CHAPTER 260C

JUVENILE SAFETY AND PLACEMENT

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260C.0001 MS 2006 [Renumbered 15.001]

GENERAL PROVISIONS

260C.001 TITLE, INTENT, AND CONSTRUCTION.

Subdivision 1. **Citation; scope.** (a) Sections 260C.001 to 260C.637 may be cited as the juvenile protection provisions of the Juvenile Court Act.

(b) Juvenile protection proceedings include:

(1) a child in need of protection or services matters;

(2) permanency matters, including termination of parental rights;

(3) postpermanency reviews under sections 260C.317 and 260C.521; and

(4) adoption matters including posttermination of parental rights proceedings that review the responsible social services agency's reasonable efforts to finalize adoption.

Subd. 2. **Juvenile protection proceedings.** (a) The paramount consideration in all juvenile protection proceedings is the health, safety, and best interests of the child. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with sections 260.751 to 260.835 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923.

(b) The purpose of the laws relating to juvenile protection proceedings is:

(1) to secure for each child under the jurisdiction of the court, the care and guidance, preferably in the child's own home, as will best serve the spiritual, emotional, mental, and physical welfare of the child;

(2) to provide judicial procedures that protect the welfare of the child;

(3) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, removing the child from the custody of parents only when the child's welfare or safety cannot be adequately safeguarded without removal;

(4) to ensure that when removal from the child's own family is necessary and in the child's best interests, the responsible social services agency has legal responsibility for the child removal either:

(i) pursuant to a voluntary placement agreement between the child's parent or guardian or the child, when the child is over age 18, and the responsible social services agency; or

(ii) by court order pursuant to section 260C.151, subdivision 6; 260C.178; 260C.201; 260C.325; or 260C.515;

(5) to ensure that, when placement is pursuant to court order, the court order removing the child or continuing the child in foster care contains an individualized determination that placement is in the best interests of the child that coincides with the actual removal of the child;

(6) to ensure that when the child is removed, the child's care and discipline is, as nearly as possible, equivalent to that which should have been given by the parents and is either in:

(i) the home of a noncustodial parent pursuant to section 260C.178 or 260C.201, subdivision 1, paragraph (a), clause (1);

(ii) the home of a relative pursuant to emergency placement by the responsible social services agency under chapter 245A; or

(iii) foster care licensed under chapter 245A; and

(7) to ensure appropriate permanency planning for children in foster care including:

(i) unless reunification is not required under section 260.012, developing a permanency plan for the child that includes a primary plan for reunification with the child's parent or guardian and a secondary plan for an alternative, legally permanent home for the child in the event reunification cannot be achieved in a timely manner;

(ii) identifying, locating, and assessing both parents of the child as soon as possible and offering reunification services to both parents of the child as required under sections 260.012 and 260C.219;

(iii) identifying, locating, and notifying relatives of both parents of the child according to section 260C.221;

(iv) making a placement with a family that will commit to being the legally permanent home for the child in the event reunification cannot occur at the earliest possible time while at the same time actively supporting the reunification plan; and

(v) returning the child home with supports and services, as soon as return is safe for the child, or when safe return cannot be timely achieved, moving to finalize another legally permanent home for the child.

Subd. 3. **Permanency, termination of parental rights, and adoption.** The purpose of the laws relating to permanency, termination of parental rights, and children who come under the guardianship of the commissioner of human services is to ensure that:

(1) when required and appropriate, reasonable efforts have been made by the social services agency to reunite the child with the child's parents in a home that is safe and permanent;

(2) if placement with the parents is not reasonably foreseeable, to secure for the child a safe and permanent placement according to the requirements of section 260C.212, subdivision 2, preferably with adoptive parents or, if that is not possible or in the best interests of the child, a fit and willing relative through transfer of permanent legal and physical custody to that relative; and

(3) when a child is under the guardianship of the commissioner of human services, reasonable efforts are made to finalize an adoptive home for the child in a timely manner.

Nothing in this section requires reasonable efforts to prevent placement or to reunify the child with the parent or guardian to be made in circumstances where the court has determined that the child has been subjected to egregious harm, when the child is an abandoned infant, the parent has involuntarily lost custody of another child through a proceeding under section 260C.515, subdivision 4, or similar law of another state, the parental rights of the parent to a sibling have been involuntarily terminated, or the court has determined that reasonable efforts or further reasonable efforts to reunify the child with the parent or guardian would be futile.

The paramount consideration in all proceedings for permanent placement of the child under sections 260C.503 to 260C.521, or the termination of parental rights is the best interests of the child. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq.

Subd. 4. **Construction.** The laws relating to the juvenile protection proceedings shall be liberally construed to carry out these purposes.

History: *1999 c 139 art 3 s 1; art 4 s 2; 1999 c 245 art 8 s 41; 2005 c 159 art 2 s 12; 2008 c 361 art 6 s 24; 2012 c 216 art 4 s 2; art 6 s 13*

260C.007 DEFINITIONS.

Subdivision 1. **Scope.** As used in this chapter, the terms defined in this section have the same meanings given to them.

Subd. 2. **Agency.** "Agency" means the responsible social services agency or a licensed child-placing agency.

Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child and parent or guardian, or, when reunification is not required, the child alone, that is developed according to the requirements of section 245.4871, subdivision 19 or 21; 245.492, subdivision 16; 256B.092; 260C.212, subdivision 1; or 260E.26.

Subd. 4. **Child.** "Child" means an individual under 18 years of age. For purposes of this chapter and chapter 260D, child also includes individuals under age 21 who are in foster care pursuant to section 260C.451.

Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322, 609.324, 609.342, 609.343, 609.344, 609.345, 609.3458, 609.377, 609.378, 617.246, or that is physical or sexual abuse as defined in section 260E.03, or an act committed in another state that involves a minor victim and would constitute a violation of one of these sections if committed in this state.

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

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

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

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

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

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

(i) the infant is chronically and irreversibly comatose;

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

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

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

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

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

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

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

(11) is a sexually exploited youth;

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

(13) is a runaway;

(14) is a habitual truant;

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

(16) has a parent whose parental rights to one or more other children were involuntarily terminated or whose custodial rights to another child have been involuntarily transferred to a relative and there is a case plan prepared by the responsible social services agency documenting a compelling reason why filing the termination of parental rights petition under section 260C.503, subdivision 2, is not in the best interests of the child.

Subd. 7. **Child-placing agency.** "Child-placing agency" means anyone licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2.

Subd. 8. **Compelling reasons.** "Compelling reasons" means an individualized determination by the responsible social services agency, which is approved by the court, related to a request by the agency not to initiate proceedings to terminate parental rights or transfer permanent legal and physical custody of a child to the child's relative or former noncustodial parent under section 260C.503, subdivision 2.

Subd. 9. **Court.** "Court" means juvenile court unless otherwise specified in this section.

Subd. 10. **Custodian.** "Custodian" means any person who is under a legal obligation to provide care and support for a minor or who is in fact providing care and support for a minor. This subdivision does not impose upon persons who are not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care a duty to provide that care. For an Indian child, custodian means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of the child, as provided in section 260.755, subdivision 10.

Subd. 11. **Delinquent child.** "Delinquent child" has the meaning given in section 260B.007, subdivision 6.

Subd. 12. **Developmental disability.** "Developmental disability" means developmental disability as defined in United States Code, title 42, section 6001(8).

Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

(1) any physical injury to a minor family or household member inflicted by an adult family or household member other than by accidental means;

(2) subjection of a minor family or household member by an adult family or household member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342, 609.343, 609.344, 609.345, 609.3458, or 617.246; or

(3) physical or sexual abuse as defined in section 260E.03, subdivision 18 or 20.

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 not have occurred in the state or in the county where a termination of parental rights action is otherwise properly venued. Egregious harm includes, but is not limited to:

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

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

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

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

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

(8) conduct towards 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 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 or sexual extortion under section 609.3458.

Subd. 15. **Emotional maltreatment.** "Emotional maltreatment" means the consistent, deliberate infliction of mental harm on a child by a person responsible for the child's care, that has an observable, sustained, and adverse effect on the child's physical, mental, or emotional development. "Emotional maltreatment" does

not include reasonable training or discipline administered by the person responsible for the child's care or the reasonable exercise of authority by that person.

Subd. 16. **Emotionally disturbed.** "Emotionally disturbed" means emotional disturbance as described in section 245.4871, subdivision 15.

Subd. 16a. **Family and permanency team.** "Family and permanency team" means a team consisting of the child's parent or legal custodian, relatives, foster care providers, and professionals who are resources to the child's family such as teachers, medical or mental health providers who have treated the child, or clergy, as appropriate. In the case of an Indian child, the family and permanency team includes tribal representatives, delegates, and cultural resources as identified by the child's tribe. Consistent with section 260C.212, subdivision 1, paragraph (b), if the child is age 14 or older, the team must also include two team members that the child selects who are not the child's foster parent or caseworker. The responsible social services agency may reject an individual that the child selects if the agency has good cause to believe that the individual would not act in the best interests of the child.

Subd. 16b. **Family foster home.** "Family foster home" means the home of an individual or family who is licensed for child foster care under Minnesota Statutes, chapter 245A, meeting the standards in Minnesota Rules, chapter 2960, excluding foster residence settings licensed under Minnesota Rules, parts 2960.3000 to 2960.3200, or licensed or approved by a tribe in accordance with tribal standards with whom the foster child resides. Family foster home includes an emergency unlicensed relative placement under section 245A.035.

Subd. 17. **Family or household members.** "Family or household members" means spouses, former spouses, parents and children, persons related by blood, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

Subd. 18. **Foster care.** (a) "Foster care" means 24-hour substitute care for a child for whom a responsible social services agency has placement and care responsibility and:

(1) who is placed away from the child's parent or guardian in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and preadoptive homes;

(2) who is colocated with the child's parent or guardian in a licensed residential family-based substance use disorder treatment program as defined in subdivision 22a; or

(3) who is returned to the care of the child's parent or guardian from whom the child was removed under a trial home visit pursuant to section 260C.201, subdivision 1, paragraph (a), clause (3).

(b) A child is in foster care under this definition regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed which is not licensed. "Foster care" does not include placement in any of the following facilities: hospitals, inpatient chemical dependency treatment facilities where the child is the recipient of the treatment, facilities that are primarily for delinquent children, any corrections facility or program within a particular correction's facility not meeting requirements for title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails. Foster care is intended to provide for a child's safety or to access treatment. Foster care must not be used as a punishment or consequence for a child's behavior.

Subd. 19. **Habitual truant.** "Habitual truant" means a child under the age of 17 years who is absent from attendance at school without lawful excuse for seven school days per school year if the child is in elementary school or for one or more class periods on seven school days per school year if the child is in middle school, junior high school, or high school or a child who is 17 years of age who is absent from attendance at school without lawful excuse for one or more class periods on seven school days per school year and who has not lawfully withdrawn from school under section 120A.22, subdivision 8.

Subd. 20. **Indian.** "Indian," consistent with section 260.755, subdivision 7, means a person who is a member of an Indian tribe or who is an Alaskan native and a member of a regional corporation as defined in section 7 of the Alaska Native Claims Settlement Act, United States Code, title 43, section 1606.

Subd. 21. **Indian child.** "Indian child," consistent with section 260.755, subdivision 8, means an unmarried person who is under age 18 and is:

(1) a member of an Indian tribe; or

(2) eligible for membership in an Indian tribe.

Subd. 21a. **Legal authority to place the child.** "Legal authority to place the child" means that the agency has legal responsibility for the care and control of the child while the child is in foster care. The agency may have legal authority to place a child through a court order under this chapter through a voluntary placement agreement between the agency and the child's parent under section 260C.227 or, in the case of an Indian child, through tribal court.

Subd. 22. **Legal custody.** "Legal custody" means the right to the care, custody, and control of a child who has been taken from a parent by the court in accordance with the provisions of section 260C.201 or 260C.317. The expenses of legal custody are paid in accordance with the provisions of section 260C.331.

Subd. 22a. **Licensed residential family-based substance use disorder treatment program.** "Licensed residential family-based substance use disorder treatment program" means a residential treatment facility that provides the parent or guardian with parenting skills training, parent education, or individual and family counseling, under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma according to recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing. The residential program must be licensed by the Department of Human Services under chapters 245A and 245G or Tribally licensed or approved as a residential substance use disorder treatment program specializing in the treatment of clients with children.

Subd. 23. **Minor.** "Minor" means an individual under 18 years of age.

Subd. 24. **Neglected and in foster care.** "Neglected and in foster care" means a child:

(1) who has been placed in foster care by court order; and

(2) whose parents' circumstances, condition, or conduct are such that the child cannot be returned to them; and

(3) whose parents, despite the availability of needed rehabilitative services, have failed to make reasonable efforts to adjust their circumstances, condition or conduct, or have willfully failed to meet reasonable expectations with regard to visiting the child or providing financial support for the child.

Subd. 25. **Parent.** (a) "Parent" means a person who has a legal parent and child relationship with a child which confers or imposes on the person legal rights, privileges, duties, and obligations consistent with

sections 257.51 to 257.74 or 257.75. It includes the mother and child relationship and the father and child relationship. For matters governed by the Indian Child Welfare Act, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14, and does not include the unwed father where paternity has not been acknowledged or established.

(b) A legally recognized parent and child relationship is established for purposes of this chapter between:

(1) a child and a biological mother, by proof of her having given birth to the child, or under sections 257.51 to 257.74 or 257.75;

(2) a child and father when:

(i) there is a presumption of paternity under section 257.55, subdivision 1, paragraph (a), (b), or (c), and no action has been taken to declare the nonexistence of the father and child relationship;

(ii) there is a presumption of paternity under section 257.55, subdivision 1, paragraph (d), and there is an adjudication of paternity under sections 257.51 to 257.74, or the father and mother have signed a recognition of parentage having the effect of an adjudication under section 257.75;

(iii) there is a presumption of paternity under section 257.55, subdivision 1, paragraph (e), (f), (g), or (h), and there is an adjudication of paternity under sections 257.51 to 257.74;

(iv) there is no presumption of paternity under section 257.55, but the father has been adjudicated by court order under sections 257.51 to 257.74;

(v) there is no presumption of paternity under section 257.55, but the father and mother have signed a recognition of parentage having the effect of adjudication under section 257.75;

(vi) there is a positive test result under section 257.62, subdivision 5, and the father is adjudicated as the father of the child either by court order under sections 257.51 to 257.74, or because the father and the child's mother have signed a recognition of parentage having the effect of adjudication under section 257.75; or

(vii) the parent and child relationship is established under section 260.755, subdivision 14; or

(3) a child and an adoptive parent by proof of adoption.

Subd. 25a. **Permanency plan.** "Permanency plan" means the established goal in the out-of-home placement plan that will achieve a safe, permanent home for the child. There are four permanency goals for children:

(1) reunification with the child's parent or legal guardian;

(2) placement with other relatives;

(3) adoption; or

(4) establishment of a new legal guardianship.

Subd. 26. **Person.** "Person" includes any individual, association, corporation, partnership, and the state or any of its political subdivisions, departments, or agencies.

Subd. 26a. **Putative father.** "Putative father" has the meaning given in section 259.21, subdivision 12.

Subd. 26b. **Relative of an Indian child.** "Relative of an Indian child" means a person who is a member of the Indian child's family as defined in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903, paragraphs (2), (6), and (9).

Subd. 26c. **Qualified individual.** (a) "Qualified individual" means a trained culturally competent professional or licensed clinician, including a mental health professional under section 245.4871, subdivision 27, who is qualified to conduct the assessment approved by the commissioner. The qualified individual must not be an employee of the responsible social services agency or an individual connected to or affiliated with any placement setting in which a responsible social services agency has placed children.

(b) When the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963, applies to a child, the county must contact the child's tribe without delay to give the tribe the option to designate a qualified individual who is a trained culturally competent professional or licensed clinician, including a mental health professional under section 245.4871, subdivision 27, who is not employed by the responsible social services agency and who is not connected to or affiliated with any placement setting in which a responsible social services agency has placed children. Only a federal waiver that demonstrates maintained objectivity may allow a responsible social services agency employee or Tribal employee affiliated with any placement setting in which the responsible social services agency has placed children to be designated the qualified individual.

Subd. 26d. **Qualified residential treatment program.** "Qualified residential treatment program" means a children's residential treatment program licensed under chapter 245A or licensed or approved by a tribe that is approved to receive foster care maintenance payments under section 256.82 that:

(1) has a trauma-informed treatment model designed to address the needs of children with serious emotional or behavioral disorders or disturbances;

(2) has registered or licensed nursing staff and other licensed clinical staff who:

(i) provide care within the scope of their practice; and

(ii) are available 24 hours per day and seven days per week;

(3) is accredited by any of the following independent, nonprofit organizations: the Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), and the Council on Accreditation (COA), or any other nonprofit accrediting organization approved by the United States Department of Health and Human Services;

(4) if it is in the child's best interests, facilitates participation of the child's family members in the child's treatment programming consistent with the child's out-of-home placement plan under sections 260C.212, subdivision 1, and 260C.708;

(5) facilitates outreach to family members of the child, including siblings;

(6) documents how the facility facilitates outreach to the child's parents and relatives, as well as documents the child's parents' and other relatives' contact information;

(7) documents how the facility includes family members in the child's treatment process, including after the child's discharge, and how the facility maintains the child's sibling connections; and

(8) provides the child and child's family with discharge planning and family-based aftercare support for at least six months after the child's discharge.

Subd. 27. **Relative.** "Relative" means a person related to the child by blood, marriage, or adoption; the legal parent, guardian, or custodian of the child's siblings; or an individual who is an important friend with whom the child has resided or had significant contact.

Subd. 27a. **Responsible social services agency.** "Responsible social services agency" means the county social services agency that has responsibility for public child welfare and child protection services and includes the provision of adoption services as an agent of the commissioner of human services.

Subd. 27b. **Residential treatment facility.** "Residential treatment facility" means a 24-hour-a-day program that provides treatment for children with emotional disturbance, consistent with section 245.4871, subdivision 32, and includes a licensed residential program specializing in caring 24 hours a day for children with a developmental delay or related condition. A residential treatment facility does not include a psychiatric residential treatment facility under section 256B.0941 or a family foster home as defined in section 260C.007, subdivision 16b.

Subd. 28. **Runaway.** "Runaway" means an unmarried child under the age of 18 years who is absent from the home of a parent or other lawful placement without the consent of the parent, guardian, or lawful custodian.

Subd. 29. **Secure detention facility.** "Secure detention facility" means a physically restricting facility, including but not limited to a jail, a hospital, a state institution, a residential treatment center, or a detention home used for the temporary care of a child pending court action.

Subd. 30. **Shelter care facility.** "Shelter care facility" means a physically unrestricting facility, such as but not limited to, a hospital, a group home or a licensed facility for foster care, used for the temporary care of a child pending court action.

Subd. 31. **Sexually exploited youth.** "Sexually exploited youth" means an individual who:

(1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct;

(2) is a victim of a crime described in section 609.342, 609.343, 609.344, 609.345, 609.3451, 609.3453, 609.3458, 609.352, 617.246, or 617.247;

(3) is a victim of a crime described in United States Code, title 18, section 2260; 2421; 2422; 2423; 2425; 2425A; or 2256;

(4) is a sex trafficking victim as defined in section 609.321, subdivision 7b; or

(5) is a victim of commercial sexual exploitation as defined in United States Code, title 22, section 7102(11)(A) and (12).

Subd. 32. **Sibling.** "Sibling" means one of two or more individuals who have one or both parents in common through blood, marriage, or adoption. This includes siblings as defined by the child's tribal code or custom. Sibling also includes an individual who would have been considered a sibling but for a termination of parental rights of one or both parents, suspension of parental rights under tribal code, or other disruption of parental rights such as the death of a parent.

