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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2671

01/31/2022 Authored by Feist, Reyer, Berg, Agbaje, Gomez and others
The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to children; establishing juvenile court guardianship for at-risk youth;
1.3 amending Minnesota Statutes 2020, section 260C.101, subdivision 2; proposing
1.4 coding for new law in Minnesota Statutes, chapter 260C.

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

1.6 Section 1. Minnesota Statutes 2020, section 260C.101, subdivision 2, is amended to read:

1.7 Subd. 2. Other matters relating to children. The juvenile court has original and
1.8 exclusive jurisdiction in proceedings concerning:

1.9 (1) the termination of parental rights to a child in accordance with the provisions of
1.10 sections 260C.301 to 260C.328;

1.11 (2) permanency matters under sections 260C.503 to 260C.521;

1.12 (3) the appointment and removal of a juvenile court guardian for a child, where parental
1.13 rights have been terminated under the provisions of sections 260C.301 to 260C.328;

1.14 (4) judicial consent to the marriage of a child when required by law;

1.15 (5) all adoption matters and review of the efforts to finalize the adoption of the child
1.16 under section 260C.317;

1.17 (6) the review of the placement of a child who is in foster care pursuant to a voluntary
1.18 placement agreement between the child's parent or parents and the responsible social services
1.19 agency under section 260C.227; or between the child, when the child is over age 18, and
1.20 the agency under section 260C.229;

2.1 (7) the review of voluntary foster care placement of a child for treatment under chapter  
2.2 260D according to the review requirements of that chapter; ~~and~~

2.3 (8) the reestablishment of a legal parent and child relationship under section 260C.329;  
2.4 and

2.5 (9) juvenile court guardianship petitions for at-risk youth filed under section 260C.149.

2.6 **Sec. 2. [260C.149] JUVENILE COURT GUARDIANSHIP FOR AT-RISK YOUTH.**

2.7 Subdivision 1. **Definitions.** For the purposes of this section, the terms defined in this  
2.8 subdivision have the meanings given.

2.9 (a) "Abandonment" means the parent's failure to maintain contact with an at-risk youth  
2.10 on a regular basis or to demonstrate consistent interest in an at-risk youth's well-being  
2.11 beginning at least six months prior to the at-risk youth reaching the age of 18, or the death  
2.12 of an at-risk youth's parent.

2.13 (b) "Abuse" means, at any time in an at-risk youth's life, the infliction or threat of:

2.14 (1) psychological or emotional harm;

2.15 (2) physical injury that was not due to an accident; or

2.16 (3) sexual abuse, which includes sex trafficking as defined in section 609.321, subdivision  
2.17 7a.

2.18 (c) "At-risk youth" means an unmarried person who is between the ages of 18 and 21  
2.19 and is potentially eligible for classification under United States Code, title 8, section  
2.20 1101(a)(27)(J), as amended through December 31, 2021.

2.21 (d) "Best interests" has the meaning given in section 260C.511, paragraph (a).

2.22 (e) "Guardian" means an adult who has been appointed by the court as the guardian of  
2.23 an at-risk youth under this section. A guardian includes but is not limited to a parent.

2.24 (f) "Mental injury" has the meaning given in section 260E.03, subdivision 13.

2.25 (g) "Neglect" means, at any time prior to an at-risk youth reaching the age of 18, the  
2.26 failure to give an at-risk youth proper care that causes the youth's health or welfare to be  
2.27 harmed or placed at substantial risk of harm or causes mental injury or a substantial risk of  
2.28 mental injury.

2.29 (h) "Petitioner" means the at-risk youth who is the subject of the petition.

3.1 Subd. 2. **Guardianship; purpose.** The purpose of the guardianship under this section  
3.2 is to provide an at-risk youth with guidance, assistance, financial and emotional support,  
3.3 and referrals to resources necessary to either or both:

3.4 (1) meet the at-risk youth's needs, which include but are not limited to shelter, nutrition,  
3.5 and access to and receipt of psychiatric, psychological, medical, dental, educational,  
3.6 occupational, or social services; or

3.7 (2) protect the at-risk youth from sex trafficking or domestic or sexual violence.

3.8 Subd. 3. **Petition.** An at-risk youth may petition the juvenile court for the appointment  
3.9 of a guardian. The petition must state the name of the proposed guardian and allege that:

3.10 (1) the appointment of a guardian is in the best interests of the at-risk youth;

3.11 (2) the proposed guardian is capable and reputable;

3.12 (3) both the petitioner and the proposed guardian agree to the appointment of a  
3.13 guardianship under this section;

3.14 (4) reunification of the at-risk youth with one or both parents is not viable because of  
3.15 abandonment, abuse, neglect, or a similar basis that has an effect on an at-risk youth  
3.16 comparable to abandonment, abuse, or neglect under Minnesota law; and

3.17 (5) it is not in the best interests of the at-risk youth to be returned to the at-risk youth's  
3.18 or at-risk youth's parent's previous country of nationality or last habitual residence.

