260E.03, is amended by adding a subdivision to
5.2 read:

5.3 Subd. 15a. **Noncaregiver sex trafficker.** "Noncaregiver sex trafficker" means an
5.4 individual who is alleged to have engaged in the act of sex trafficking a child and who is
5.5 not a person responsible for the child's care, who does not have a significant relationship
5.6 with the child as defined in section 609.341, and who is not a person in a current or recent
5.7 position of authority as defined in section 609.341, subdivision 10.

5.8 Sec. 6. Minnesota Statutes 2020, section 260E.03, is amended by adding a subdivision to
5.9 read:

5.10 Subd. 15b. **Noncaregiver sex trafficking assessment.** "Noncaregiver sex trafficking
5.11 assessment" is a comprehensive assessment of child safety, the risk of subsequent child
5.12 maltreatment, and strengths and needs of the child and family. The local welfare agency
5.13 shall only perform a noncaregiver sex trafficking assessment when a maltreatment report
5.14 alleges sex trafficking of a child by someone other than the child's caregiver. A noncaregiver
5.15 sex trafficking assessment does not include a determination of whether child maltreatment
5.16 occurred. A noncaregiver sex trafficking assessment includes a determination of a family's
5.17 need for services to address the safety of the child or children, the safety of family members,
5.18 and the risk of subsequent child maltreatment.

5.19 Sec. 7. Minnesota Statutes 2020, section 260E.03, subdivision 22, is amended to read:

5.20 Subd. 22. **Substantial child endangerment.** "Substantial child endangerment" means
5.21 that a person responsible for a child's care, by act or omission, commits or attempts to
5.22 commit an act against a child ~~under their~~ in the person's care that constitutes any of the
5.23 following:

5.24 (1) egregious harm under subdivision 5;

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

5.26 (3) neglect under subdivision 15, paragraph (a), clause (2), that substantially endangers
5.27 the child's physical or mental health, including a growth delay, which may be referred to
5.28 as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

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

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

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

(7) sex trafficking, solicitation, inducement, ~~and~~ or promotion of prostitution under section 609.322;

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

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

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

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

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

Sec. 8. Minnesota Statutes 2020, section 260E.14, subdivision 2, is amended to read:

Subd. 2. **Sexual abuse.** (a) The local welfare agency is the agency responsible for investigating an allegation of sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual functioning within the family unit as a person responsible for the child's care, or a person with a significant relationship to the child if that person resides in the child's household.

(b) The local welfare agency is also responsible for assessing or investigating when a child is identified as a victim of sex trafficking.

Sec. 9. Minnesota Statutes 2020, section 260E.14, subdivision 5, is amended to read:

Subd. 5. **Law enforcement.** (a) The local law enforcement agency is the agency responsible for investigating a report of maltreatment if a violation of a criminal statute is alleged.

(b) Law enforcement and the responsible agency must coordinate their investigations or assessments as required under this chapter when ~~the~~ (1) a report alleges maltreatment that is a violation of a criminal statute by a person who is a parent, guardian, sibling, person responsible for the child's care functioning within the family unit, or by a person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in section 260E.03; or (2) a report alleges sex trafficking of a child.

7.1 Sec. 10. Minnesota Statutes 2020, section 260E.17, subdivision 1, is amended to read:

7.2 Subdivision 1. **Local welfare agency.** (a) Upon receipt of a report, the local welfare
7.3 agency shall determine whether to conduct a family assessment ~~or~~, an investigation, or a
7.4 noncaregiver sex trafficking assessment as appropriate to prevent or provide a remedy for
7.5 maltreatment.

7.6 (b) The local welfare agency shall conduct an investigation when the report involves
7.7 sexual abuse, except as indicated in paragraph (f), or substantial child endangerment.

7.8 (c) The local welfare agency shall begin an immediate investigation ~~if~~, at any time when
7.9 the local welfare agency is ~~using~~ responding with a family assessment ~~response~~, and the
7.10 local welfare agency determines that there is reason to believe that sexual abuse ~~or~~, substantial
7.11 child endangerment, or a serious threat to the child's safety exists.

7.12 (d) The local welfare agency may conduct a family assessment for reports that do not
7.13 allege sexual abuse, except as indicated in paragraph (f), or substantial child endangerment.
7.14 In determining that a family assessment is appropriate, the local welfare agency may consider
7.15 issues of child safety, parental cooperation, and the need for an immediate response.

7.16 (e) The local welfare agency may conduct a family assessment ~~on~~ for a report that was
7.17 initially screened and assigned for an investigation. In determining that a complete
7.18 investigation is not required, the local welfare agency must document the reason for
7.19 terminating the investigation and notify the local law enforcement agency if the local law
7.20 enforcement agency is conducting a joint investigation.

7.21 (f) The local welfare agency shall conduct a noncaregiver sex trafficking assessment
7.22 when a maltreatment report alleges sex trafficking of a child and the alleged offender is a
7.23 noncaregiver sex trafficker as defined by section 260E.03, subdivision 15a.

7.24 (g) During a noncaregiver sex trafficking assessment, the local welfare agency shall
7.25 initiate an immediate investigation if there is reason to believe that a child's parent, caregiver,
7.26 or household member allegedly engaged in the act of sex trafficking a child or was alleged
7.27 to have engaged in any conduct requiring the agency to conduct an investigation.