History: *1999 c 139 art 3 s 2; art 4 s 2; 1999 c 245 art 8 s 43-45; 2000 c 260 s 34; 2001 c 73 s 1; 2001 c 178 art 1 s 5-10,44; 2003 c 2 art 1 s 26; 1Sp2003 c 14 art 11 s 11; 2004 c 288 art 3 s 28; 2005 c 159 art 2 s 13; 2006 c 212 art 1 s 13; 2008 c 277 art 1 s 53; 2008 c 361 art 6 s 25-27; 2008 c 370 s 1; 2009 c 163*

art 2 s 17,18; 2010 c 269 art 3 s 1; art 4 s 1; 2010 c 281 s 1; 2010 c 301 art 3 s 5; 1Sp2011 c 1 art 4 s 3-5; 2012 c 216 art 4 s 3-6; art 6 s 13; 2013 c 108 art 3 s 39,40; 2013 c 116 art 3 s 31; 2013 c 125 art 1 s 55,56; 2014 c 180 s 9; 2015 c 71 art 1 s 55,56; 2015 c 78 art 1 s 27,28; 2017 c 40 art 1 s 121; 2018 c 170 s 11; 1Sp2019 c 9 art 1 s 23,24; 1Sp2020 c 2 art 5 s 67-73; art 8 s 113-116; 2021 c 30 art 10 s 25-27; 1Sp2021 c 11 art 4 s 31

260C.008 FOSTER CARE SIBLING BILL OF RIGHTS.

Subdivision 1. **Statement of rights.** (a) A child placed in foster care who has a sibling has the right to:

(1) be placed in foster care homes with the child's siblings, when possible and when it is in the best interest of each sibling, in order to sustain family relationships;

(2) be placed in close geographical distance to the child's siblings, if placement together is not possible, to facilitate frequent and meaningful contact;

(3) have frequent contact with the child's siblings in foster care and, whenever possible, with the child's siblings who are not in foster care, unless the responsible social services agency has documented that contact is not in the best interest of any sibling. Contact includes but is not limited to telephone calls, text messaging, social media and other Internet use, and video calls;

(4) annually receive a telephone number, address, and e-mail address for all siblings in foster care, and receive updated photographs of siblings regularly, by regular mail or e-mail;

(5) participate in regular face-to-face visits with the child's siblings in foster care and, whenever possible, with the child's siblings who are not in foster care. Participation in these visits shall not be withheld or restricted as a consequence for behavior, and shall only be restricted if the responsible social services agency documents that the visits are contrary to the safety or well-being of any sibling. Social workers, parents, foster care providers, and older children must cooperate to ensure regular visits and must coordinate dates, times, transportation, and other accommodations as necessary. The timing and regularity of visits shall be outlined in each sibling's service plan, based on the individual circumstances and needs of each child. A social worker need not give explicit permission for each visit or possible overnight visit, but foster care providers shall communicate with social workers about these visits;

(6) be actively involved in each other's lives and share celebrations, if they choose to do so, including but not limited to birthdays, holidays, graduations, school and extracurricular activities, cultural customs in the siblings' native language, and other milestones;

(7) be promptly informed about changes in sibling placements or circumstances, including but not limited to new placements, discharge from placements, significant life events, and discharge from foster care;

(8) be included in permanency planning decisions for siblings, if appropriate; and

(9) be informed of the expectations for and possibility of continued contact with a sibling after an adoption or transfer of permanent physical and legal custody to a relative.

(b) Adult siblings of children in foster care shall have the right to be considered as foster care providers, adoptive parents, and relative custodians for their siblings, if they choose to do so.

Subd. 2. **Interpretation.** The rights under this section are established for the benefit of siblings in foster care. This statement of rights does not replace or diminish other rights, liberties, and responsibilities that may exist relative to children in foster care, adult siblings of children in foster care, foster care providers, parents, relatives, or responsible social services agencies.

Subd. 3. **Disclosure.** Child welfare agency staff shall provide a copy of these rights to a child who has a sibling at the time the child enters foster care, to any adult siblings of a child entering foster care, if known, and to the foster care provider, in a format specified by the commissioner of human services. The copy shall contain the address and telephone number of the Office of Ombudsperson for Families and a brief statement describing how to file a complaint with the office.

History: *2018 c 188 s 3*

EXPERT ASSISTANCE

260C.050 EXPERT ASSISTANCE.

In any county the court may provide for the physical and mental diagnosis of cases of minors who are believed to have a physical disability, mental illness, or developmental disability, and for such purpose may appoint professionally qualified persons, whose compensation shall be fixed by the judge with the approval of the county board.

History: *1999 c 139 art 3 s 3; 2005 c 56 s 1; 2017 c 40 art 1 s 121*

JURISDICTION

260C.101 JURISDICTION.

Subdivision 1. **Children in need of protection or services, or neglected and in foster care.** The juvenile court has original and exclusive jurisdiction in proceedings concerning any child who is alleged to be in need of protection or services, or neglected and in foster care.

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

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

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

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

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

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

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

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

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

Subd. 3. **Matters relating to domestic child abuse.** The juvenile court has jurisdiction in proceedings concerning any alleged acts of domestic child abuse. In a jurisdiction which utilizes referees in child in need of protection or services matters, the court or judge may refer actions under this subdivision to a referee to take and report the evidence in the action. If the respondent does not appear after service is duly made and proved, the court may hear and determine the proceeding as a default matter. Proceedings under this subdivision shall be given docket priority by the court.

Subd. 4. **Parents and guardians.** A parent, guardian, or custodian of a child who is subject to the jurisdiction of the court is also subject to the jurisdiction of the court in any matter in which that parent, guardian, or custodian has a right to notice under section 260C.151 or 260C.152, or the right to participate under section 260C.163. In any proceeding concerning a child alleged to be in need of protection or services, the court has jurisdiction over a parent, guardian, or custodian for the purposes of a disposition order issued under section 260C.201, subdivision 6.

Subd. 5. **Indian children.** In a child in need of protection or services proceeding, when an Indian child is a ward of a tribal court with federally recognized child welfare jurisdiction, the Indian tribe retains exclusive jurisdiction notwithstanding the residence or domicile of an Indian child, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1911.

History: *1999 c 139 art 3 s 4; art 4 s 2; 2005 c 10 art 4 s 16; 2008 c 361 art 6 s 28; 2012 c 216 art 4 s 7; 2013 c 30 s 1*

260C.121 VENUE.

Subdivision 1. **Venue.** When it is alleged that a child is in need of protection or services, venue may be in the county where the child is found, in the county of residence, or in the county where the alleged conditions causing the child's need for protection or services occurred.

Subd. 2. **Transfer.** The judge of the juvenile court may transfer any proceedings brought under section 260C.101, except adoptions, to the juvenile court of a county having venue as provided in subdivision 1, at any stage of the proceedings and in the following manner. When it appears that the best interests of the child, society, or the convenience of proceedings will be served by a transfer, the court may transfer the case to the juvenile court of the county of the child's residence. With the consent of the receiving court, the court may also transfer the case to the juvenile court of the county where the child is found. The court transfers the case by ordering a continuance and by forwarding to the court administrator of the appropriate juvenile court a certified copy of all papers filed, together with an order of transfer. The judge of the receiving court may accept the findings of the transferring court or may direct the filing of a new petition or notice under section 260C.143 and hear the case anew.

Subd. 3. **Resident of another state.** If it appears at any stage of the proceeding that a child before the court is a resident of another state, the court may invoke the provisions of the interstate compact on juveniles or, if it is in the best interests of the child or the public to do so, the court may place the child in the custody of the child's parent, guardian, or custodian, if the parent, guardian, or custodian agrees to accept custody of the child and return the child to their state.

History: *1999 c 139 art 3 s 5*

260C.125 CASE TRANSFER PROCESS.

Subdivision 1. **Purpose.** This section pertains to the transfer of responsibility for the placement and care of an Indian child in out-of-home placement from the responsible social services agency to a tribal title IV-E agency or an Indian tribe in and outside of Minnesota with a title IV-E agreement.

Subd. 2. **Establishment of transfer procedures.** The responsible social services agency shall establish and maintain procedures, in consultation with Indian tribes, for the transfer of responsibility for placement and care of a child to a tribal agency. Transfer of a child's case under this section shall not affect the child's title IV-E and Medicaid eligibility.

Subd. 3. **Title IV-E eligibility.** If a child's title IV-E eligibility has not been determined by the responsible social services agency by the time of transfer, it shall be established at the time of the transfer by the responsible social services agency.

Subd. 4. **Documentation and information.** Essential documents and information shall be transferred to a tribal agency, including but not limited to:

(1) district court judicial determinations to the effect that continuation in the home from which the child was removed would be contrary to the welfare of the child and that reasonable efforts were made to ensure placement prevention and family reunification pursuant to section 260.012;

(2) documentation related to the child's permanency proceeding under sections 260C.503 to 260C.521;

(3) documentation from the responsible social services agency related to the child's title IV-E eligibility;

(4) documentation regarding the child's eligibility or potential eligibility for other federal benefits;

(5) the child's case plan, developed pursuant to the Social Security Act, United States Code, title 42, sections 675(1) and 675a, including health and education records of the child pursuant to the Social Security Act, United States Code, title 42, section 675(1)(c); and section 260C.212, subdivision 1, and information; and

(6) documentation of the child's placement setting, including a copy of the most recent provider's license.

History: *2016 c 189 art 15 s 6*

NEWBORN SAFE PLACES

260C.139 GIVE LIFE A CHANCE; SAFE PLACE FOR NEWBORNS.

Subdivision 1. **Duty to attempt reunification, duty to search for relatives, and preferences not applicable.** A responsible social service agency with responsibility for a child pursuant to subdivision 5 is not required to attempt to reunify the child with the child's parents. Additionally, the agency is not required to search for relatives of the child as a placement or permanency option under section 260C.221, or to implement other placement requirements that give a preference to relatives if the agency does not have information as to the identity of the child, the child's mother, or the child's father.

Subd. 2. **Definition.** For purposes of this section, "safe place" has the meaning given in section 145.902.

Subd. 3. **Status of child.** For purposes of proceedings under this chapter and adoption proceedings, a newborn left at a safe place, pursuant to subdivision 4 and section 145.902, is considered an abandoned child under section 260E.03, subdivision 22, clause (2). The child is abandoned under sections 260C.007, subdivision 6, clause (1), and 260C.301, subdivision 1, paragraph (b), clause (1).

Subd. 4. **Relinquishment of a newborn.** A mother or any person, with the mother's permission, may bring a newborn infant to a safe place during its hours of operation and leave the infant in the care of an employee of the safe place. The mother or a person with the mother's permission may call 911 to request to

have an ambulance dispatched to an agreed-upon location to relinquish a newborn infant into the custody of ambulance personnel.

Subd. 5. **Placement of newborn.** The agency contacted by a safe place pursuant to section 145.902, subdivision 2, shall have legal responsibility for the placement of the newborn infant in foster care for 72 hours during which time the agency shall file a petition under section 260C.141 and ask the court to order continued placement of the child in foster care. The agency shall immediately begin planning for adoptive placement of the newborn.

History: *2000 c 421 s 2; 2012 c 216 art 2 s 2; art 6 s 13; 2015 c 71 art 1 s 126; 2019 c 50 art 1 s 86,87; 1Sp2020 c 2 art 8 s 117*

PROCEDURES

260C.141 PETITION.

Subdivision 1. **Who may file; required form.** (a) Any reputable person, including but not limited to any agent of the commissioner of human services, having knowledge of a child in this state or of a child who is a resident of this state, who appears to be in need of protection or services or neglected and in foster care, may petition the juvenile court in the manner provided in this section.

(b) A petition for a child in need of protection filed by an individual who is not a county attorney or an agent of the commissioner of human services shall be filed on a form developed by the state court administrator and provided to court administrators. Copies of the form may be obtained from the court administrator in each county. The court administrator shall review the petition before it is filed to determine that it is completed. The court administrator may reject the petition if it does not indicate that the petitioner has contacted the responsible social services agency.

An individual may file a petition under this subdivision without seeking internal review of the responsible social services agency's decision. The court shall determine whether there is probable cause to believe that a need for protection or services exists before the matter is set for hearing. If the matter is set for hearing, the court administrator shall notify the responsible social services agency by sending notice to the county attorney.

The petition must contain:

(1) a statement of facts that would establish, if proven, that there is a need for protection or services for the child named in the petition;

(2) a statement that petitioner has reported the circumstances underlying the petition to the responsible social services agency, and protection or services were not provided to the child;

(3) a statement whether there are existing juvenile or family court custody orders or pending proceedings in juvenile or family court concerning the child; and

(4) a statement of the relationship of the petitioner to the child and any other parties.

The court may not allow a petition to proceed under this paragraph if it appears that the sole purpose of the petition is to modify custody between the parents.

Subd. 2. **Review of foster care status.** (a) When a child continues in voluntary foster care according to section 260C.227, a petition shall be filed alleging the child to be in need of protection or services or seeking

termination of parental rights or other permanent placement of the child away from the parent within 90 days of the date of the voluntary placement agreement. The petition shall state the reasons why the child is in foster care, the progress on the out-of-home placement plan required under section 260C.212, subdivision 1, and the statutory basis for the petition under section 260C.007, subdivision 6, 260C.301, or 260C.505.

(b) In the case of a petition alleging the child to be in need of protection or services filed under this paragraph, if all parties agree and the court finds it is in the best interests of the child, the court may find the petition states a prima facie case that:

(1) the child's needs are being met;

(2) the placement of the child in foster care is in the best interests of the child;

(3) reasonable efforts to reunify the child and the parent or guardian are being made; and

(4) the child will be returned home in the next three months.

(c) If the court makes findings under paragraph (b), the court shall approve the voluntary arrangement and continue the matter for up to three more months to ensure the child returns to the parents' home. The responsible social services agency shall:

(1) report to the court when the child returns home and the progress made by the parent on the out-of-home placement plan required under section 260C.212, in which case the court shall dismiss jurisdiction;

(2) report to the court that the child has not returned home, in which case the matter shall be returned to the court for further proceedings under section 260C.163; or

(3) if any party does not agree to continue the matter under this paragraph and paragraph (b), the matter shall proceed under section 260C.163.

Subd. 2a. [Repealed, 2008 c 361 art 6 s 59]

Subd. 3. **Child in need of protection or services; habitual truant.** If there is a school attendance review board or county attorney mediation program operating in the child's school district, a petition alleging that a child is in need of protection or services as a habitual truant under section 260C.007, subdivision 6, clause (14), may not be filed until the applicable procedures under section 260A.06 or 260A.07 have been followed.

Subd. 4. **Verification of petition.** The petition shall be verified by the person having knowledge of the facts and may be on information and belief. Unless otherwise provided by this section or by rule or order of the court, the county attorney shall draft the petition upon the showing of reasonable grounds to support the petition.

Subd. 5. **Form of petition.** The petition and all subsequent court documents shall be entitled substantially as follows:

"Juvenile Court, County of .....

In the matter of the welfare of ....."

The petition shall set forth plainly:

(1) the facts which bring the child within the jurisdiction of the court;

(2) the name, date of birth, residence, and post office address of the child;

(3) the names, residences, and post office addresses of the child's parents;

(4) the name, residence, and post office address of the child's guardian if there is one, of the person having custody or control of the child, and of the nearest known relative if no parent or guardian can be found;

(5) the spouse of the child, if there is one. If any of the facts required by the petition are not known or cannot be ascertained by the petitioner, the petition shall so state.

Subd. 6. **Concurrent jurisdiction.** When a petition is filed alleging that a child has engaged in prostitution as defined in section 609.321, subdivision 9, the county attorney shall determine whether concurrent jurisdiction is necessary to provide appropriate intervention and, if so, proceed to file a petition alleging the child to be both delinquent and in need of protection or services.

History: *1999 c 139 art 3 s 6; art 4 s 2; 1999 c 245 art 8 s 46; 2001 c 178 art 1 s 11,44; 2002 c 220 art 6 s 11; 2002 c 314 s 3; 1Sp2003 c 14 art 4 s 19; 2005 c 165 art 2 s 1; 2008 c 361 art 6 s 29; 2012 c 216 art 6 s 13*

260C.143 PROCEDURE; HABITUAL TRUANTS, RUNAWAYS, OFFENDERS.

Subdivision 1. **Notice.** When a peace officer, or attendance officer in the case of a habitual truant, has probable cause to believe that a child is in need of protection or services under section 260C.007, subdivision 6, clause (13) or (14), the officer may issue a notice to the child to appear in juvenile court in the county in which the child is found or in the county of the child's residence. If there is a school attendance review board or county attorney mediation program operating in the child's school district, a notice to appear in juvenile court for a habitual truant may not be issued until the applicable procedures under section 260A.06 or 260A.07 have been followed. The officer shall file a copy of the notice to appear with the juvenile court of the appropriate county. If a child fails to appear in response to the notice, the court may issue a summons notifying the child of the nature of the offense alleged and the time and place set for the hearing. If the peace officer finds it necessary to take the child into custody, sections 260C.175 and 260C.176 shall apply.

Subd. 2. **Effect of notice.** Filing with the court a notice to appear containing the name and address of the child, specifying the offense alleged and the time and place it was committed, has the effect of a petition giving the juvenile court jurisdiction. In the case of running away, the place where the offense was committed may be stated in the notice as either the child's custodial parent's or guardian's residence or lawful placement or where the child was found by the officer. In the case of truancy, the place where the offense was committed may be stated as the school or the place where the child was found by the officer.

Subd. 3. **Notice to parent.** Whenever a notice to appear or petition is filed alleging that a child is in need of protection or services under section 260C.007, subdivision 6, clause (13) or (14), the court shall summon and notify the person or persons having custody or control of the child of the nature of the offense alleged and the time and place of hearing. This summons and notice shall be served in the time and manner provided in section 260C.151, subdivision 1.

Subd. 4. **Truant.** When a peace officer or probation officer has probable cause to believe that a child is absent from school without lawful excuse, consistent with section 120A.22, subdivisions 5 and 8, the officer may:

(1) transport the child to the child's home and deliver the child to the custody of the child's parent or guardian;

(2) transport the child to the child's school of enrollment and deliver the child to the custody of a school superintendent or teacher;

(3) transport the child to a truancy service center under section 260A.04, subdivision 3; or

(4) transport the child from the child's home to the child's school of enrollment or to a truancy service center.

History: *1999 c 139 art 3 s 7; 2000 c 489 art 6 s 37; 2001 c 178 art 1 s 44*

260C.148 PROCEDURE; DOMESTIC CHILD ABUSE.

Subdivision 1. **Petition.** The local welfare agency may bring an emergency petition on behalf of minor family or household members seeking relief from acts of domestic child abuse. The petition shall be brought according to section 260C.141 and shall allege the existence of or immediate and present danger of domestic child abuse. The court has jurisdiction over the parties to a domestic child abuse matter notwithstanding that there is a parent in the child's household who is willing to enforce the court's order and accept services on behalf of the family.

Subd. 2. **Temporary order.** (a) If it appears from the notarized petition that there are reasonable grounds to believe the child is in immediate and present danger of domestic child abuse, the court may grant an ex parte temporary order for protection, pending a hearing pursuant to section 260C.151, which must be held not later than 14 days after service of the ex parte order on the respondent. The court may grant relief as it deems proper, including an order:

(1) restraining any party from committing acts of domestic child abuse; or

(2) excluding the alleged abusing party from the dwelling which the family or household members share or from the residence of the child.

(b) No order excluding the alleged abusing party from the dwelling may be issued unless the court finds that:

(1) the order is in the best interests of the child or children remaining in the dwelling; and

(2) a parent remaining in the child's household is able to care adequately for the child or children in the absence of the excluded party and to seek appropriate assistance in enforcing the provisions of the order.