3.19 Subd. 4. **Right to counsel.** The at-risk youth petitioning for a guardianship and the  
3.20 proposed guardian named in the petition each have the right to be represented by counsel  
3.21 of the at-risk youth's or guardian's choosing and at the at-risk youth's or guardian's own  
3.22 expense.

3.23 Subd. 5. **Service.** The proposed guardian and, if an appointment of a new guardian is  
3.24 sought, the existing guardian for the at-risk youth previously appointed under this section  
3.25 are entitled to service in the manner specified in the Minnesota Rules of Juvenile Protection  
3.26 Procedure.

3.27 Subd. 6. **Notice to parents.** The petitioner must provide a copy of the petition to any  
3.28 living parent in any manner and format reasonably calculated to give the parent adequate  
3.29 notice at least 14 days prior to the hearing under subdivision 7. Prior to or at the hearing,  
3.30 the petitioner must file proof that the copy of the petition was provided to any living parents  
3.31 of the petitioner. The court may waive notice to a parent:

3.32 (1) if the identity or location of the petitioner's parent is unknown; or

4.1 (2) for any other reason that the court may deem appropriate.

4.2 Subd. 7. **Proceeding.** (a) The court shall hear and issue an order on any petition as soon  
4.3 as administratively feasible and prior to the at-risk youth reaching 21 years of age.

4.4 (b) Venue must be in the county where the at-risk youth or the proposed guardian resides.

4.5 (c) Nothing in this section authorizes the guardian to abrogate any rights or privileges  
4.6 to which the at-risk youth is entitled under law.

4.7 Subd. 8. **Order.** (a) The court must issue an order awarding a guardianship for the  
4.8 purposes identified in this section if the court finds that:

4.9 (1) the proposed guardian is capable and reputable;

4.10 (2) the guardianship is in the best interests of the at-risk youth;

4.11 (3) both the petitioner and the proposed guardian agree to the establishment of a  
4.12 guardianship under this section;

4.13 (4) reunification of the at-risk youth with one or both parents is not viable because of  
4.14 abandonment, abuse, neglect, or a similar basis that has an effect on an at-risk youth  
4.15 comparable to abandonment, abuse, or neglect under Minnesota law; and

4.16 (5) it is not in the best interests of the at-risk youth to be returned to the previous country  
4.17 of nationality or last habitual residence of the youth or the youth's parent or parents.

4.18 (b) The order must, where the identity is known, specifically identify the parent or parents  
4.19 whom the court finds have abused, abandoned, or neglected the at-risk youth.

4.20 (c) The order must contain relevant state statutory citations and written findings of fact  
4.21 to support each of these findings:

4.22 (1) the at-risk youth is dependent on the juvenile court, and has been placed under the  
4.23 custody of an individual appointed by the juvenile court, through the appointment of a  
4.24 guardian, for the purposes of this statute;

4.25 (2) reunification of the at-risk youth with one or both parents is not viable because of  
4.26 abandonment, abuse, or neglect or a similar basis that has an effect on an at-risk youth  
4.27 comparable to abandonment, abuse, or neglect under Minnesota law; and

4.28 (3) it is not in the best interests of the at-risk youth to be returned to the at-risk youth's  
4.29 or at-risk youth's parent's country of nationality or last habitual residence.

4.30 Subd. 9. **Appointment of new guardian.** At any time after the approval of a guardian  
4.31 under subdivision 8, an at-risk youth may petition the juvenile court for appointment of a

5.1 new guardian. The petition must state the name of the proposed new guardian and set forth  
5.2 the facts supporting the request. The court may appoint a new guardian if the court finds  
5.3 that:

5.4 (1) the proposed new guardian is capable and reputable;

5.5 (2) the appointment of a new guardian is in the best interests of the at-risk youth; and

5.6 (3) both the petitioner and the proposed new guardian agree to the establishment of the  
5.7 guardianship.

5.8 Subd. 10. **Automatic termination of guardianship.** A guardianship awarded under  
5.9 this section terminates when the at-risk youth attains the age of 21. The court's jurisdiction  
5.10 continues until termination of the guardianship.

5.11 Subd. 11. **Voluntary termination of guardianship.** The at-risk youth may request the  
5.12 termination of the guardianship at any time and, upon request, the court shall terminate the  
5.13 guardianship.

5.14 Subd. 12. **Relation to other guardianship law.** The provisions of sections 260C.325,  
5.15 260C.328, and 524.5-101 to 524.5-317 do not apply to petitions for appointment of  
5.16 guardianship for an at-risk youth under this section.