7.28 Sec. 11. Minnesota Statutes 2020, section 260E.18, is amended to read:

7.29 **260E.18 NOTICE TO CHILD'S TRIBE.**

7.30 The local welfare agency shall provide immediate notice, according to section 260.761,
7.31 subdivision 2, to an Indian child's tribe when the agency has reason to believe that the family
7.32 assessment ~~or~~, investigation, or noncaregiver sex trafficking assessment may involve an

8.1 Indian child. For purposes of this section, "immediate notice" means notice provided within
8.2 24 hours.

8.3 Sec. 12. Minnesota Statutes 2020, section 260E.20, subdivision 2, is amended to read:

8.4 Subd. 2. **Face-to-face contact.** (a) Upon receipt of a screened in report, the local welfare
8.5 agency shall ~~conduct a~~ have face-to-face contact with the child reported to be maltreated
8.6 and with the child's primary caregiver sufficient to complete a safety assessment and ensure
8.7 the immediate safety of the child.

8.8 (b) Except in a noncaregiver sex trafficking assessment, the local welfare agency shall
8.9 have face-to-face contact with the child and primary caregiver shall occur immediately after
8.10 the agency screens in a report if sexual abuse or substantial child endangerment is alleged
8.11 and within five calendar days of a screened in report for all other reports. If the alleged
8.12 offender was not already interviewed as the primary caregiver, the local welfare agency
8.13 shall also conduct a face-to-face interview with the alleged offender in the early stages of
8.14 the assessment or investigation, except in a noncaregiver sex trafficking assessment.

8.15 (c) At the initial contact with the alleged offender, the local welfare agency or the agency
8.16 responsible for assessing or investigating the report must inform the alleged offender of the
8.17 complaints or allegations made against the individual in a manner consistent with laws
8.18 protecting the rights of the person who made the report. The interview with the alleged
8.19 offender may be postponed if it would jeopardize an active law enforcement investigation.
8.20 In a noncaregiver sex trafficking assessment, the local child welfare agency is not required
8.21 to inform or interview the alleged offender.

8.22 (d) The local welfare agency or the agency responsible for assessing or investigating
8.23 the report must provide the alleged offender with an opportunity to make a statement, except
8.24 in a noncaregiver sex trafficking assessment. The alleged offender may submit supporting
8.25 documentation relevant to the assessment or investigation.

8.26 Sec. 13. Minnesota Statutes 2020, section 260E.24, subdivision 2, is amended to read:

8.27 Subd. 2. **Determination after family assessment or a noncaregiver sex trafficking**
8.28 **assessment.** After conducting a family assessment or a noncaregiver sex trafficking
8.29 assessment, the local welfare agency shall determine whether child protective services are
8.30 needed to address the safety of the child and other family members and the risk of subsequent
8.31 maltreatment.

9.1 Sec. 14. Minnesota Statutes 2020, section 260E.24, subdivision 7, is amended to read:

9.2 Subd. 7. **Notification at conclusion of family assessment or a noncaregiver sex**
9.3 **trafficking assessment**. Within ten working days of the conclusion of a family assessment
9.4 or a noncaregiver sex trafficking assessment, the local welfare agency shall notify the parent
9.5 or guardian of the child of the need for services to address child safety concerns or significant
9.6 risk of subsequent maltreatment. The local welfare agency and the family may also jointly
9.7 agree that family support and family preservation services are needed.

9.8 Sec. 15. Minnesota Statutes 2020, section 260E.33, subdivision 1, is amended to read:

9.9 Subdivision 1. **Following a family assessment or a noncaregiver sex trafficking**
9.10 **assessment**. Administrative reconsideration is not applicable to a family assessment or
9.11 noncaregiver sex trafficking assessment since no determination concerning maltreatment
9.12 is made.

9.13 Sec. 16. Minnesota Statutes 2020, section 260E.35, subdivision 6, is amended to read:

9.14 Subd. 6. **Data retention.** (a) Notwithstanding sections 138.163 and 138.17, a record
9.15 maintained or a record derived from a report of maltreatment by a local welfare agency,
9.16 agency responsible for assessing or investigating the report, court services agency, or school
9.17 under this chapter shall be destroyed as provided in paragraphs (b) to (e) by the responsible
9.18 authority.

9.19 (b) For a report alleging maltreatment that was not accepted for an assessment or an
9.20 investigation, a family assessment case, a noncaregiver sex trafficking assessment case, and
9.21 a case where an investigation results in no determination of maltreatment or the need for
9.22 child protective services, the record must be maintained for a period of five years after the
9.23 date that the report was not accepted for assessment or investigation or the date of the final
9.24 entry in the case record. A record of a report that was not accepted must contain sufficient
9.25 information to identify the subjects of the report, the nature of the alleged maltreatment,
9.26 and the reasons ~~as to~~ why the report was not accepted. Records under this paragraph may
9.27 not be used for employment, background checks, or purposes other than to assist in future
9.28 screening decisions and risk and safety assessments.

9.29 (c) All records relating to reports that, upon investigation, indicate ~~either~~ maltreatment
9.30 or a need for child protective services shall be maintained for ten years after the date of the
9.31 final entry in the case record.

10.1 (d) All records regarding a report of maltreatment, including a notification of intent to
10.2 interview that was received by a school under section 260E.22, subdivision 7, shall be
10.3 destroyed by the school when ordered to do so by the agency conducting the assessment or
10.4 investigation. The agency shall order the destruction of the notification when other records
10.5 relating to the report under investigation or assessment are destroyed under this subdivision.

10.6 (e) Private or confidential data released to a court services agency under subdivision 3,
10.7 paragraph (d), must be destroyed by the court services agency when ordered to do so by the
10.8 local welfare agency that released the data. The local welfare agency or agency responsible
10.9 for assessing or investigating the report shall order destruction of the data when other records
10.10 relating to the assessment or investigation are destroyed under this subdivision.