(c) Before the temporary order is issued, the local welfare agency shall advise the court and the other parties who are present that appropriate social services will be provided to the family or household members during the effective period of the order. The petition shall identify the parent remaining in the child's household under paragraph (b), clause (2).

An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days.

The court may renew the temporary order for protection one time for a fixed period not to exceed 14 days if the court determines, upon informal review of the case file, that the renewal is appropriate. If the court determines that the petition states a prima facie case that there are reasonable grounds to believe that the child is in immediate danger of domestic child abuse or child abuse without the court's order, at the hearing pursuant to section 260C.151, the court may continue its order issued under this subdivision pending trial under section 260C.163.

Subd. 3. **Service and execution of order.** Any order issued under this section or section 260C.201, subdivision 3, shall be served personally upon the respondent. Where necessary, the court shall order the sheriff to assist in service or execution of the order.

Subd. 4. **Modification of order.** Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection issued under this section or section 260C.201, subdivision 3.

Subd. 5. **Right to apply for relief.** The local welfare agency's right to apply for relief on behalf of a child shall not be affected by the child's leaving the dwelling or household to avoid abuse.

Subd. 6. **Real estate.** Nothing in this section or section 260C.201, subdivision 3, shall affect the title to real estate.

Subd. 7. **Other remedies available.** Any relief ordered under this section or section 260C.201, subdivision 3, shall be in addition to other available civil or criminal remedies.

Subd. 8. **Copy to law enforcement agency.** An order for protection granted pursuant to this section or section 260C.201, subdivision 3, shall be forwarded by the court administrator within 24 hours to the local law enforcement agency with jurisdiction over the residence of the child.

Each appropriate law enforcement agency shall make available to other law enforcement officers through a system of verification, information as to the existence and status of any order for protection issued pursuant to this section or section 260C.201, subdivision 3.

History: *1999 c 139 art 3 s 8; art 4 s 2; 1999 c 245 art 8 s 47,48; 2005 c 10 art 2 s 4*

260C.150 DILIGENT EFFORTS TO IDENTIFY PARENTS OF A CHILD; PROCEDURES FOR REVIEW; REASONABLE EFFORTS.

Subdivision 1. **Determining parentage.** A parent and child relationship may be established under this chapter according to the requirements of section 257.54 and the Minnesota Rules of Juvenile Protection Procedure.

Subd. 2. **Genetic test results; duty to cooperate.** (a) For purposes of proceedings under this chapter, a positive test result under section 257.62, subdivision 5, shall be used by the court to treat a person determined to be the biological father of a child by a positive test as if the individual were a presumed father under section 257.55, including giving the biological father the right to notice of proceedings and the right to be assessed and considered for day-to-day care of his child under section 260C.219.

(b) Nothing in this subdivision relieves a person determined to be the biological father of the child by a positive test from the duty to cooperate with paternity establishment proceedings under section 260C.219.

Subd. 3. **Identifying parents of child; diligent efforts; data.** (a) The responsible social services agency shall make diligent efforts to identify and locate both parents of any child who is the subject of proceedings under this chapter. Diligent efforts include:

(1) asking the custodial or known parent to identify any nonresident parent of the child and provide information that can be used to verify the nonresident parent's identity including the dates and locations of marriages and divorces; dates and locations of any legal proceedings regarding paternity; date and place of the child's birth; nonresident parent's full legal name; nonresident parent's date of birth, or if the nonresident parent's date of birth is unknown, an approximate age; the nonresident parent's Social Security number; the nonresident parent's whereabouts including last known whereabouts; and the whereabouts of relatives of

the nonresident parent. For purposes of this subdivision, "nonresident parent" means a parent who does not reside in the same household as the child or did not reside in the same household as the child at the time the child was removed when the child is in foster care;

(2) obtaining information that will identify and locate the nonresident parent from the county and state of Minnesota child support enforcement information system;

(3) requesting a search of the Minnesota Fathers' Adoption Registry 30 days after the child's birth; and

(4) using any other reasonable means to identify and locate the nonresident parent.

(b) The agency may disclose data which is otherwise private under section 13.46 or chapter 260E in order to carry out its duties under this subdivision.

(c) Upon the filing of a petition alleging the child to be in need of protection or services, the responsible social services agency may contact a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth. The social service agency may consider a putative father for the day-to-day care of the child under section 260C.219 if the putative father cooperates with genetic testing and there is a positive test result under section 257.62, subdivision 5. Nothing in this paragraph:

(1) relieves a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth of the duty to cooperate with paternity establishment proceedings under section 260C.219;

(2) gives a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth the right to notice under section 260C.151 unless the putative father is entitled to notice under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7); or

(3) establishes a right to assert an interest in the child in a termination of parental rights proceeding contrary to section 259.52, subdivision 6, unless the putative father is entitled to notice under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7).

Subd. 4. **Court inquiry regarding identities of both parents.** At the first hearing regarding the petition and at any subsequent hearings, as appropriate, the court shall inquire of the parties whether the identities and whereabouts of both parents of the child are known and correctly reflected in the petition filed with the court. If either the identity or whereabouts of both parents is not known, the court shall make inquiry on the record of any party or participant present regarding the identity and whereabouts of the unknown parent of the child.

Subd. 5. **Sworn testimony from known parent.** When the county attorney requests, the court shall have the custodial or known parent of the child sworn for the purpose of answering questions relevant to the identity of a child's other parent in any proceeding under this chapter. The county attorney may request this information at any point in the proceedings if the custodial or known parent has not been cooperative in providing information to identify and locate the nonresident parent or information that may lead to identifying and locating the nonresident parent. If the child's custodial or known parent testifies that disclosure of identifying information regarding the identity of the nonresident parent would cause either the custodial or known parent, the child, or another family member to be endangered, the court may make a protective order regarding any information necessary to protect the custodial or known parent, the child, or family member. Consistent with section 260C.219, if the child remains in the care of the known or custodial parent and the court finds it in the child's best interests, the court may waive notice to the nonresident parent of the child if such notice would endanger the known or custodial parent, the child, or another family member.

Subd. 6. **Court review of diligent efforts and service.** As soon as possible, but not later than the first review hearing required under the Minnesota Rules of Juvenile Protection Procedure, unless the responsible social services agency has identified and located both parents of the child, the agency shall include in its report to the court required under the Minnesota Rules of Juvenile Protection Procedure a description of its diligent efforts to locate any parent who remains unknown or who the agency has been unable to locate. The court shall determine whether (1) diligent efforts have been made by the agency to identify both parents of the child, (2) both parents have been located, and (3) both parents have been served with the summons or notice of the proceedings required by section 260C.151 or 260C.152 and the Minnesota Rules of Juvenile Protection Procedure. If the court determines the agency has not made diligent efforts to locate both parents of the child or if both parents of the child have not been served as required by the rules, the court shall order the agency to take further steps to identify and locate both parents of the child identifying what further specific efforts are appropriate. If the summons has not been served on the parent as required by section 260C.151, subdivision 1, the court shall order further efforts to complete service.

Subd. 7. **Reasonable efforts findings.** When the court finds the agency has made diligent efforts to identify and locate both parents of the child and one or both parents remain unknown or cannot be located, the court may find that the agency has made reasonable efforts under sections 260.012, 260C.178, 260C.201, and 260C.301, subdivision 8, regarding any parent who remains unknown or cannot be located. The court may also find that further reasonable efforts for reunification with the parent who cannot be identified or located would be futile.

Subd. 8. **Safe place for newborns.** Neither the requirements of this subdivision nor the search requirements of section 259.52, subdivision 2, apply when the agency is proceeding under section 260C.139. When the agency is proceeding under section 260C.139, the agency has no duty to identify and locate either parent of the newborn and no notice or service of summons on either parent is required under section 260C.151 or 260C.152 or the Minnesota Rules of Juvenile Protection Procedure.

History: *2009 c 163 art 2 s 19; 2010 c 269 art 4 s 2; 2012 c 216 art 6 s 13; 1Sp2020 c 2 art 8 s 118*

260C.151 SUMMONS; NOTICE.

Subdivision 1. **Issuance of summons.** After a petition has been filed and unless the parties hereinafter named voluntarily appear, the court shall set a time for a hearing and shall issue a summons requiring the child's parents or legal guardian and any person who has legal custody of the child to appear before the court at a time and place stated. The summons shall have a copy of the petition attached, and shall advise the parties of the right to counsel and of the consequences of failure to obey the summons. The court shall give docket priority to any child in need of protection or services or neglected and in foster care, that contains allegations of child abuse over any other case. As used in this subdivision, "child abuse" has the meaning given it in section 630.36, subdivision 2.

Subd. 2. **Notice; child in need of protection or services.** After a petition has been filed alleging a child to be in need of protection or services and unless the persons named in clause (1) or (2) voluntarily appears, the court shall issue a notice to:

(1) a putative father of the child, including any putative father who has timely registered with the Minnesota Fathers' Adoption Registry under section 259.52; and

(2) a grandparent with the right to participate under section 260C.163, subdivision 2.

Subd. 2a. **Notice; termination of parental rights or permanency proceeding.** (a) After a petition for termination of parental rights or petition for permanent placement of a child away from a parent under section

260C.505 has been filed, the court shall set a time for the admit or deny hearing as required under the Minnesota Rules of Juvenile Protection Procedure and shall issue a summons requiring the parents of the child to appear before the court at the time and place stated. The court shall issue a notice to:

(1) a putative father who has timely registered with the Minnesota Fathers' Adoption Registry and who is entitled to notice of an adoption proceeding under section 259.49, subdivision 1; and

(2) a grandparent with the right to participate under section 260C.163, subdivision 2.

(b) Neither summons nor notice under this section or section 260C.152 of a termination of parental rights matter or other permanent placement matter under sections 260C.503 to 260C.521 is required to be given to a putative father who has failed to timely register with the Minnesota Fathers' Adoption Registry under section 259.52 unless that individual also meets the requirements of section 257.55 or is required to be given notice under section 259.49, subdivision 1. When a putative father is not entitled to notice under this paragraph and is therefore not given notice, any order terminating the putative father's rights does not give rise to a presumption of parental unfitness under section 260C.301, subdivision 1, paragraph (b), clause (4).

Subd. 3. **Notice of pendency of case.** Notice means written notice as provided in the Minnesota Rules of Juvenile Protection Procedure. The court shall have notice of the pendency of the case and of the time and place of the hearing served as required by subdivision 2. For an Indian child, notice of all proceedings must comply with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq., and section 260.765.

Subd. 4. **Termination of parental rights.** If a petition alleging a child's need for protection or services, or a petition to terminate parental rights is initiated by a person other than a representative of the Department of Human Services or responsible social services agency, the court administrator shall notify the responsible social services agency of the pendency of the case and of the time and place appointed.

Subd. 5. **Issuance of subpoena.** The court may issue a subpoena requiring the appearance of any other person whose presence, in the opinion of the court, is necessary.

Subd. 6. **Immediate custody.** If the court makes individualized, explicit findings, based on the notarized petition or sworn affidavit, that there are reasonable grounds to believe the child is in surroundings or conditions which endanger the child's health, safety, or welfare that require that responsibility for the child's care and custody be immediately assumed by the responsible social services agency and that continuation of the child in the custody of the parent or guardian is contrary to the child's welfare, the court may order that the officer serving the summons take the child into immediate custody for placement of the child in foster care. In ordering that responsibility for the care, custody, and control of the child be assumed by the responsible social services agency, the court is ordering emergency protective care as that term is defined in the juvenile court rules.

History: *1999 c 139 art 3 s 9; art 4 s 2; 1999 c 245 art 8 s 49; 2001 c 178 art 1 s 12,44; 2005 c 159 art 2 s 14; 2009 c 163 art 2 s 20-23; 2012 c 216 art 6 s 13*

260C.152 SERVICE OF SUMMONS, NOTICE.

Subdivision 1. **Notice in lieu of summons; personal service.** The service of a summons or a notice in lieu of summons shall be as provided in the Rules of Juvenile Procedure.

Subd. 2. **Service; fees.** Service of summons, notice, or subpoena required by sections 260C.151 to 260C.307 shall be made by any suitable person under the direction of the court, and upon request of the

court shall be made by a probation officer or any peace officer. The fees and mileage of witnesses shall be paid by the county if the subpoena is issued by the court on its own motion or at the request of the county attorney. All other fees shall be paid by the party requesting the subpoena unless otherwise ordered by the court.

Subd. 3. **Notification.** In any proceeding regarding a child in need of protection or services in a state court, where the court knows or has reason to know that an Indian child is involved, the prosecuting authority seeking the foster care placement of, or termination of parental rights to an Indian child, shall notify the parent or Indian custodian and the Indian child's tribe of the pending proceedings and of their right of intervention. The notice must be provided by registered mail with return receipt requested unless personal service is accomplished. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, the notice shall be given to the Secretary of the Interior of the United States in like manner, according to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912. No foster care placement proceeding or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary. However, the parent or Indian custodian or the tribe shall, upon request, be granted up to 20 additional days to prepare for the proceeding.

Subd. 4. **Proof of service.** Proof of the service required by this section shall be made by the person having knowledge thereof.

Subd. 5. **Notice to foster parents and preadoptive parents and relatives.** The foster parents, if any, of a child and any preadoptive parent or relative providing care for the child must be provided notice of and a right to be heard in any review or hearing to be held with respect to the child. Any other relative may also request, and must be granted, a notice and the opportunity to be heard under this section. This subdivision does not require that a foster parent, preadoptive parent, or relative providing care for the child be made a party to a review or hearing solely on the basis of the notice and right to be heard.

History: *1999 c 139 art 3 s 10; 2007 c 147 art 1 s 16*

260C.154 FAILURE TO OBEY SUMMONS OR SUBPOENA; CONTEMPT, ARREST.

If any person personally served with summons or subpoena fails, without reasonable cause, to appear or bring the child, or if the court has reason to believe the person is avoiding personal service, the person may be proceeded against for contempt of court or the court may issue a warrant for the person's arrest, or both. In any case when it appears to the court that the service will be ineffectual, or that the welfare of the child requires that the child be brought forthwith into the custody of the court, the court may issue a warrant for immediate custody of the child.

History: *1999 c 139 art 3 s 11*

260C.157 INVESTIGATION; PHYSICAL AND MENTAL EXAMINATION.

Subdivision 1. **Investigation.** (a) Upon request of the court the responsible social services agency or probation officer shall investigate the personal and family history and environment of any minor coming within the jurisdiction of the court under section 260C.101 and shall report its findings to the court. The court may order any minor coming within its jurisdiction to be examined by a duly qualified physician, psychiatrist, or psychologist appointed by the court.

(b) Adoption investigations shall be conducted in accordance with the laws relating to adoptions in chapter 259.

Subd. 2. **Petition requirement.** The court may proceed as described in subdivision 1 only after a petition has been filed.

Subd. 3. **Juvenile treatment screening team.** (a) The responsible social services agency shall establish a juvenile treatment screening team to conduct screenings under this chapter and chapter 260D, for a child to receive treatment for an emotional disturbance, a developmental disability, or related condition in a residential treatment facility licensed by the commissioner of human services under chapter 245A, or licensed or approved by a tribe. A screening team is not required for a child to be in: (1) a residential facility specializing in prenatal, postpartum, or parenting support; (2) a facility specializing in high-quality residential care and supportive services to children and youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation; (3) supervised settings for youth who are 18 years of age or older and living independently; or (4) a licensed residential family-based treatment facility for substance abuse consistent with section 260C.190. Screenings are also not required when a child must be placed in a facility due to an emotional crisis or other mental health emergency.

(b) The responsible social services agency shall conduct screenings within 15 days of a request for a screening, unless the screening is for the purpose of residential treatment and the child is enrolled in a prepaid health program under section 256B.69, in which case the agency shall conduct the screening within ten working days of a request. The responsible social services agency shall convene the juvenile treatment screening team, which may be constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655. The team shall consist of social workers; persons with expertise in the treatment of juveniles who are emotionally disturbed, chemically dependent, or have a developmental disability; and the child's parent, guardian, or permanent legal custodian. The team may include the child's relatives as defined in section 260C.007, subdivisions 26b and 27, the child's foster care provider, and professionals who are a resource to the child's family such as teachers, medical or mental health providers, and clergy, as appropriate, consistent with the family and permanency team as defined in section 260C.007, subdivision 16a. Prior to forming the team, the responsible social services agency must consult with the child's parents, the child if the child is age 14 or older, and, if applicable, the child's tribe to obtain recommendations regarding which individuals to include on the team and to ensure that the team is family-centered and will act in the child's best interests. If the child, child's parents, or legal guardians raise concerns about specific relatives or professionals, the team should not include those individuals. This provision does not apply to paragraph (c).

(c) If the agency provides notice to tribes under section 260.761, and the child screened is an Indian child, the responsible social services agency must make a rigorous and concerted effort to include a designated representative of the Indian child's tribe on the juvenile treatment screening team, unless the child's tribal authority declines to appoint a representative. The Indian child's tribe may delegate its authority to represent the child to any other federally recognized Indian tribe, as defined in section 260.755, subdivision 12. The provisions of the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835, apply to this section.

(d) If the court, prior to, or as part of, a final disposition or other court order, proposes to place a child with an emotional disturbance or developmental disability or related condition in residential treatment, the responsible social services agency must conduct a screening. If the team recommends treating the child in a qualified residential treatment program, the agency must follow the requirements of sections 260C.70 to 260C.714.

The court shall ascertain whether the child is an Indian child and shall notify the responsible social services agency and, if the child is an Indian child, shall notify the Indian child's tribe as paragraph (c) requires.

(e) When the responsible social services agency is responsible for placing and caring for the child and the screening team recommends placing a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, the agency must: (1) begin the assessment and processes required in section 260C.704 without delay; and (2) conduct a relative search according to section 260C.221 to assemble the child's family and permanency team under section 260C.706. Prior to notifying relatives regarding the family and permanency team, the responsible social services agency must consult with the child's parent or legal guardian, the child if the child is age 14 or older, and, if applicable, the child's tribe to ensure that the agency is providing notice to individuals who will act in the child's best interests. The child and the child's parents may identify a culturally competent qualified individual to complete the child's assessment. The agency shall make efforts to refer the assessment to the identified qualified individual. The assessment may not be delayed for the purpose of having the assessment completed by a specific qualified individual.

(f) When a screening team determines that a child does not need treatment in a qualified residential treatment program, the screening team must:

(1) document the services and supports that will prevent the child's foster care placement and will support the child remaining at home;

(2) document the services and supports that the agency will arrange to place the child in a family foster home; or

(3) document the services and supports that the agency has provided in any other setting.

(g) When the Indian child's tribe or tribal health care services provider or Indian Health Services provider proposes to place a child for the primary purpose of treatment for an emotional disturbance, a developmental disability, or co-occurring emotional disturbance and chemical dependency, the Indian child's tribe or the tribe delegated by the child's tribe shall submit necessary documentation to the county juvenile treatment screening team, which must invite the Indian child's tribe to designate a representative to the screening team.

(h) The responsible social services agency must conduct and document the screening in a format approved by the commissioner of human services.

History: *1999 c 139 art 3 s 12; art 4 s 2; 1999 c 216 art 6 s 8; 2001 c 178 art 1 s 44; 2010 c 303 s 7; 2011 c 86 s 21; 2012 c 216 art 4 s 8; art 6 s 13; 2014 c 291 art 3 s 9; 1Sp2020 c 2 art 5 s 74; 2021 c 30 art 10 s 28*

260C.163 HEARING.

Subdivision 1. **General.** (a) Except for hearings arising under section 260C.425, hearings on any matter shall be without a jury and may be conducted in an informal manner. In all adjudicatory proceedings regarding juvenile protection matters under this chapter, the court shall admit only evidence that would be admissible in a civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of protection or services must be proved by clear and convincing evidence.

(b) Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the best interests of the child. If a hearing is held on a petition involving physical or sexual abuse of a child who is alleged to be in need of protection or services or neglected and in foster care, the court shall file the decision with the court administrator as soon as possible but no later than 15 days after the matter is submitted to the court. When a continuance or

adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with this chapter.

(c) Absent exceptional circumstances, hearings under this chapter, except hearings in adoption proceedings, are presumed to be accessible to the public, however the court may close any hearing and the records related to any matter as provided in the Minnesota Rules of Juvenile Protection Procedure.

(d) Adoption hearings are closed to the public and all records related to an adoption are inaccessible except as provided in the Minnesota Rules of Adoption Procedure.

(e) In any permanency hearing, including the transition of a child from foster care to independent living, the court shall ensure that its consult with the child during the hearing is in an age-appropriate manner.

Subd. 2. **Right to participate in proceedings.** (a) A child who is the subject of a petition, and the parents, guardian, or legal custodian of the child have the right to participate in all proceedings on a petition, including the opportunity to personally attend all hearings. Official tribal representatives have the right to participate in any proceeding that is subject to the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

(b) A parent with a legally recognized parent and child relationship must be provided the right to be heard in any review or hearing held with respect to the child, which includes the right to be heard on the disposition order under section 260C.201, subdivision 1, parental visitation under section 260C.178, and the out-of-home placement plan under section 260C.212, subdivision 1. The right to be heard does not automatically confer party status. Party status is governed by the Minnesota Rules of Juvenile Protection Procedure.

(c) Any grandparent of the child has a right to participate in the proceedings to the same extent as a parent, if the child has lived with the grandparent within the two years preceding the filing of the petition. At the first hearing following the filing of a petition, the court shall ask whether the child has lived with a grandparent within the last two years, except that the court need not make this inquiry if the petition states that the child did not live with a grandparent during this time period. Failure to notify a grandparent of the proceedings is not a jurisdictional defect.

(d) If, in a permanency proceeding involving a child in need of protection or services, any party files a petition for transfer of permanent legal and physical custody to a named relative, the relative has a right to participate in the permanency proceeding as a party on the issues of the relative's suitability to be a legal and physical custodian for the child, whether the transfer is in the child's best interests, and the needs of the child. Thereafter the named relative shall receive notice of any hearing in the proceedings.

Subd. 3. **Appointment of counsel.** (a) The child, parent, guardian or custodian has the right to effective assistance of counsel in connection with a proceeding in juvenile court as provided in this subdivision.

(b) Except in proceedings where the sole basis for the petition is habitual truancy, if the child desires counsel but is unable to employ it, the court shall appoint counsel to represent the child who is ten years of age or older under section 611.14, clause (4), or other counsel at public expense.

(c) In all child protection proceedings where a child risks removal from the care of the child's parent, guardian, or custodian, including a child in need of protection or services petition, an action pursuing removal of a child from the child's home, a termination of parental rights petition, or a petition for permanent out-of-home placement, if the parent, guardian, or custodian desires counsel and is eligible for counsel under section 611.17, the court shall appoint counsel to represent each parent, guardian, or custodian prior to the

first hearing on the petition and at all stages of the proceedings. Court appointed counsel shall be at county expense as outlined in paragraph (h).

(d) In any proceeding where the subject of a petition for a child in need of protection or services is ten years of age or older, the responsible social services agency shall, within 14 days after filing the petition or at the emergency removal hearing under section 260C.178, subdivision 1, if the child is present, fully and effectively inform the child of the child's right to be represented by appointed counsel upon request and shall notify the court as to whether the child desired counsel. Information provided to the child shall include, at a minimum, the fact that counsel will be provided without charge to the child, that the child's communications with counsel are confidential, and that the child has the right to participate in all proceedings on a petition, including the opportunity to personally attend all hearings. The responsible social services agency shall also, within 14 days of the child's tenth birthday, fully and effectively inform the child of the child's right to be represented by counsel if the child reaches the age of ten years while the child is the subject of a petition for a child in need of protection or services or is a child under the guardianship of the commissioner.

(e) In any proceeding where the sole basis for the petition is habitual truancy, the child, parent, guardian, and custodian do not have the right to appointment of a public defender or other counsel at public expense. However, before any out-of-home placement, including foster care or inpatient treatment, can be ordered, the court must appoint a public defender or other counsel at public expense in accordance with this subdivision.

(f) Counsel for the child shall not also act as the child's guardian ad litem.

(g) In any proceeding where the subject of a petition for a child in need of protection or services is not represented by an attorney, the court shall determine the child's preferences regarding the proceedings, including informing the child of the right to appointed counsel and asking whether the child desires counsel, if the child is of suitable age to express a preference.

(h) Court-appointed counsel for the parent, guardian, or custodian under this subdivision is at county expense. If the county has contracted with counsel, the court shall appoint the counsel retained by the county, unless a conflict of interest exists. If a conflict exists, after consulting with the chief judge of the judicial district or the judge's designee, the county shall contract with competent counsel to provide the necessary representation. The court may appoint only one counsel at public expense for the first court hearing to represent the interests of the parents, guardians, and custodians, unless, at any time during the proceedings upon petition of a party, the court determines and makes written findings on the record that extraordinary circumstances exist that require counsel to be appointed to represent a separate interest of other parents, guardians, or custodians subject to the jurisdiction of the juvenile court.

[See Note.]

Subd. 4. **County attorney.** In representing the responsible social services agency, the county attorney shall also have the responsibility for advancing the public interest in the welfare of the child.

Subd. 5. **Guardian ad litem.** (a) The court shall appoint a guardian ad litem to protect the interests of the minor when it appears, at any stage of the proceedings, that the minor is without a parent or guardian, or that the minor's parent is a minor or incompetent, or that the parent or guardian is indifferent or hostile to the minor's interests, and in every proceeding alleging a child's need for protection or services under section 260C.007, subdivision 6, except proceedings where the sole allegation is that the child is a runaway or habitual truant. In any other case the court may appoint a guardian ad litem to protect the interests of the minor when the court feels that such an appointment is desirable. The court shall appoint the guardian ad

litem on its own motion or in the manner provided for the appointment of a guardian ad litem in the district court. The court may appoint separate counsel for the guardian ad litem if necessary.

(b) A guardian ad litem shall carry out the following responsibilities:

(1) conduct an independent investigation to determine the facts relevant to the situation of the child and the family, which must include, unless specifically excluded by the court, reviewing relevant documents; meeting with and observing the child in the home setting and considering the child's wishes, as appropriate; and interviewing parents, caregivers, and others with knowledge relevant to the case;

(2) advocate for the child's best interests by participating in appropriate aspects of the case and advocating for appropriate community services when necessary;

(3) maintain the confidentiality of information related to a case, with the exception of sharing information as permitted by law to promote cooperative solutions that are in the best interests of the child;

(4) monitor the child's best interests throughout the judicial proceeding; and

(5) present written reports on the child's best interests that include conclusions and recommendations and the facts upon which they are based.

(c) Except in cases where the child is alleged to have been abused or neglected, the court may waive the appointment of a guardian ad litem pursuant to paragraph (a), whenever counsel has been appointed pursuant to subdivision 2 or is retained otherwise, and the court is satisfied that the interests of the minor are protected.

(d) In appointing a guardian ad litem pursuant to paragraph (a), the court shall not appoint the party filing a petition pursuant to section 260C.141.

(e) The following factors shall be considered when appointing a guardian ad litem in a case involving an Indian or minority child:

(1) whether a person is available who is the same racial or ethnic heritage as the child or, if that is not possible;

(2) whether a person is available who knows and appreciates the child's racial or ethnic heritage.

(f) The court shall require a background study for each guardian ad litem as provided under section 518.165. The court shall have access to data collected pursuant to section 245C.32 for purposes of the background study.

Subd. 6. **Examination of child.** In any child in need of protection or services proceeding, neglected and in foster care, or termination of parental rights proceeding the court may, on its own motion or the motion of any party, take the testimony of a child witness informally when it is in the child's best interests to do so. Informal procedures that may be used by the court include taking the testimony of a child witness outside the courtroom. The court may also require counsel for any party to the proceeding to submit questions to the court before the child's testimony is taken, and to submit additional questions to the court for the witness after questioning has been completed. The court may excuse the presence of the child's parent, guardian, or custodian from the room where the child is questioned in accordance with subdivision 7.

Subd. 7. **Waiving presence of child, parent.** The court may waive the presence of the minor in court at any stage of the proceedings when it is in the best interests of the minor to do so. In any proceeding, the court may temporarily excuse the presence of the parent or guardian of a minor from the hearing when it is

in the best interests of the minor to do so. The attorney or guardian ad litem, if any, has the right to continue to participate in proceedings during the absence of the minor, parent, or guardian.

Subd. 8. **Rights of parties at hearing.** The minor and the minor's parent, guardian, or custodian are entitled to be heard, to present evidence material to the case, and to cross-examine witnesses appearing at the hearing.

Subd. 9. **Factors in determining neglect.** In determining whether a child is neglected and in foster care, the court shall consider, among other factors, the following:

(1) the length of time the child has been in foster care;

(2) the effort the parent has made to adjust circumstances, conduct, or conditions that necessitates the removal of the child to make it in the child's best interest to be returned to the parent's home in the foreseeable future, including the use of rehabilitative services offered to the parent;

(3) whether the parent has visited the child within the three months preceding the filing of the petition, unless extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from visiting the child or it was not in the best interests of the child to be visited by the parent;

(4) the maintenance of regular contact or communication with the agency or person temporarily responsible for the child;

(5) the appropriateness and adequacy of services provided or offered to the parent to facilitate a reunion;

(6) whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time, whether the services have been offered to the parent, or, if services were not offered, the reasons they were not offered; and

(7) the nature of the efforts made by the responsible social services agency to rehabilitate and reunite the family and whether the efforts were reasonable.

Subd. 10. **Waiver.** (a) Waiver of any right which a child has under this chapter must be an express waiver made voluntarily, intelligently, and in writing by the child after the child has been fully and effectively informed of the right to counsel and after consulting with an appointed attorney.

(b) Waiver of a child's right to be represented by counsel provided under the juvenile court rules must be an express waiver made voluntarily, intelligently, and in writing by the child after the child has been fully and effectively informed of the right being waived by the responsible social services agency and consultation with an appointed attorney. In determining whether a child has voluntarily and intelligently waived the right to counsel, the court shall look to the totality of the circumstances which includes but is not limited to the child's age, maturity, intelligence, education, experience, and ability to comprehend, and the presence and competence of the child's parents, guardian, or guardian ad litem. The court shall not permit the child's parent, other person legally responsible for the child's care, or the child's guardian ad litem to waive the child's right to be represented by counsel. If the court accepts the child's waiver, it shall state on the record the findings and conclusions that form the basis for its decision to accept the waiver.

Subd. 11. **Presumptions regarding truancy or educational neglect.** (a) A child's absence from school is presumed to be due to the parent's, guardian's, or custodian's failure to comply with compulsory instruction laws if the child is under 12 years old and the school has made appropriate efforts to resolve the child's attendance problems; this presumption may be rebutted based on a showing by clear and convincing evidence

that the child is habitually truant. A child's absence from school without lawful excuse, when the child is 12 years old or older, is presumed to be due to the child's intent to be absent from school; this presumption may be rebutted based on a showing by clear and convincing evidence that the child's absence is due to the failure of the child's parent, guardian, or custodian to comply with compulsory instruction laws, sections 120A.22 and 120A.24.

(b) Consistent with section 125A.091, subdivision 5, a parent's refusal to provide the parent's child with sympathomimetic medications does not constitute educational neglect.

Subd. 12. **Alternative dispute resolution authorized; family group decision making, parallel protection process and mediation.** The court may authorize parties and participants in any child in need of protection or services, permanency, or termination of parental rights petition to participate in any appropriate form of alternative dispute resolution including family group decision making, parallel protection process, and mediation when such alternative dispute resolution is in the best interests of the child. The court may order that a child be included in the alternative dispute resolution process, as appropriate and in the best interests of the child. An alternative dispute resolution process, including family group decision making, parallel protection process, and mediation, may be used to resolve part or all of a matter before the court at any point in the proceedings subject to approval by the court that the resolution is in the best interests of the child.

History: *1999 c 139 art 3 s 13; art 4 s 2; 1999 c 245 art 8 s 50,51; 2000 c 260 s 35; 2000 c 357 s 1; 2001 c 178 art 1 s 44; 1Sp2001 c 6 art 3 s 15; 2002 c 220 art 6 s 12; 2002 c 314 s 4; 1Sp2003 c 2 art 7 s 4; 2004 c 294 art 5 s 17; 1Sp2005 c 4 art 1 s 48; 2007 c 147 art 1 s 17; 2008 c 361 art 6 s 30; 2009 c 163 art 2 s 24; 2010 c 269 art 3 s 2,3; art 4 s 3; 2010 c 281 s 2; 2012 c 212 s 5; 2012 c 216 art 4 s 9,10; 2013 c 37 s 3; 2017 c 60 s 1,2; 1Sp2021 c 7 art 9 s 5*

NOTE: The amendment to subdivision 3, paragraph (c), by Laws 2021, First Special Session chapter 7, article 9, section 5, is effective January 1, 2023. Laws 2021, First Special Session chapter 7, article 9, section 5, the effective date, as amended by Laws 2021, First Special Session chapter 14, article 11, section 35.

260C.165 CERTAIN OUT-OF-COURT STATEMENTS ADMISSIBLE.

An out-of-court statement not otherwise admissible by statute or rule of evidence is admissible in evidence in any child in need of protection or services, neglected and in foster care, or domestic child abuse proceeding or any proceeding for termination of parental rights if:

(1) the statement was made by a child under the age of ten years or by a child ten years of age or older who is mentally impaired, as defined in section 609.341, subdivision 6;

(2) the statement alleges, explains, denies, or describes:

(i) any act of sexual penetration or contact performed with or on the child;

(ii) any act of sexual penetration or contact with or on another child observed by the child making the statement;

(iii) any act of physical abuse or neglect of the child by another; or

(iv) any act of physical abuse or neglect of another child observed by the child making the statement;

(3) the court finds that the time, content, and circumstances of the statement and the reliability of the person to whom the statement is made provide sufficient indicia of reliability; and

(4) the proponent of the statement notifies other parties of an intent to offer the statement and the particulars of the statement sufficiently in advance of the proceeding at which the proponent intends to offer the statement into evidence, to provide the parties with a fair opportunity to meet the statement.

For purposes of this section, an out-of-court statement includes a video, audio, or other recorded statement.

History: *1999 c 139 art 3 s 14*

260C.168 COMPLIANCE WITH INDIAN CHILD WELFARE ACT AND MINNESOTA INDIAN FAMILY PRESERVATION ACT.

The provisions of this chapter must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

History: *1999 c 139 art 3 s 15; 2015 c 78 art 1 s 29*

RECORDS

260C.171 RECORDS.

Subdivision 1. **Records required to be kept.** The juvenile court judge shall keep such minutes and in such manner as the court deems necessary and proper. The juvenile court shall provide, upon the request of any other juvenile court, copies of the records concerning adjudications involving the particular child.

The court shall also keep an index in which files pertaining to juvenile matters shall be indexed under the name of the child. After the name of each file shall be shown the file number and, if ordered by the court, the book and page of the register in which the documents pertaining to such file are listed. The court shall also keep a register properly indexed in which shall be listed under the name of the child all documents filed pertaining to the child and in the order filed. The list shall show the name of the document and the date of filing thereof. The juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, findings, orders, decrees, judgments, and motions and such other matters as the court deems necessary and proper. Unless otherwise provided by law, all court records shall be open at all reasonable times to the inspection of any child to whom the records relate, and to the child's parent and guardian.

Subd. 2. **Public inspection of records.** (a) The records from proceedings or portions of proceedings involving a child in need of protection or services, permanency, or termination of parental rights are accessible to the public as authorized by the Minnesota Rules of Juvenile Protection Procedure.

(b) None of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except by order of a court.

(c) The records of juvenile probation officers are records of the court for the purposes of this subdivision. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.

Subd. 3. **Attorney access to records.** An attorney representing a child, parent, or guardian ad litem in a proceeding under this chapter shall be given access to records, responsible social services agency files,

and reports which form the basis of any recommendation made to the court. An attorney does not have access under this subdivision to the identity of a person who made a report under chapter 260E. The court may issue protective orders to prohibit an attorney from sharing a specified record or portion of a record with a client other than a guardian ad litem.

Subd. 4. **County attorney referral of child in need of protection or services.** In a county in which the county attorney refers children who are in need of protection or services to community programs, the county attorney may provide a community program with data on a child who is a participant or being considered for participation in the program.

Subd. 5. **Further release of records.** A person who receives access to juvenile court or peace officer records of children that are not accessible to the public may not release or disclose the records to any other person except as authorized by law. This subdivision does not apply to the child who is the subject of the records or the child's parent or guardian.

Subd. 6. **Notice to school.** (a) As used in this subdivision, the following terms have the meanings given. "Chemical substance," "methamphetamine paraphernalia," and "methamphetamine waste products" have the meanings given in section 152.137, subdivision 1. "School" means a charter school or a school as defined in section 120A.22, subdivision 4, except a home school.

(b) If a child has been taken into protective custody after being found in an area where methamphetamine was being manufactured or attempted to be manufactured or where any chemical substances, methamphetamine paraphernalia, or methamphetamine waste products were stored, and the child is enrolled in school, the officer who took the child into custody shall notify the chief administrative officer of the child's school of this fact.

History: *1999 c 139 art 3 s 16; 2001 c 178 art 1 s 44; 1Sp2001 c 9 art 15 s 32; 2005 c 136 art 7 s 14; 2008 c 361 art 6 s 31; 1Sp2020 c 2 art 8 s 119*

DETENTION

260C.175 TAKING CHILD INTO CUSTODY.

Subdivision 1. **Immediate custody.** No child may be taken into immediate custody except:

(1) with an order issued by the court in accordance with the provisions of section 260C.151, subdivision 6, or Laws 1997, chapter 239, article 10, section 10, paragraph (a), clause (3), or 12, paragraph (a), clause (3), or by a warrant issued in accordance with the provisions of section 260C.154;

(2) by a peace officer:

(i) when a child has run away from a parent, guardian, or custodian, or when the peace officer reasonably believes the child has run away from a parent, guardian, or custodian, but only for the purpose of transporting the child home, to the home of a relative, or to another safe place, which may include a shelter care facility; or

(ii) when a child is found in surroundings or conditions which endanger the child's health or welfare or which such peace officer reasonably believes will endanger the child's health or welfare. If an Indian child is a resident of a reservation or is domiciled on a reservation but temporarily located off the reservation, the taking of the child into custody under this clause shall be consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1922;

(3) by a peace officer or probation or parole officer when it is reasonably believed that the child has violated the terms of probation, parole, or other field supervision; or

(4) by a peace officer or probation officer under section 260C.143, subdivision 1 or 4.

Subd. 2. **Notice to parent or custodian.** Whenever a peace officer takes a child into custody for shelter care or relative placement pursuant to subdivision 1, section 260C.151, subdivision 5, or section 260C.154, the officer shall notify the parent or custodian that under section 260C.181, subdivision 2, the parent or custodian may request that the child be placed with a relative or a designated caregiver under chapter 257A instead of in a shelter care facility. The officer also shall give the parent or custodian of the child a list of names, addresses, and telephone numbers of social services agencies that offer child welfare services. If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian. The list shall be prepared by the commissioner of human services. The commissioner shall prepare lists for each county and provide each county with copies of the list without charge. The list shall be reviewed annually by the commissioner and updated if it is no longer accurate. Neither the commissioner nor any peace officer or the officer's employer shall be liable to any person for mistakes or omissions in the list. The list does not constitute a promise that any agency listed will in fact assist the parent or custodian.

Subd. 3. **Protective pat-down search of child authorized.** (a) A peace officer who takes a child of any age or gender into custody under the provisions of this section is authorized to perform a protective pat-down search of the child in order to protect the officer's safety.

(b) A peace officer also may perform a protective pat-down search of a child in order to protect the officer's safety in circumstances where the officer does not intend to take the child into custody, if this section authorizes the officer to take the child into custody.

(c) Evidence discovered in the course of a lawful search under this section is admissible.

History: *1999 c 139 art 3 s 17; 2003 c 2 art 1 s 27; 2009 c 163 art 2 s 25; 2010 c 281 s 3*

260C.176 RELEASE OR DETENTION.

Subdivision 1. **Notice; release.** If a child is taken into custody as provided in section 260C.175, the parent, guardian, or custodian of the child shall be notified as soon as possible. Unless there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, or other suitable relative. When a child is taken into custody by a peace officer under section 260C.175, subdivision 1, clause (2), item (ii), release from detention may be authorized by the detaining officer, the detaining officer's supervisor, the county attorney, or the social services agency, provided that the agency has conducted an assessment and with the family has developed and implemented a safety plan for the child, if needed. The person to whom the child is released shall promise to bring the child to the court, if necessary, at the time the court may direct. If the person taking the child into custody believes it desirable, that person may request the parent, guardian, custodian, or other person designated by the court to sign a written promise to bring the child to court as provided above. The intentional violation of such a promise, whether given orally or in writing, shall be punishable as contempt of court.

The court may require the parent, guardian, custodian, or other person to whom the child is released, to post any reasonable bail or bond required by the court which shall be forfeited to the court if the child does

not appear as directed. The court may also release the child on the child's own promise to appear in juvenile court.

Subd. 2. **Reasons for detention.** (a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child taken into custody and placed in a shelter care facility or relative's home by a peace officer pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), may be held in custody longer than 72 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed and the judge or referee determines pursuant to section 260C.178 that the child shall remain in custody or unless the court has made a finding of domestic abuse perpetrated by a minor after a hearing under Laws 1997, chapter 239, article 10, sections 2 to 26, in which case the court may extend the period of detention for an additional seven days, within which time the social services agency shall conduct an assessment and shall provide recommendations to the court regarding voluntary services or file a child in need of protection or services petition.

Subd. 3. **Advisement if detained.** If the person who has taken the child into custody determines that the child should be placed in a secure detention facility or a shelter care facility, that person shall advise the child and as soon as is possible, the child's parent, guardian, or custodian:

(1) of the reasons why the child has been taken into custody and why the child is being placed in a juvenile secure detention facility or a shelter care facility;

(2) of the location of the juvenile secure detention facility or a shelter care facility. If there is reason to believe that disclosure of the location of the shelter care facility would place the child's health and welfare in immediate endangerment, disclosure of the location of the shelter care facility shall not be made;

(3) that the child's parent, guardian, or custodian and attorney or guardian ad litem may make an initial visit to the juvenile secure detention facility or shelter care facility at any time. Subsequent visits by a parent, guardian, or custodian may be made on a reasonable basis during visiting hours and by the child's attorney or guardian ad litem at reasonable hours;

(4) that the child may telephone parents and an attorney or guardian ad litem from the juvenile secure detention facility or shelter care facility immediately after being admitted to the facility and thereafter on a reasonable basis to be determined by the director of the facility;

(5) that the child may not be detained pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), at a shelter care facility longer than 72 hours, excluding Saturdays, Sundays, and holidays, unless a petition has been filed within that time and the court orders the child's continued detention, pursuant to section 260C.178;

(6) of the date, time, and place of the detention hearing, if this information is available to the person who has taken the child into custody; and

(7) that the child and the child's parent, guardian, or custodian have the right to be present and to be represented by counsel at the detention hearing, and that if they cannot afford counsel, counsel will be appointed at public expense for the child, or for any party, if it is a child in need of protection or services, neglected and in foster care, or termination of parental rights matter.

Subd. 4. **Transportation.** If a child is to be detained in a secure detention facility or a shelter care facility, the child shall be promptly transported to the facility in a manner approved by the facility or by securing a written transportation order from the court authorizing transportation by the sheriff or other

qualified person. The person who has determined that the child should be detained shall deliver to the court and the supervisor of the secure detention facility or shelter care facility where the child is placed, a signed report, setting forth:

(1) the time the child was taken into custody;

(2) the time the child was delivered for transportation to the secure detention facility or shelter care facility;

(3) the reasons why the child was taken into custody;

(4) the reasons why the child has been placed in detention;

(5) a statement that the child and the child's parent have received the notification required by subdivision 3 or the reasons why they have not been so notified; and

(6) any instructions required by subdivision 5.

Subd. 5. **Shelter care; notice to parent.** When a child is to be placed in a shelter care facility, the person taking the child into custody or the court shall determine whether or not there is reason to believe that disclosure of the shelter care facility's location to the child's parent, guardian, or custodian would immediately endanger the health and welfare of the child. If there is reason to believe that the child's health and welfare would be immediately endangered, disclosure of the location shall not be made. This determination shall be included in the report required by subdivision 4, along with instructions to the shelter care facility to notify or withhold notification.

Subd. 6. **Report.** (a) When a child has been delivered to a secure detention facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child and a parent, guardian, or custodian has received the notification required by subdivision 3. If the child or a parent, guardian, or custodian, or both, have not been so notified, the supervisor of the facility shall immediately make the notification and shall include in the report to the court a statement that notification has been received or the reasons why it has not.

(b) When a child has been delivered to a shelter care facility, the supervisor of the facility shall deliver to the court a signed report acknowledging receipt of the child stating the time of the child's arrival. The supervisor of the facility shall ascertain from the report of the person who has taken the child into custody whether the child's parent, guardian or custodian has been notified of the placement of the child at the shelter care facility and its location, and the supervisor shall follow any instructions concerning notification contained in that report.

History: *1999 c 139 art 3 s 18; 2000 c 260 s 36,37; 2009 c 163 art 2 s 26*

260C.177 PARENTAL AND LAW ENFORCEMENT NOTIFICATION.

An emergency shelter and its agents, employees, and volunteers must comply with court orders, this chapter, chapter 260E, and all other applicable laws. In any event, unless other legal requirements require earlier or different notification or actions, an emergency shelter must attempt to notify a runaway's parent or legal guardian of the runaway's location and status within 72 hours. The notification must include a description of the runaway's physical and emotional condition and the circumstances surrounding the runaway's admission to the emergency shelter, unless there are compelling reasons not to provide the parent

or legal guardian with this information. Compelling reasons may include circumstances in which the runaway is or has been exposed to domestic violence or a victim of abuse, neglect, or abandonment.

History: *2000 c 401 s 4; 2012 c 216 art 6 s 13; 1Sp2020 c 2 art 8 s 120*

260C.178 EMERGENCY REMOVAL HEARING.

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) If the court determines there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care as defined in section 260C.007, subdivision 18, under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

(d) In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

(e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not required. In the case of an Indian child, the court shall determine whether active efforts, according to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

(1) that it has actually provided services or made efforts in an attempt to prevent the child's removal but that such services or efforts have not proven sufficient to permit the child to safely remain in the home; or

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. When reasonable efforts to prevent placement are required and there are services or other efforts that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or

efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(f) The court may not order or continue the foster care placement of the child unless the court makes explicit, individualized findings that continued custody of the child by the parent or guardian would be contrary to the welfare of the child and that placement is in the best interest of the child.

(g) At the emergency removal hearing, or at any time during the course of the proceeding, and upon notice and request of the county attorney, the court shall determine whether a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been involuntarily terminated;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parents' custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e), clause (1); section 260C.515, subdivision 4; or a similar law of another jurisdiction;

(5) the parent has committed sexual abuse as defined in section 260E.03, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable.

(h) When a petition to terminate parental rights is required under section 260C.301, subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to proceed with a termination of parental rights petition, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section 260C.507, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

(i) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.503, subdivision 2, paragraph (c).

(j) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the responsible social services agency for the purpose of complying with sections 260C.151, 260C.212, 260C.215, and 260C.221.

(k) If a child ordered into foster care has siblings, whether full, half, or step, who are also ordered into foster care, the court shall inquire of the responsible social services agency of the efforts to place the children

together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement for treatment or a child is placed with a previously noncustodial parent who is not a parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place the siblings together, as required under section 260.012. If any sibling is not placed with another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing contact among the siblings as required under section 260C.212, subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

(l) When the court has ordered the child into foster care or into the home of a noncustodial parent, the court may order a chemical dependency evaluation, mental health evaluation, medical examination, and parenting assessment for the parent as necessary to support the development of a plan for reunification required under subdivision 7 and section 260C.212, subdivision 1, or the child protective services plan under section 260E.26, and Minnesota Rules, part 9560.0228.

Subd. 2. [Repealed by amendment, 2005 c 159 art 2 s 15]

Subd. 3. **Parental visitation.** (a) If a child has been taken into custody under section 260C.151, subdivision 5, or 260C.175, subdivision 1, clause (2), item (ii), and the court determines that the child should continue in foster care, the court shall include in its order notice that the responsible social services agency has a duty to develop and implement a plan for parental visitation of and contact with the child that promotes the parent and child relationship unless the court finds that visitation would endanger the child's physical or emotional well-being.

(b) Unless the court finds that visitation would endanger the child's physical or emotional well-being or unless paragraph (c) or (d) apply, the plan for parental visitation required under section 260C.212, subdivision 1, paragraph (c), clause (5), must be developed and implemented by the agency and the child's parents as soon as possible after the court's order for the child to continue in foster care.

(c) When a parent has had no or only limited visitation or contact with the child prior to the court order for the child to continue in foster care, the court may order a visitation plan developed and implemented while the agency conducts the assessment of the parent's ability to provide day-to-day care for the child required under section 260C.219.

(d) When it is in the best interests of the child, the agency may ask the court to defer its duty to develop a visitation plan between a putative father and the child until the paternity status of the child's father is adjudicated or until there is a positive test result under section 257.62, subdivision 5.

(e) The visitation plan developed under this subdivision is the same visitation plan required under section 260C.212, subdivision 1, paragraph (c), clause (5).

Subd. 4. **Mental health treatment.** (a) Except as provided in paragraph (b), a child who is ordered placed in foster care as an alleged victim of child abuse as defined in section 630.36, subdivision 2, may not be given mental health treatment specifically for the effects of the alleged abuse until the court finds that there is a prima facie basis to believe the abuse has occurred.

(b) A child described in paragraph (a) may be given mental health treatment prior to a prima facie finding of child abuse if the treatment is either agreed to by the child's parent or guardian in writing, or ordered by the court according to the standard contained in section 260C.201, subdivision 1.

Subd. 5. **Copies of order.** Copies of the court's order shall be served upon the parties, including the placement facility, which shall release the child or continue to hold the child as the court orders.

When the court's order is served upon these parties, notice shall also be given to the parties of the subsequent reviews provided by subdivision 6.

Subd. 6. **Review.** When a child is placed in foster care, the child's placement shall be periodically reviewed as required under the juvenile court rules including notice to the parties required to be served with a copy of the order under subdivision 4.

A hearing shall be held at the request of any one of the parties notified pursuant to subdivision 5, if that party notifies the court of a wish to present to the court new evidence concerning whether the child should be continued in detention or notifies the court of a wish to present an alternate placement arrangement to provide for the safety and protection of the child.

In addition, if a child was taken into custody under section 260C.151, subdivision 5, or 260C.175, subdivision 1, clause (2), item (ii), and is placed in foster care or placed in another facility under a court order issued under subdivision 2, the court shall schedule and hold an adjudicatory hearing on the petition within 60 days of the emergency removal hearing upon the request of any party to the proceeding. However, if good cause is shown by a party to the proceeding why the hearing should not be held within that time period, the hearing shall be held within 90 days, unless the parties agree otherwise and the court so orders.

Subd. 7. **Out-of-home placement plan.** (a) An out-of-home placement plan required under section 260C.212 shall be filed with the court within 30 days of the filing of a juvenile protection petition under section 260C.141, subdivision 1, when the court orders emergency removal of the child under this section, or filed with the petition if the petition is a review of a voluntary placement under section 260C.141, subdivision 2.

(b) Upon the filing of the out-of-home placement plan which has been developed jointly with the parent and in consultation with others as required under section 260C.212, subdivision 1, the court may approve implementation of the plan by the responsible social services agency based on the allegations contained in the petition and any evaluations, examinations, or assessments conducted under subdivision 1, paragraph (l). The court shall send written notice of the approval of the out-of-home placement plan to all parties and the county attorney or may state such approval on the record at a hearing. A parent may agree to comply with the terms of the plan filed with the court.

(c) The responsible social services agency shall make reasonable efforts to engage both parents of the child in case planning. The responsible social service agency shall report the results of its efforts to engage the child's parents in the out-of-home placement plan filed with the court. The agency shall notify the court of the services it will provide or efforts it will attempt under the plan notwithstanding the parent's refusal to cooperate or disagreement with the services. The parent may ask the court to modify the plan to require different or additional services requested by the parent, but which the agency refused to provide. The court may approve the plan as presented by the agency or may modify the plan to require services requested by the parent. The court's approval shall be based on the content of the petition.

(d) Unless the parent agrees to comply with the terms of the out-of-home placement plan, the court may not order a parent to comply with the provisions of the plan until the court finds the child is in need of protection or services and orders disposition under section 260C.201, subdivision 1. However, the court may find that the responsible social services agency has made reasonable efforts for reunification if the agency makes efforts to implement the terms of an out-of-home placement plan approved under this section.

History: *1999 c 139 art 3 s 19; art 4 s 2; 1999 c 245 art 8 s 52,53; 2000 c 260 s 38; 2001 c 178 art 1 s 13,14,44; 2005 c 159 art 2 s 15; 2008 c 361 art 6 s 32; 2009 c 163 art 2 s 27,28; 2010 c 269 art 4 s 4;*

2012 c 216 art 4 s 11,12; art 6 s 13; 2013 c 125 art 1 s 57; 2015 c 78 art 1 s 30; 1Sp2019 c 9 art 1 s 25; 1Sp2020 c 2 art 8 s 121

260C.181 PLACE OF TEMPORARY CUSTODY; SHELTER CARE FACILITY.

Subdivision 1. **Temporary custody.** A child taken into custody pursuant to section 260C.175 may be detained for up to 24 hours in a shelter care facility, secure detention facility, or, if there is no secure detention facility available for use by the county having jurisdiction over the child, in a jail or other facility for the confinement of adults who have been charged with or convicted of a crime in quarters separate from any adult confined in the facility which has been approved for the detention of juveniles by the commissioner of corrections. At the end of the 24-hour detention any child requiring further detention may be detained only as provided in this section.

Subd. 2. **Least restrictive setting.** Notwithstanding the provisions of subdivision 1, if the child had been taken into custody pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), and is not alleged to be delinquent, the child shall be detained in the least restrictive setting consistent with the child's health and welfare and in closest proximity to the child's family as possible. Placement may be with a child's relative, a designated caregiver under chapter 257A, or in a shelter care facility. The placing officer shall comply with this section and shall document why a less restrictive setting will or will not be in the best interests of the child for placement purposes.

Subd. 3. **Placement.** If the child had been taken into custody and detained as one who is alleged to be in need of protection or services under section 260C.007, subdivision 6, clause (13) or (14), by reason of having been adjudicated, in need of protection or services under section 260C.007, subdivision 6, clause (13) or (14), or conditionally released by the juvenile court without adjudication, has violated probation, parole, or other field supervision under which the child had been placed as a result of behavior described in this subdivision, the child may be placed only in a shelter care facility.

History: *1999 c 139 art 3 s 20; 2000 c 260 s 39; 2001 c 178 art 1 s 44*

260C.188 CHILDREN IN CUSTODY; RESPONSIBILITY FOR MEDICAL CARE.

Subdivision 1. **Medical aid.** If a child is taken into custody as provided in section 260C.175 and detained in a local juvenile secure detention facility or a shelter care facility, the child's county of residence shall pay the costs of medical services provided to the child during the period of time the child is residing in the facility. The county of residence is entitled to reimbursement from the child or the child's family for payment of medical bills to the extent that the child or the child's family has the ability to pay for the medical services. If there is a disagreement between the county and the child or the child's family concerning the ability to pay or whether the medical services were necessary, the court with jurisdiction over the child shall determine the extent, if any, of the child's or the family's ability to pay for the medical services or whether the services are necessary. If the child is covered by health or medical insurance or a health plan when medical services are provided, the county paying the costs of medical services has a right of subrogation to be reimbursed by the insurance carrier or health plan for all amounts spent by it for medical services to the child that are covered by the insurance policy or health plan, in accordance with the benefits, limitations, exclusions, provider restrictions, and other provisions of the policy or health plan. The county may maintain an action to enforce this subrogation right. The county does not have a right of subrogation against the medical assistance program or the MinnesotaCare program.

Subd. 2. **Intake procedure; health coverage.** As part of its intake procedure for children, the official having custody over the child shall ask the child or the child's family, as appropriate, whether the child has health coverage. If the child has coverage under a policy of accident and health insurance regulated under

chapter 62A, a health maintenance contract regulated under chapter 62D, a group subscriber contract regulated under chapter 62C, a health benefit certificate regulated under chapter 64B, a self-insured plan, or other health coverage, the child or the child's family, as appropriate, shall provide to the official having custody over the child the name of the carrier or administrator and other information and authorizations necessary for the official having custody over the child to obtain specific information about coverage.

Subd. 3. **Obtaining health care in compliance with coverage.** A county board may authorize the officials having custody over children to fulfill the county board's obligation to provide the medical aid required by subdivision 1 in accordance with the terms of the health plan covering the child, where possible, subject to any rules and exceptions provided by the county board. The official having custody over a child has no obligation to the child or to the child's family to obtain the child's health care in accordance with the child's health coverage.

Subd. 4. **Scope.** Subdivisions 1, 2, and 3 apply to any medical aid, including dental care, provided to children held in custody by the county as described in subdivision 1.

History: *1999 c 139 art 3 s 21; 2016 c 158 art 2 s 114*

260C.190 FAMILY-FOCUSED RESIDENTIAL PLACEMENT.

Subdivision 1. **Placement.** (a) An agency with legal responsibility for a child under section 260C.178, subdivision 1, paragraph (c), or legal custody of a child under section 260C.201, subdivision 1, paragraph (a), clause (3), may colocate a child with a parent who is receiving services in a licensed residential family-based substance use disorder treatment program for up to 12 months.

(b) During the child's placement under paragraph (a), the agency: (1) may visit the child as the agency deems necessary and appropriate; (2) shall continue to have access to information under section 260C.208; and (3) shall continue to provide appropriate services to both the parent and the child.

(c) The agency may terminate the child's placement under paragraph (a) to protect the child's health, safety, or welfare and may remove the child to foster care without a prior court order or authorization.

Subd. 2. **Case plans.** (a) Before a child may be colocated with a parent in a licensed residential family-based substance use disorder treatment program, a recommendation that the child's placement with a parent is in the child's best interests must be documented in the child's case plan. Each child must have a written case plan developed with the parent and the treatment program staff that describes the safety plan for the child and the treatment program's responsibilities if the parent leaves or is discharged without completing the program. The treatment program must be provided with a copy of the case plan that includes the recommendations and safety plan at the time the child is colocated with the parent.

(b) An out-of-home placement plan under section 260C.212, subdivision 1, must be completed no later than 30 days from when a child is colocated with a parent in a licensed residential family-based substance use disorder treatment program. The written plan developed with parent and treatment program staff in paragraph (a) may be updated and must be incorporated into the out-of-home placement plan. The treatment program must be provided with a copy of the child's out-of-home placement plan.

Subd. 3. **Required reviews and permanency proceedings.** (a) For a child colocated with a parent under subdivision 1, court reviews must occur according to section 260C.202.

(b) If a child has been in foster care for six months, a court review under section 260C.202 may be conducted in lieu of a permanency progress review hearing under section 260C.204 when the child is

colocated with a parent consistent with section 260C.503, subdivision 3, paragraph (c), in a licensed residential family-based substance use disorder treatment program.

(c) If the child is colocated with a parent in a licensed residential family-based substance use disorder treatment program 12 months after the child was placed in foster care, the agency must file a report with the court regarding the parent's progress in the treatment program and the agency's reasonable efforts to finalize the child's safe and permanent return to the care and custody of the parent consistent with section 260C.503, subdivision 3, paragraph (c), in lieu of filing a petition required under section 260C.505.

(d) The court shall make findings regarding the reasonable efforts of the agency to finalize the child's return home as the permanency disposition order in the child's best interests. The court may continue the child's foster care placement colocated with a parent in a licensed residential family-based substance use disorder treatment program for up to 12 months. When a child has been in foster care placement for 12 months, but the duration of the colocation with a parent in a licensed residential family-based substance use disorder treatment program is less than 12 months, the court may continue the colocation with the total time spent in foster care not exceeding 15 out of the most recent 22 months. If the court finds that the agency fails to make reasonable efforts to finalize the child's return home as the permanency disposition order in the child's best interests, the court may order additional efforts to support the child remaining in the care of the parent.

(e) If a parent leaves or is discharged from a licensed residential family-based substance use disorder treatment program without completing the program, the child's placement under this section is terminated and the agency may remove the child to foster care without a prior court order or authorization. Within three days of any termination of a child's placement, the agency shall notify the court and each party.

(f) If a parent leaves or is discharged from a licensed residential family-based substance use disorder treatment program without completing the program and the child has been in foster care for less than six months, the court must hold a review hearing within ten days of receiving notice of a termination of a child's placement and must order an alternative disposition under section 260C.201.

(g) If a parent leaves or is discharged from a licensed residential family-based substance use disorder treatment program without completing the program and the child is colocated with a parent and the child has been in foster care for more than six months but less than 12 months, the court must conduct a permanency progress review hearing under section 260C.204 no later than 30 days after the day the parent leaves or is discharged.

(h) If a parent leaves or is discharged from a licensed residential family-based substance use disorder treatment program without completing the program and the child is colocated with a parent and the child has been in foster care for more than 12 months, the court shall begin permanency proceedings under sections 260C.503 to 260C.521.

History: *1Sp2019 c 9 art 1 s 26*

DISPOSITION

260C.193 DISPOSITIONS; GENERAL PROVISIONS.

Subdivision 1. **Dismissal of petition.** Whenever the court finds that the minor is not within the jurisdiction of the court or that the facts alleged in the petition have not been proved, it shall dismiss the petition.

Subd. 2. **Consideration of reports.** Before making a disposition in a case, terminating parental rights, or appointing a guardian for a child, the court may consider any report or recommendation made by the responsible social services agency, probation officer, licensed child-placing agency, foster parent, guardian ad litem, tribal representative, the child's health or mental health care provider, or other authorized advocate for the child or child's family, a school district concerning the effect on student transportation of placing a child in a school district in which the child is not a resident, or any other information deemed material by the court.

Subd. 3. **Best interests of the child.** (a) The policy of the state is to ensure that the best interests of children in foster care, who experience transfer of permanent legal and physical custody to a relative under section 260C.515, subdivision 4, or adoption under this chapter, are met by requiring individualized determinations under section 260C.212, subdivision 2, paragraph (b), of the needs of the child and of how the selected home will serve the needs of the child.

(b) No later than three months after a child is ordered removed from the care of a parent in the hearing required under section 260C.202, the court shall review and enter findings regarding whether the responsible social services agency made:

(1) diligent efforts to identify and search for relatives as required under section 260C.221; and

(2) an individualized determination as required under section 260C.212, subdivision 2, to select a home that meets the needs of the child.

(c) If the court finds the agency has not made efforts as required under section 260C.221, and there is a relative who qualifies to be licensed to provide family foster care under chapter 245A, the court may order the child placed with the relative consistent with the child's best interests.

(d) If the agency's efforts under section 260C.221 are found to be sufficient, the court shall order the agency to continue to appropriately engage relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to appropriately engage relatives who subsequently come to the agency's attention.

(e) If the child's birth parent or parents explicitly request that a relative or important friend not be considered, the court shall honor that request if it is consistent with the best interests of the child and consistent with the requirements of section 260C.221. If the child's birth parent or parents express a preference for placing the child in a foster or adoptive home of the same or a similar religious background to that of the birth parent or parents, the court shall order placement of the child with an individual who meets the birth parent's religious preference.

(f) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

(g) Whenever possible, siblings requiring foster care placement should be placed together unless it is determined not to be in the best interests of siblings after weighing the benefits of separate placement against the benefits of sibling connections for each sibling. If siblings were not placed together according to section 260C.212, subdivision 2, paragraph (d), the responsible social services agency shall report to the court the efforts made to place the siblings together and why the efforts were not successful. If the court is not satisfied that the agency has made reasonable efforts to place siblings together, the court must order the agency to make further reasonable efforts. If siblings are not placed together, the court shall order the responsible social services agency to implement the plan for visitation among siblings required as part of the out-of-home placement plan under section 260C.212.

(h) This subdivision does not affect the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

Subd. 4. **Reports; juveniles placed out of state.** Whenever a child is placed in a residential program located outside of this state pursuant to a disposition order issued under section 260C.201, the juvenile court administrator shall report the following information to the state court administrator:

(1) the fact that the placement is out of state;

(2) the type of placement; and

(3) the reason for the placement.

Subd. 5. **Intended outcomes.** When the court orders an out-of-home placement disposition for a child, the court shall state in its disposition order the intended outcome of the placement.

Subd. 6. **Jurisdiction to review foster care to age 21, termination of jurisdiction, jurisdiction to age 18.** (a) Jurisdiction over a child in foster care pursuant to section 260C.451 shall continue to age 21 for the purpose of conducting the reviews required under section 260C.203, 260C.317, subdivision 3, or 260C.515, subdivision 5 or 6. Jurisdiction over a child in foster care pursuant to section 260C.451 shall not be terminated without giving the child notice of any motion or proposed order to dismiss jurisdiction and an opportunity to be heard on the appropriateness of the dismissal. When a child in foster care pursuant to section 260C.451 asks to leave foster care or actually leaves foster care, the court may terminate its jurisdiction.

(b) The court may terminate jurisdiction on its own motion or the motion of any interested party upon a determination that jurisdiction is no longer necessary to protect the child's best interests except when:

(1) a court order is necessary for a child to be in foster care; or

(2) continued review under section 260C.203, 260C.317, subdivision 3, or 260C.515, subdivision 5 or 6, is required for a child in foster care under section 260C.451.

(c) Unless terminated by the court, and except as otherwise provided in this subdivision, the jurisdiction of the court shall continue until the child becomes 18 years of age. The court may continue jurisdiction over an individual and all other parties to the proceeding to the individual's 19th birthday when continuing jurisdiction is in the individual's best interest in order to:

(1) protect the safety or health of the individual;

(2) accomplish additional planning for independent living or for the transition out of foster care; or

(3) support the individual's completion of high school or a high school equivalency program.

History: *1999 c 139 art 3 s 22; art 4 s 2; 1999 c 164 s 1; 1999 c 216 art 6 s 10; 2001 c 178 art 1 s 15,44; 2005 c 165 art 2 s 2; 2007 c 54 art 5 s 5; 2010 c 269 art 3 s 4; 2010 c 301 art 3 s 6; 2012 c 216 art 1 s 14; art 4 s 13,14; art 6 s 13*

260C.201 DISPOSITIONS; CHILDREN IN NEED OF PROTECTION OR SERVICES OR NEGLECTED AND IN FOSTER CARE.

Subdivision 1. **Dispositions.** (a) If the court finds that the child is in need of protection or services or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the responsible social services agency or child-placing agency in the home of a parent of the child under conditions prescribed by the court directed to the correction of the child's need for protection or services:

(i) the court may order the child into the home of a parent who does not otherwise have legal custody of the child, however, an order under this section does not confer legal custody on that parent;

(ii) if the court orders the child into the home of a father who is not adjudicated, the father must cooperate with paternity establishment proceedings regarding the child in the appropriate jurisdiction as one of the conditions prescribed by the court for the child to continue in the father's home; and

(iii) the court may order the child into the home of a noncustodial parent with conditions and may also order both the noncustodial and the custodial parent to comply with the requirements of a case plan under subdivision 2; or

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the responsible social services agency. In making a foster care placement for a child whose custody has been transferred under this subdivision, the agency shall make an individualized determination of how the placement is in the child's best interests using the consideration for relatives, the best interest factors in section 260C.212, subdivision 2, paragraph (b), and may include a child colocated with a parent in a licensed residential family-based substance use disorder treatment program under section 260C.190; or

(3) order a trial home visit without modifying the transfer of legal custody to the responsible social services agency under clause (2). Trial home visit means the child is returned to the care of the parent or guardian from whom the child was removed for a period not to exceed six months. During the period of the trial home visit, the responsible social services agency:

(i) shall continue to have legal custody of the child, which means the agency may see the child in the parent's home, at school, in a child care facility, or other setting as the agency deems necessary and appropriate;

(ii) shall continue to have the ability to access information under section 260C.208;

(iii) shall continue to provide appropriate services to both the parent and the child during the period of the trial home visit;

(iv) without previous court order or authorization, may terminate the trial home visit in order to protect the child's health, safety, or welfare and may remove the child to foster care;

(v) shall advise the court and parties within three days of the termination of the trial home visit when a visit is terminated by the responsible social services agency without a court order; and

(vi) shall prepare a report for the court when the trial home visit is terminated whether by the agency or court order which describes the child's circumstances during the trial home visit and recommends appropriate orders, if any, for the court to enter to provide for the child's safety and stability. In the event a trial home visit is terminated by the agency by removing the child to foster care without prior court order or authorization, the court shall conduct a hearing within ten days of receiving notice of the termination of the trial home visit by the agency and shall order disposition under this subdivision or commence permanency proceedings under sections 260C.503 to 260C.515. The time period for the hearing may be extended by the court for

good cause shown and if it is in the best interests of the child as long as the total time the child spends in foster care without a permanency hearing does not exceed 12 months;

(4) if the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a physical or mental disability or emotional disturbance as defined in section 245.4871, subdivision 15, the court may order the child's parent, guardian, or custodian to provide it. The court may order the child's health plan company to provide mental health services to the child. Section 62Q.535 applies to an order for mental health services directed to the child's health plan company. If the health plan, parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. Absent specific written findings by the court that the child's disability is the result of abuse or neglect by the child's parent or guardian, the court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(5) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's conduct and the conduct of the parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to $100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child or of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel

the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

To the extent practicable, the court shall enter a disposition order the same day it makes a finding that a child is in need of protection or services or neglected and in foster care, but in no event more than 15 days after the finding unless the court finds that the best interests of the child will be served by granting a delay. If the child was under eight years of age at the time the petition was filed, the disposition order must be entered within ten days of the finding and the court may not grant a delay unless good cause is shown and the court finds the best interests of the child will be served by the delay.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in Laws 1997, chapter 239, article 10, section 2.

(e) When a parent has complied with a case plan ordered under subdivision 6 and the child is in the care of the parent, the court may order the responsible social services agency to monitor the parent's continued ability to maintain the child safely in the home under such terms and conditions as the court determines appropriate under the circumstances.

Subd. 2. **Written findings.** (a) Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition and case plan ordered and shall also set forth in writing the following information:

(1) why the best interests and safety of the child are served by the disposition and case plan ordered;

(2) what alternative dispositions or services under the case plan were considered by the court and why such dispositions or services were not appropriate in the instant case;

(3) when legal custody of the child is transferred, the appropriateness of the particular placement made or to be made by the placing agency using the factors in section 260C.212, subdivision 2, paragraph (b), or the appropriateness of a child colocated with a parent in a licensed residential family-based substance use disorder treatment program under section 260C.190;

(4) whether reasonable efforts to finalize the permanent plan for the child consistent with section 260.012 were made including reasonable efforts:

(i) to prevent the child's placement and to reunify the child with the parent or guardian from whom the child was removed at the earliest time consistent with the child's safety. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal or that reasonable efforts were not required under section 260.012 or 260C.178, subdivision 1;

(ii) to identify and locate any noncustodial or nonresident parent of the child and to assess such parent's ability to provide day-to-day care of the child, and, where appropriate, provide services necessary to enable the noncustodial or nonresident parent to safely provide day-to-day care of the child as required under section 260C.219, unless such services are not required under section 260.012 or 260C.178, subdivision 1;

(iii) to make the diligent search for relatives and provide the notices required under section 260C.221; a finding made pursuant to a hearing under section 260C.202 that the agency has made diligent efforts to conduct a relative search and has appropriately engaged relatives who responded to the notice under section 260C.221 and other relatives, who came to the attention of the agency after notice under section 260C.221 was sent, in placement and case planning decisions fulfills the requirement of this item;

(iv) to identify and make a foster care placement in the home of an unlicensed relative, according to the requirements of section 245A.035, a licensed relative, or other licensed foster care provider who will commit to being the permanent legal parent or custodian for the child in the event reunification cannot occur, but who will actively support the reunification plan for the child; and

(v) to place siblings together in the same home or to ensure visitation is occurring when siblings are separated in foster care placement and visitation is in the siblings' best interests under section 260C.212, subdivision 2, paragraph (d); and

(5) if the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a mental disability or emotional disturbance as defined in section 245.4871, subdivision 15, the written findings shall also set forth:

(i) whether the child has mental health needs that must be addressed by the case plan;

(ii) what consideration was given to the diagnostic and functional assessments performed by the child's mental health professional and to health and mental health care professionals' treatment recommendations;

(iii) what consideration was given to the requests or preferences of the child's parent or guardian with regard to the child's interventions, services, or treatment; and

(iv) what consideration was given to the cultural appropriateness of the child's treatment or services.

(b) If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(c) If the child has been identified by the responsible social services agency as the subject of concurrent permanency planning, the court shall review the reasonable efforts of the agency to develop a permanency plan for the child that includes a primary plan which is for reunification with the child's parent or guardian and a secondary plan which is for an alternative, legally permanent home for the child in the event reunification cannot be achieved in a timely manner.

Subd. 3. **Domestic child abuse.** (a) If the court finds that the child is a victim of domestic child abuse, as defined in section 260C.007, subdivision 13, it may order any of the following dispositions of the case in addition to or as alternatives to the dispositions authorized under subdivision 1:

(1) restrain any party from committing acts of domestic child abuse;

(2) exclude the abusing party from the dwelling which the family or household members share or from the residence of the child;

(3) on the same basis as is provided in chapter 518, establish temporary visitation with regard to minor children of the adult family or household members;

(4) on the same basis as is provided in chapter 518 or 518A, establish temporary support or maintenance for a period of 30 days for minor children or a spouse;

(5) provide counseling or other social services for the family or household members; or

(6) order the abusing party to participate in treatment or counseling services.

Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

(b) No order excluding the abusing party from the dwelling may be issued unless the court finds that:

(1) the order is in the best interests of the child or children remaining in the dwelling;

(2) a remaining adult family or household member is able to care adequately for the child or children in the absence of the excluded party; and

(3) the local welfare agency has developed a plan to provide appropriate social services to the remaining family or household members.

(c) Upon a finding that the remaining parent is able to care adequately for the child and enforce an order excluding the abusing party from the home and that the provision of supportive services by the responsible social services agency is no longer necessary, the responsible social services agency may be dismissed as a party to the proceedings. Orders entered regarding the abusing party remain in full force and effect and may be renewed by the remaining parent as necessary for the continued protection of the child for specified periods of time, not to exceed one year.

(d) An order granting relief that was issued after a hearing of which the abusing party received actual notice and at which the abusing party had the opportunity to participate, shall prohibit the abusing party from possessing firearms for the length the order is in effect if the order (1) restrains the abusing party from harassing, stalking, or threatening the child or restrains the abusing party from engaging in other conduct that would place the child in reasonable fear of bodily injury, and (2) includes a finding that the abusing party represents a credible threat to the physical safety of the child or prohibits the abusing party from using, attempting to use, or threatening to use physical force against the child. The order shall inform the abusing party of that party's prohibited status. Except as provided in paragraph (f), the court shall order the abusing party to transfer any firearms that the person possesses, within three business days, to a federally licensed firearms dealer, a law enforcement agency, or a third party who may lawfully receive them. The transfer may be permanent or temporary. A temporary firearm transfer only entitles the receiving party to possess the firearm. A temporary transfer does not transfer ownership or title. An abusing party may not transfer firearms to a third party who resides with the abusing party. If an abusing party makes a temporary transfer, a federally licensed firearms dealer or law enforcement agency may charge the abusing party a reasonable fee to store the person's firearms and may establish policies for disposal of abandoned firearms, provided

such policies require that the person be notified via certified mail prior to disposal of abandoned firearms. For temporary firearms transfers under this paragraph, a law enforcement agency, federally licensed firearms dealer, or third party shall exercise due care to preserve the quality and function of the transferred firearms and shall return the transferred firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The return of temporarily transferred firearms to an abusing party shall comply with state and federal law. If an abusing party permanently transfers the abusing party's firearms to a law enforcement agency, the agency is not required to compensate the abusing party and may charge the abusing party a reasonable processing fee. A law enforcement agency is not required to accept an abusing party's firearm under this paragraph.

(e) An abusing party who is ordered to transfer firearms under paragraph (d) must file proof of transfer as provided for in this paragraph. If the transfer is made to a third party, the third party must sign an affidavit under oath before a notary public either acknowledging that the abusing party permanently transferred the abusing party's firearms to the third party or agreeing to temporarily store the abusing party's firearms until such time as the abusing party is legally permitted to possess firearms. The affidavit shall indicate the serial number, make, and model of all firearms transferred by the abusing party to the third party. The third party shall acknowledge in the affidavit that the third party may be held criminally and civilly responsible under section 624.7144 if the abusing party gains access to a transferred firearm while the firearm is in the custody of the third party. If the transfer is to a law enforcement agency or federally licensed firearms dealer, the law enforcement agency or federally licensed firearms dealer shall provide proof of transfer to the abusing party. The proof of transfer must specify whether the firearms were permanently or temporarily transferred and include the name of the abusing party, date of transfer, and the serial number, make, and model of all transferred firearms. The abusing party shall provide the court with a signed and notarized affidavit or proof of transfer as described in this section within two business days of the firearms transfer. The court shall seal affidavits and proofs of transfer filed pursuant to this paragraph.

(f) When a court issues an order containing a firearms restriction provided for in paragraph (d), the court shall determine by a preponderance of evidence if an abusing party poses an imminent risk of causing another person substantial bodily harm. Upon a finding of imminent risk, the court shall order that the local law enforcement agency take immediate possession of all firearms in the abusing party's possession. The local law enforcement agency shall exercise due care to preserve the quality and function of the abusing party's firearms and shall return the firearms to the person upon request after the expiration of the prohibiting time period, provided the person is not otherwise prohibited from possessing firearms under state or federal law. The local law enforcement agency shall, upon written notice from the abusing party, transfer the firearms to a federally licensed firearms dealer or a third party who may lawfully receive them. Before a local law enforcement agency transfers a firearm under this paragraph, the agency shall require the third party or federally licensed firearms dealer receiving the firearm to submit an affidavit or proof of transfer that complies with the requirements for affidavits or proofs of transfer established in paragraph (e). The agency shall file all affidavits or proofs of transfer received with the court within two business days of the transfer. The court shall seal all affidavits or proofs of transfer filed pursuant to this paragraph. A federally licensed firearms dealer or third party who accepts a firearm transfer pursuant to this paragraph shall comply with paragraphs (d) and (e) as if accepting transfer from the abusing party. If the law enforcement agency does not receive written notice from the abusing party within three business days, the agency may charge a reasonable fee to store the abusing party's firearms. A law enforcement agency may establish policies for disposal of abandoned firearms, provided such policies require that the abusing party be notified via certified mail prior to disposal of abandoned firearms.

Subd. 4. **Support orders.** If the court issues an order for protection pursuant to section 260C.201, subdivision 3, excluding an abusing party from the dwelling who is the parent of a minor family or household member, it shall transfer the case file to the court which has jurisdiction over proceedings under chapter 518 or 518A for the purpose of establishing support or maintenance for minor children or a spouse, as provided in chapter 518 or 518A, during the effective period of the order for protection. The court to which the case file is transferred shall schedule and hold a hearing on the establishment of support or maintenance within 30 days of the issuance of the order for protection. After an order for support or maintenance has been granted or denied, the case file shall be returned to the juvenile court, and the order for support or maintenance, if any, shall be incorporated into the order for protection.

Subd. 5. **Visitation.** If the court orders the child into foster care, the court shall review and either modify or approve the agency's plan for supervised or unsupervised visitation that contributes to the objectives of the court-ordered case plan and the maintenance of the familial relationship, and that meets the requirements of section 260C.212, subdivision 1, paragraph (c), clause (5). No parent may be denied visitation unless the court finds at the disposition hearing that the visitation would endanger the child's physical or emotional well-being, is not in the child's best interests, or is not required under section 260C.178, subdivision 3, paragraph (c) or (d). The court shall review and either modify or approve the agency plan for visitation for any relatives as defined in section 260C.007, subdivision 26b or 27, and with siblings of the child, if visitation is consistent with the best interests of the child.

Subd. 6. **Case plan.** (a) For each disposition ordered where the child is placed away from a parent or guardian, the court shall order the responsible social services agency to prepare a written out-of-home placement plan according to the requirements of section 260C.212, subdivision 1. When a foster child is colocated with a parent in a licensed residential family-based substance use disorder treatment program under section 260C.190, the case plan must specify the recommendation for the colocation before the child is colocated with the parent.

(b) In cases where the child is not placed out of the home or is ordered into the home of a noncustodial parent, the responsible social services agency shall prepare a plan for delivery of social services to the child and custodial parent under section 260E.26, or any other case plan required to meet the needs of the child. The plan shall be designed to safely maintain the child in the home or to reunite the child with the custodial parent.

(c) The court may approve the case plan as presented or modify it after hearing from the parties. Once the plan is approved, the court shall order all parties to comply with it. A copy of the approved case plan shall be attached to the court's order and incorporated into it by reference.

(d) A party has a right to request a court review of the reasonableness of the case plan upon a showing of a substantial change of circumstances.

Subd. 7. **Order duration.** Subject to sections 260C.202 and 260C.503 to 260C.521, all orders under this section shall be for a specified length of time set by the court not to exceed one year. However, before the order has expired and upon its own motion or that of any interested party, the court shall, after notice to the parties and a hearing, renew the order for another year or make some other disposition of the case, until the individual is no longer a minor. Any responsible social services agency receiving legal custody of a child shall report to the court at such periods as the court may direct and as required under juvenile court rules.

Subd. 8. **Service of order.** Any person who provides services to a child under a disposition order, or who is subject to the conditions of a disposition order, shall be served with a copy of the order in the manner provided in the rules for juvenile courts.

Subd. 9. **Transfer of legal custody orders.** When the court transfers legal custody of a child to any licensed child-placing agency or the responsible social services agency, it shall transmit with the order transferring legal custody a copy of its findings and a summary of its information concerning the child.

Subd. 10. MS 2010 [Renumbered 260C.202]

Subd. 11. [Repealed, 2012 c 216 art 6 s 14]

Subd. 11a. MS 2010 [Renumbered 260C.204]

Subd. 12. **Continuance of case.** If it is in the best interests of the child to do so and if the allegations contained in the petition have been admitted, or when a hearing has been held as provided in section 260C.163 and the allegations contained in the petition have been duly proven, before the entry of a finding of need for protection or services or a finding that a child is neglected and in foster care, the court may continue the case for a period not to exceed 90 days on any one order. Following the 90-day continuance:

(1) if both the parent and child have complied with the terms of the continuance, the case must be dismissed without an adjudication that the child is in need of protection or services or that the child is neglected and in foster care; or

(2) if either the parent or child has not complied with the terms of the continuance, the court shall adjudicate the child in need of protection or services or neglected and in foster care.

History: *1999 c 139 art 3 s 23; art 4 s 2; 1999 c 245 art 8 s 54-57; 2000 c 260 s 40; 2001 c 178 art 1 s 16-23,44; 1Sp2001 c 9 art 9 s 47; 2002 c 304 s 7; 2002 c 379 art 1 s 113; 2004 c 288 art 3 s 29; 2005 c 136 art 15 s 5; 2005 c 159 art 2 s 16-18; 2005 c 164 s 29; 2005 c 165 art 2 s 3,4; 1Sp2005 c 5 art 2 s 80; 1Sp2005 c 7 s 28; 2007 c 147 art 1 s 18; 2009 c 163 art 1 s 2,3; art 2 s 29,30; 2010 c 269 art 3 s 5,6; 2010 c 301 art 3 s 7; 2012 c 216 art 1 s 15; art 4 s 15,16; art 6 s 13; 2014 c 213 s 1; 2015 c 78 art 1 s 31; 1Sp2019 c 9 art 1 s 27-29; 1Sp2020 c 2 art 8 s 122*

260C.202 COURT REVIEW OF FOSTER CARE.

(a) If the court orders a child placed in foster care, the court shall review the out-of-home placement plan and the child's placement at least every 90 days as required in juvenile court rules to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. This review is not required if the court has returned the child home, ordered the child permanently placed away from the parent under sections 260C.503 to 260C.521, or terminated rights under section 260C.301. Court review for a child permanently placed away from a parent, including where the child is under guardianship of the commissioner, shall be governed by section 260C.607. When a child is placed in a qualified residential treatment program setting as defined in section 260C.007, subdivision 26d, the responsible social services agency must submit evidence to the court as specified in section 260C.712.

(b) No later than three months after the child's placement in foster care, the court shall review agency efforts pursuant to section 260C.221, and order that the efforts continue if the agency has failed to perform the duties under that section. The court must order the agency to continue to appropriately engage relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to engage other relatives who came to the agency's attention after notice under section 260C.221 was sent.

(c) The court shall review the out-of-home placement plan and may modify the plan as provided under section 260C.201, subdivisions 6 and 7.

(d) When the court orders transfer of custody to a responsible social services agency resulting in foster care or protective supervision with a noncustodial parent under subdivision 1, the court shall notify the parents of the provisions of sections 260C.204 and 260C.503 to 260C.521, as required under juvenile court rules.

(e) When a child remains in or returns to foster care pursuant to section 260C.451 and the court has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the court shall at least annually conduct the review required under section 260C.203.

History: *2001 c 178 art 1 s 21; 2005 c 159 art 2 s 17; 2010 c 269 art 3 s 5; 2010 c 301 art 3 s 7; 2012 c 216 art 6 s 13; 1Sp2020 c 2 art 5 s 75*

260C.203 ADMINISTRATIVE OR COURT REVIEW OF PLACEMENTS.

(a) Unless the court is conducting the reviews required under section 260C.202, there shall be an administrative review of the out-of-home placement plan of each child placed in foster care no later than 180 days after the initial placement of the child in foster care and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The out-of-home placement plan must be monitored and updated at each administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.141, subdivision 2; 260C.193; 260C.201, subdivision 1; 260C.202; 260C.204; 260C.317; or 260D.06 shall satisfy the requirement for the review so long as the other requirements of this section are met.

(c) As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

(1) the safety, permanency needs, and well-being of the child;

(2) the continuing necessity for and appropriateness of the placement;

(3) the extent of compliance with the out-of-home placement plan;

(4) the extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care;

(5) the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian; and

(6) the appropriateness of the services provided to the child.

(d) When a child is age 14 or older:

(1) in addition to any administrative review conducted by the responsible social services agency, at the in-court review required under section 260C.317, subdivision 3, clause (3), or 260C.515, subdivision 5 or 6, the court shall review the independent living plan required under section 260C.212, subdivision 1, paragraph (c), clause (12), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care; and

(2) consistent with the requirements of the independent living plan, the court shall review progress toward or accomplishment of the following goals:

(i) the child has obtained a high school diploma or its equivalent;

(ii) the child has completed a driver's education course or has demonstrated the ability to use public transportation in the child's community;

(iii) the child is employed or enrolled in postsecondary education;

(iv) the child has applied for and obtained postsecondary education financial aid for which the child is eligible;

(v) the child has health care coverage and health care providers to meet the child's physical and mental health needs;

(vi) the child has applied for and obtained disability income assistance for which the child is eligible;

(vii) the child has obtained affordable housing with necessary supports, which does not include a homeless shelter;

(viii) the child has saved sufficient funds to pay for the first month's rent and a damage deposit;

(ix) the child has an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;

(x) the child, if male, has registered for the Selective Service; and

(xi) the child has a permanent connection to a caring adult.

History: *1999 c 245 art 8 s 24; 2001 c 178 art 1 s 29; 2005 c 56 s 1; 2008 c 361 art 6 s 40; 2009 c 106 s 1; 2009 c 163 art 1 s 6; art 2 s 35; 2010 c 269 art 3 s 7; 2010 c 301 art 3 s 8; 2010 c 382 s 52; 2012 c 216 art 1 s 19; art 4 s 18; art 6 s 13; 2015 c 71 art 1 s 57; 2016 c 189 art 15 s 7*

260C.204 PERMANENCY PROGRESS REVIEW FOR CHILDREN IN FOSTER CARE FOR SIX MONTHS.

(a) When a child continues in placement out of the home of the parent or guardian from whom the child was removed, no later than six months after the child's placement the court shall conduct a permanency progress hearing to review:

(1) the progress of the case, the parent's progress on the case plan or out-of-home placement plan, whichever is applicable;

(2) the agency's reasonable, or in the case of an Indian child, active efforts for reunification and its provision of services;

(3) the agency's reasonable efforts to finalize the permanent plan for the child under section 260.012, paragraph (e), and to make a placement as required under section 260C.212, subdivision 2, in a home that will commit to being the legally permanent family for the child in the event the child cannot return home according to the timelines in this section; and

(4) in the case of an Indian child, active efforts to prevent the breakup of the Indian family and to make a placement according to the placement preferences under United States Code, title 25, chapter 21, section 1915.

(b) When a child is placed in a qualified residential treatment program setting as defined in section 260C.007, subdivision 26d, the responsible social services agency must submit evidence to the court as specified in section 260C.712.

(c) The court shall ensure that notice of the hearing is sent to any relative who:

(1) responded to the agency's notice provided under section 260C.221, indicating an interest in participating in planning for the child or being a permanency resource for the child and who has kept the court apprised of the relative's address; or

(2) asked to be notified of court proceedings regarding the child as is permitted in section 260C.152, subdivision 5.

(d)(1) If the parent or guardian has maintained contact with the child and is complying with the court-ordered out-of-home placement plan, and if the child would benefit from reunification with the parent, the court may either:

(i) return the child home, if the conditions which led to the out-of-home placement have been sufficiently mitigated that it is safe and in the child's best interests to return home; or

(ii) continue the matter up to a total of six additional months. If the child has not returned home by the end of the additional six months, the court must conduct a hearing according to sections 260C.503 to 260C.521.

(2) If the court determines that the parent or guardian is not complying with the out-of-home placement plan or is not maintaining regular contact with the child as outlined in the visitation plan required as part of the out-of-home placement plan under section 260C.212, the court may order the responsible social services agency:

(i) to develop a plan for legally permanent placement of the child away from the parent;

(ii) to consider, identify, recruit, and support one or more permanency resources from the child's relatives and foster parent to be the legally permanent home in the event the child cannot be returned to the parent. Any relative or the child's foster parent may ask the court to order the agency to consider them for permanent placement of the child in the event the child cannot be returned to the parent. A relative or foster parent who wants to be considered under this item shall cooperate with the background study required under section 245C.08, if the individual has not already done so, and with the home study process required under chapter 245A for providing child foster care and for adoption under section 259.41. The home study referred to in this item shall be a single-home study in the form required by the commissioner of human services or similar study required by the individual's state of residence when the subject of the study is not a resident of Minnesota. The court may order the responsible social services agency to make a referral under the Interstate Compact on the Placement of Children when necessary to obtain a home study for an individual who wants to be considered for transfer of permanent legal and physical custody or adoption of the child; and

(iii) to file a petition to support an order for the legally permanent placement plan.

(e) Following the review under this section:

(1) if the court has either returned the child home or continued the matter up to a total of six additional months, the agency shall continue to provide services to support the child's return home or to make reasonable efforts to achieve reunification of the child and the parent as ordered by the court under an approved case plan;

(2) if the court orders the agency to develop a plan for the transfer of permanent legal and physical custody of the child to a relative, a petition supporting the plan shall be filed in juvenile court within 30 days of the hearing required under this section and a trial on the petition held within 60 days of the filing of the pleadings; or

(3) if the court orders the agency to file a termination of parental rights, unless the county attorney can show cause why a termination of parental rights petition should not be filed, a petition for termination of parental rights shall be filed in juvenile court within 30 days of the hearing required under this section and a trial on the petition held within 60 days of the filing of the petition.

History: *2001 c 178 art 1 s 23; 2012 c 216 art 6 s 13; 1Sp2020 c 2 art 5 s 76*

260C.205 MS 2010 [Renumbered 260D.11]

260C.206 MS 2010 [Renumbered 260C.225]

260C.207 [Repealed, 2008 c 361 art 6 s 59]

260C.208 INFORMATION FOR CHILD PLACEMENT.

Subdivision 1. **Agency with placement authority.** An agency with legal responsibility for the placement of a child may request and shall receive all information pertaining to the child that it considers necessary to appropriately carry out its duties. That information must include educational, medical, psychological, psychiatric, and social or family history data retained in any form by any individual or entity. The agency may gather appropriate data regarding the child's parents in order to develop and implement a case plan required by section 260C.212. Upon request of the court responsible for overseeing the provision of services to the child and family and for implementing orders that are in the best interest of the child, the responsible social services agency or tribal social services agency shall provide appropriate written or oral reports from any individual or entity that has provided services to the child or family. The reports must include the nature of the services being provided the child or family; the reason for the services; the nature, extent, and quality of the child's or parent's participation in the services, where appropriate; and recommendations for continued services, where appropriate. The individual or entity shall report all observations and information upon which it bases its report as well as its conclusions. If necessary to facilitate the receipt of the reports, the court may issue appropriate orders.

Subd. 2. **Access to specific data.** A social services agency responsible for the residential placement of a child under this section and the residential facility in which the child is placed shall have access to the following data on the child:

(1) medical data under section 13.384;

(2) corrections and detention data under section 13.85;

(3) juvenile court data under section 260C.171; and

(4) health records under sections 144.291 to 144.298.

History: *1999 c 139 art 3 s 25; 1999 c 227 s 22; 2001 c 178 art 1 s 44; 2007 c 147 art 10 s 15*

260C.209 BACKGROUND CHECKS.

Subdivision 1. **Subjects.** The responsible social services agency may have access to the criminal history and history of child and adult maltreatment on the following individuals:

(1) a noncustodial parent or nonadjudicated parent who is being assessed for purposes of providing day-to-day care of a child temporarily or permanently under section 260C.219 and any member of the parent's household who is over the age of 13 when there is a reasonable cause to believe that the parent or household member over age 13 has a criminal history or a history of maltreatment of a child or vulnerable adult which would endanger the child's health, safety, or welfare;

(2) an individual whose suitability for relative placement under section 260C.221 is being determined and any member of the relative's household who is over the age of 13 when:

(i) the relative must be licensed for foster care; or

(ii) the background study is required under section 259.53, subdivision 2; or

(iii) the agency or the commissioner has reasonable cause to believe the relative or household member over the age of 13 has a criminal history which would not make transfer of permanent legal and physical custody to the relative under section 260C.515, subdivision 4, in the child's best interest; and

(3) a parent, following an out-of-home placement, when the responsible social services agency has reasonable cause to believe that the parent has been convicted of a crime directly related to the parent's capacity to maintain the child's health, safety, or welfare or the parent is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years.

"Reasonable cause" means that the agency has received information or a report from the subject or a third person that creates an articulable suspicion that the individual has a history that may pose a risk to the health, safety, or welfare of the child. The information or report must be specific to the potential subject of the background check and shall not be based on the race, religion, ethnic background, age, class, or lifestyle of the potential subject.

Subd. 2. **General procedures.** (a) When accessing information under subdivision 1, the agency shall require the individual being assessed to provide sufficient information to ensure an accurate assessment under this section, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

(2) home address, zip code, city, county, and state of residence for the past five years;

(3) sex;

(4) date of birth; and

(5) driver's license number or state identification number.

(b) When notified by the responsible social services agency that it is accessing information under subdivision 1, the Bureau of Criminal Apprehension, commissioners of health and human services, law enforcement, and county agencies must provide the responsible social services agency or county attorney with the following information on the individual being assessed: criminal history data, local law enforcement data about the household, reports about the maltreatment of adults substantiated under section 626.557, and reports of maltreatment of minors substantiated under chapter 260E.

Subd. 3. **Multistate information.** In cases involving the emergency relative placement of children under section 245A.035, the social services agency or county attorney may request a name-based check of the National Criminal Records Repository. In those cases, fingerprints of the individual being checked must be forwarded to the Bureau of Criminal Apprehension for submission to the Federal Bureau of Investigation within 15 calendar days of the name-based check. If the subject of the name-based check does not provide fingerprints upon request, the child or children must be removed from the home.

Subd. 4. [Repealed, 2009 c 163 art 1 s 9]

Subd. 5. **Assessment for emergency relative placement.** The responsible social services agency may obtain household members' criminal history and the history of maltreatment of a child or adult and use the history to assess whether putting the child in the household would endanger the child's health, safety, or welfare and to assess the suitability of a relative prior to an emergency placement. This assessment does not substitute for the background study required under chapter 245C and does not supersede requirements related to emergency placement under section 245A.035.

History: *2005 c 136 art 15 s 6; 2007 c 8 s 1; 2007 c 147 art 3 s 29; 2008 c 361 art 6 s 34-36; 2009 c 163 art 1 s 4; 2012 c 216 art 6 s 13; 1Sp2020 c 2 art 8 s 123*

260C.212 CHILDREN IN PLACEMENT.

Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in foster care by court order or a voluntary placement agreement between the responsible social services agency and the child's parent pursuant to section 260C.227 or chapter 260D.

(b) An out-of-home placement plan means a written document which is prepared by the responsible social services agency jointly with the parent or parents or guardian of the child and in consultation with the child's guardian ad litem, the child's tribe, if the child is an Indian child, the child's foster parent or representative of the foster care facility, and, where appropriate, the child. When a child is age 14 or older, the child may include two other individuals on the team preparing the child's out-of-home placement plan. The child may select one member of the case planning team to be designated as the child's advisor and to advocate with respect to the application of the reasonable and prudent parenting standards. The responsible social services agency may reject an individual selected by the child if the agency has good cause to believe that the individual would not act in the best interest of the child. For a child in voluntary foster care for treatment under chapter 260D, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. For a child 18 years of age or older, the responsible social services agency shall involve the child and the child's parents as appropriate. As appropriate, the plan shall be:

(1) submitted to the court for approval under section 260C.178, subdivision 7;

(2) ordered by the court, either as presented or modified after hearing, under section 260C.178, subdivision 7, or 260C.201, subdivision 6; and

(3) signed by the parent or parents or guardian of the child, the child's guardian ad litem, a representative of the child's tribe, the responsible social services agency, and, if possible, the child.

(c) The out-of-home placement plan shall be explained to all persons involved in its implementation, including the child who has signed the plan, and shall set forth:

(1) a description of the foster care home or facility selected, including how the out-of-home placement plan is designed to achieve a safe placement for the child in the least restrictive, most family-like, setting available which is in close proximity to the home of the parent or parents or guardian of the child when the case plan goal is reunification, and how the placement is consistent with the best interests and special needs of the child according to the factors under subdivision 2, paragraph (b);

(2) the specific reasons for the placement of the child in foster care, and when reunification is the plan, a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home and the changes the parent or parents must make for the child to safely return home;

(3) a description of the services offered and provided to prevent removal of the child from the home and to reunify the family including:

(i) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (2), and the time period during which the actions are to be taken; and

(ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made to achieve a safe and stable home for the child including social and other supportive services to be provided or offered to the parent or parents or guardian of the child, the child, and the residential facility during the period the child is in the residential facility;

(4) a description of any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of the child's placement in the residential facility, and whether those services or resources were provided and if not, the basis for the denial of the services or resources;

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 26b or 27, and siblings of the child if the siblings are not placed together in foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in foster care;

(6) when a child cannot return to or be in the care of either parent, documentation of steps to finalize adoption as the permanency plan for the child through reasonable efforts to place the child for adoption. At a minimum, the documentation must include consideration of whether adoption is in the best interests of the child, child-specific recruitment efforts such as relative search and the use of state, regional, and national adoption exchanges to facilitate orderly and timely placements in and outside of the state. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

(7) when a child cannot return to or be in the care of either parent, documentation of steps to finalize the transfer of permanent legal and physical custody to a relative as the permanency plan for the child. This documentation must support the requirements of the kinship placement agreement under section 256N.22 and must include the reasonable efforts used to determine that it is not appropriate for the child to return home or be adopted, and reasons why permanent placement with a relative through a Northstar kinship assistance arrangement is in the child's best interest; how the child meets the eligibility requirements for Northstar kinship assistance payments; agency efforts to discuss adoption with the child's relative foster parent and reasons why the relative foster parent chose not to pursue adoption, if applicable; and agency

efforts to discuss with the child's parent or parents the permanent transfer of permanent legal and physical custody or the reasons why these efforts were not made;

(8) efforts to ensure the child's educational stability while in foster care for a child who attained the minimum age for compulsory school attendance under state law and is enrolled full time in elementary or secondary school, or instructed in elementary or secondary education at home, or instructed in an independent study elementary or secondary program, or incapable of attending school on a full-time basis due to a medical condition that is documented and supported by regularly updated information in the child's case plan. Educational stability efforts include:

(i) efforts to ensure that the child remains in the same school in which the child was enrolled prior to placement or upon the child's move from one placement to another, including efforts to work with the local education authorities to ensure the child's educational stability and attendance; or

(ii) if it is not in the child's best interest to remain in the same school that the child was enrolled in prior to placement or move from one placement to another, efforts to ensure immediate and appropriate enrollment for the child in a new school;

(9) the educational records of the child including the most recent information available regarding:

(i) the names and addresses of the child's educational providers;

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) a statement about how the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement; and

(v) any other relevant educational information;

(10) the efforts by the responsible social services agency to ensure the oversight and continuity of health care services for the foster child, including:

(i) the plan to schedule the child's initial health screens;

(ii) how the child's known medical problems and identified needs from the screens, including any known communicable diseases, as defined in section 144.4172, subdivision 2, shall be monitored and treated while the child is in foster care;

(iii) how the child's medical information shall be updated and shared, including the child's immunizations;

(iv) who is responsible to coordinate and respond to the child's health care needs, including the role of the parent, the agency, and the foster parent;

(v) who is responsible for oversight of the child's prescription medications;

(vi) how physicians or other appropriate medical and nonmedical professionals shall be consulted and involved in assessing the health and well-being of the child and determine the appropriate medical treatment for the child; and

(vii) the responsibility to ensure that the child has access to medical care through either medical insurance or medical assistance;

(11) the health records of the child including information available regarding:

(i) the names and addresses of the child's health care and dental care providers;

(ii) a record of the child's immunizations;

(iii) the child's known medical problems, including any known communicable diseases as defined in section 144.4172, subdivision 2;

(iv) the child's medications; and

(v) any other relevant health care information such as the child's eligibility for medical insurance or medical assistance;

(12) an independent living plan for a child 14 years of age or older, developed in consultation with the child. The child may select one member of the case planning team to be designated as the child's advisor and to advocate with respect to the application of the reasonable and prudent parenting standards in subdivision 14. The plan should include, but not be limited to, the following objectives:

(i) educational, vocational, or employment planning;

(ii) health care planning and medical coverage;

(iii) transportation including, where appropriate, assisting the child in obtaining a driver's license;

(iv) money management, including the responsibility of the responsible social services agency to ensure that the child annually receives, at no cost to the child, a consumer report as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report;

(v) planning for housing;

(vi) social and recreational skills;

(vii) establishing and maintaining connections with the child's family and community; and

(viii) regular opportunities to engage in age-appropriate or developmentally appropriate activities typical for the child's age group, taking into consideration the capacities of the individual child;

(13) for a child in voluntary foster care for treatment under chapter 260D, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes;

(14) for a child 14 years of age or older, a signed acknowledgment that describes the child's rights regarding education, health care, visitation, safety and protection from exploitation, and court participation; receipt of the documents identified in section 260C.452; and receipt of an annual credit report. The acknowledgment shall state that the rights were explained in an age-appropriate manner to the child; and

(15) for a child placed in a qualified residential treatment program, the plan must include the requirements in section 260C.708.

(d) The parent or parents or guardian and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social services agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved or approved or ordered by the court, the foster parents shall be fully informed of the provisions of the case plan and shall be provided a copy of the plan.

Upon the child's discharge from foster care, the responsible social services agency must provide the child's parent, adoptive parent, or permanent legal and physical custodian, and the child, if the child is 14 years of age or older, with a current copy of the child's health and education record. If a child meets the conditions in subdivision 15, paragraph (b), the agency must also provide the child with the child's social and medical history. The responsible social services agency may give a copy of the child's health and education record and social and medical history to a child who is younger than 14 years of age, if it is appropriate and if subdivision 15, paragraph (b), applies.

Subd. 1a. **Out-of-home placement plan update.** (a) Within 30 days of placing the child in foster care, the agency must file the child's initial out-of-home placement plan with the court. After filing the child's initial out-of-home placement plan, the agency shall update and file the child's out-of-home placement plan with the court as follows:

(1) when the agency moves a child to a different foster care setting, the agency shall inform the court within 30 days of the child's placement change or court-ordered trial home visit. The agency must file the child's updated out-of-home placement plan with the court at the next required review hearing;

(2) when the agency places a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, or moves a child from one qualified residential treatment program to a different qualified residential treatment program, the agency must update the child's out-of-home placement plan within 60 days. To meet the requirements of section 260C.708, the agency must file the child's out-of-home placement plan along with the agency's report seeking the court's approval of the child's placement at a qualified residential treatment program under section 260C.71. After the court issues an order, the agency must update the child's out-of-home placement plan to document the court's approval or disapproval of the child's placement in a qualified residential treatment program;

(3) when the agency places a child with the child's parent in a licensed residential family-based substance use disorder treatment program under section 260C.190, the agency must identify the treatment program where the child will be placed in the child's out-of-home placement plan prior to the child's placement. The agency must file the child's out-of-home placement plan with the court at the next required review hearing; and

(4) under sections 260C.227 and 260C.521, the agency must update the child's out-of-home placement plan and file the child's out-of-home placement plan with the court.

(b) When none of the items in paragraph (a) apply, the agency must update the child's out-of-home placement plan no later than 180 days after the child's initial placement and every six months thereafter, consistent with section 260C.203, paragraph (a).

Subd. 2. **Placement decisions based on best interests of the child.** (a) The policy of the state of Minnesota is to ensure that the child's best interests are met by requiring an individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed. The authorized child-placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by considering placement with relatives and important friends in the following order:

(1) with an individual who is related to the child by blood, marriage, or adoption, including the legal parent, guardian, or custodian of the child's siblings; or

(2) with an individual who is an important friend with whom the child has resided or had significant contact.

For an Indian child, the agency shall follow the order of placement preferences in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915.

(b) Among the factors the agency shall consider in determining the needs of the child are the following:

(1) the child's current functioning and behaviors;

(2) the medical needs of the child;

(3) the educational needs of the child;

(4) the developmental needs of the child;

(5) the child's history and past experience;

(6) the child's religious and cultural needs;

(7) the child's connection with a community, school, and faith community;

(8) the child's interests and talents;

(9) the child's relationship to current caretakers, parents, siblings, and relatives;

(10) the reasonable preference of the child, if the court, or the child-placing agency in the case of a voluntary placement, deems the child to be of sufficient age to express preferences; and

(11) for an Indian child, the best interests of an Indian child as defined in section 260.755, subdivision 2a.

(c) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

(d) Siblings should be placed together for foster care and adoption at the earliest possible time unless it is documented that a joint placement would be contrary to the safety or well-being of any of the siblings or unless it is not possible after reasonable efforts by the responsible social services agency. In cases where siblings cannot be placed together, the agency is required to provide frequent visitation or other ongoing interaction between siblings unless the agency documents that the interaction would be contrary to the safety or well-being of any of the siblings.

(e) Except for emergency placement as provided for in section 245A.035, the following requirements must be satisfied before the approval of a foster or adoptive placement in a related or unrelated home: (1) a completed background study under section 245C.08; and (2) a completed review of the written home study required under section 260C.215, subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective foster or adoptive parent to ensure the placement will meet the needs of the individual child.

(f) The agency must determine whether colocation with a parent who is receiving services in a licensed residential family-based substance use disorder treatment program is in the child's best interests according to paragraph (b) and include that determination in the child's case plan under subdivision 1. The agency may

consider additional factors not identified in paragraph (b). The agency's determination must be documented in the child's case plan before the child is colocated with a parent.

(g) The agency must establish a juvenile treatment screening team under section 260C.157 to determine whether it is necessary and appropriate to recommend placing a child in a qualified residential treatment program, as defined in section 260C.007, subdivision 26d.

Subd. 3. **Limit on multiple placements.** If a child has been placed in a residential facility pursuant to a court order under section 260C.178 or 260C.201, the social services agency responsible for the residential facility placement for the child may not change the child's placement unless the agency specifically documents that the current placement is unsuitable or another placement is in the best interests of the child. This subdivision does not apply if the new placement is in an adoptive home or other permanent placement.

Subd. 4. MS 2010 [Renumbered 260C.219]

Subd. 4a. **Monthly caseworker visits.** (a) Every child in foster care or on a trial home visit shall be visited by the child's caseworker or another person who has responsibility for visitation of the child on a monthly basis, with the majority of visits occurring in the child's residence. The responsible social services agency may designate another person responsible for monthly case visits. For the purposes of this section, the following definitions apply:

(1) "visit" is defined as a face-to-face contact between a child and the child's caseworker;

(2) "visited on a monthly basis" is defined as at least one visit per calendar month;

(3) "the child's caseworker" is defined as the person who has responsibility for managing the child's foster care placement case as assigned by the responsible social services agency;

(4) "another person" means the professional staff whom the responsible social services agency has assigned in the out-of-home placement plan or case plan. Another person must be professionally trained to assess the child's safety, permanency, well-being, and case progress. The agency may not designate the guardian ad litem, the child foster care provider, residential facility staff, or a qualified individual as defined in section 260C.007, subdivision26b, as another person; and

(5) "the child's residence" is defined as the home where the child is residing, and can include the foster home, child care institution, or the home from which the child was removed if the child is on a trial home visit.

(b) Caseworker visits shall be of sufficient substance and duration to address issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the child, including whether the child is enrolled and attending school as required by law.

Subd. 5. MS 2010 [Renumbered 260C.221]

Subd. 6. MS 2010 [Renumbered 260C.521, subd 4]

Subd. 7. MS 2010 [Renumbered 260C.203]

Subd. 8. MS 2010 [Renumbered 260C.227]

Subd. 9. [Repealed, 2008 c 361 art 6 s 59]

Subd. 10. **Rules; children in residential facilities.** The commissioner of human services shall promulgate all rules necessary to carry out the provisions of Public Law 96-272 as regards the establishment of a state goal for the reduction of the number of children in residential facilities beyond 24 months.

Subd. 11. **Rules; family and group foster care.** The commissioner shall:

(1) require that, as a condition of licensure, foster care providers attend training on understanding and validating the cultural heritage of all children in their care, and on the importance of the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835;

(2) review and, where necessary, revise foster care rules to reflect sensitivity to cultural diversity and differing lifestyles. Specifically, the commissioner shall examine whether space and other requirements discriminate against single-parent, minority, or low-income families who may be able to provide quality foster care reflecting the values of their own respective cultures; and

(3) relieve relative foster care providers of the requirements promulgated as a result of clauses (1) and (2) when the safety of the child is not jeopardized and as allowed under federal law.

Subd. 12. **Fair hearing review.** Any person whose claim for foster care payment pursuant to the placement of a child resulting from a child protection assessment under chapter 260E is denied or not acted upon with reasonable promptness may appeal the decision under section 256.045, subdivision 3.

Subd. 13. **Protecting missing and runaway children and youth at risk of sex trafficking or commercial sexual exploitation.** (a) The local social services agency shall expeditiously locate any child missing from foster care.

(b) The local social services agency shall report immediately, but no later than 24 hours, after receiving information on a missing or abducted child to the local law enforcement agency for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation, and to the National Center for Missing and Exploited Children.

(c) The local social services agency shall not discharge a child from foster care or close the social services case until diligent efforts have been exhausted to locate the child and the court terminates the agency's jurisdiction.

(d) The local social services agency shall determine the primary factors that contributed to the child's running away or otherwise being absent from care and, to the extent possible and appropriate, respond to those factors in current and subsequent placements.

(e) The local social services agency shall determine what the child experienced while absent from care, including screening the child to determine if the child is a possible sex trafficking or commercial sexual exploitation victim as defined in section 260C.007, subdivision 31.

(f) The local social services agency shall report immediately, but no later than 24 hours, to the local law enforcement agency any reasonable cause to believe a child is, or is at risk of being, a sex trafficking or commercial sexual exploitation victim.

(g) The local social services agency shall determine appropriate services as described in section 145.4717 with respect to any child for whom the local social services agency has responsibility for placement, care, or supervision when the local social services agency has reasonable cause to believe that the child is, or is at risk of being, a sex trafficking or commercial sexual exploitation victim.

Subd. 14. **Support age-appropriate and developmentally appropriate activities for foster children.** (a) Responsible social services agencies and licensed child-placing agencies shall support a foster child's emotional and developmental growth by permitting the child to participate in activities or events that are generally accepted as suitable for children of the same chronological age or are developmentally appropriate for the child. "Developmentally appropriate" means based on a child's cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group. Foster parents and residential facility staff are permitted to allow foster children to participate in extracurricular, social, or cultural activities that are typical for the child's age by applying reasonable and prudent parenting standards.

(b) "Reasonable and prudent parenting" means the standards characterized by careful and sensible parenting decisions that maintain the child's health and safety, cultural, religious, and tribal values, and best interests while encouraging the child's emotional and developmental growth.

(c) The commissioner shall provide guidance about the childhood activities and factors a foster parent and authorized residential facility staff must consider when applying the reasonable and prudent parenting standards. The factors must include the:

(1) child's age, maturity, and developmental level;

(2) risk of activity;

(3) best interests of the child;

(4) importance of the experience in the child's emotional and developmental growth;

(5) importance of a family-like experience;

(6) behavioral history of the child; and

(7) wishes of the child's parent or legal guardian, as appropriate.

(d) A residential facility licensed under Minnesota Rules, chapter 2960, must have at least one onsite staff person who is trained on the standards according to section 260C.215, subdivision 4, and authorized to apply the reasonable and prudent parenting standards to decisions involving the approval of a foster child's participation in age and developmentally appropriate extracurricular, social, or cultural activities. The onsite staff person referenced in this paragraph is not required to be available 24 hours per day.

(e) The foster parent or designated staff at residential facilities demonstrating compliance with the reasonable and prudent parenting standards shall not incur civil liability if a foster child is harmed or injured because of participating in approved extracurricular, enrichment, cultural, and social activities.

Subd. 15. **Social and medical history.** (a) The responsible social services agency must complete each child's social and medical history using forms developed by the commissioner. The responsible social services agency must work with each child's birth family, foster family, medical and treatment providers, and school to ensure that there is a detailed and up-to-date social and medical history of the child on forms provided by the commissioner.

(b) If the child continues to be in placement out of the home of the parent or guardian from whom the child was removed, reasonable efforts by the responsible social services agency to complete the child's social and medical history must begin no later than the child's permanency progress review hearing required under section 260C.204 or six months after the child's placement in foster care, whichever occurs earlier.

(c) In a child's social and medical history, the responsible social services agency must include background information and health history specific to the child, the child's birth parents, and the child's other birth relatives. Applicable background and health information about the child includes the child's current health condition, behavior, and demeanor; placement history; education history; sibling information; and birth, medical, dental, and immunization information. Redacted copies of pertinent records, assessments, and evaluations must be attached to the child's social and medical history. Applicable background information about the child's birth parents and other birth relatives includes general background information; education and employment history; physical health and mental health history; and reasons for the child's placement.

History: *1999 c 139 art 3 s 26; art 4 s 2; 1999 c 245 art 8 s 19-25; 2001 c 178 art 1 s 25-31,44; 2002 c 290 s 2; 2004 c 288 art 3 s 30; 2005 c 56 s 1; 2005 c 98 art 3 s 21; 2005 c 136 art 15 s 7; 2005 c 165 art 2 s 6; 2007 c 147 art 1 s 19-21; art 3 s 30; 2008 c 361 art 6 s 37-41; 2009 c 106 s 1; 2009 c 163 art 1 s 5,6; art 2 s 31-35; 2009 c 174 art 1 s 8,9; 2010 c 269 art 3 s 7; 2010 c 301 art 3 s 8; 2010 c 382 s 52; 2012 c 216 art 1 s 16-19; art 4 s 17,18; art 6 s 13; 2014 c 291 art 1 s 6; 2014 c 312 art 25 s 29; 2015 c 71 art 1 s 58-60; 2015 c 78 art 1 s 32,33; 2016 c 189 art 15 s 8,9; 1Sp2019 c 9 art 1 s 30; 1Sp2020 c 2 art 5 s 77-80; art 8 s 124; 2021 c 30 art 10 s 29-33*

260C.213 MS 2010 [Renumbered 260C.223]

260C.215 WELFARE OF CHILDREN.

Subdivision 1. **Recruitment of foster families.** Each authorized child-placing agency shall make special efforts to recruit a foster family from among the child's relatives, except as authorized in section 260C.193, subdivision 3. In recruiting placements for each child, the agency must focus on that child's particular needs and the capacities of the particular prospective foster parents to meet those needs. Each agency shall provide for diligent recruitment of potential foster families that reflect the ethnic and racial diversity of the children in the state for whom foster homes are needed. Special efforts include contacting and working with community organizations and religious organizations and may include contracting with these organizations, utilizing local media and other local resources, conducting outreach activities, and increasing the number of minority recruitment staff employed by the agency. The requirement of special efforts to locate relatives in this section is satisfied on the earlier of the following occasions:

(1) when the child is placed with a relative who is interested in providing a permanent placement for the child; or

(2) when the responsible child-placing agency has made special efforts for six months following the child's placement in a residential facility and the court approves the agency's efforts pursuant to section 260C.202. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

Subd. 2. [Repealed, 2012 c 216 art 6 s 14]

Subd. 3. **Recruitment specialist.** The commissioner shall designate a permanent professional staff position for recruitment of foster and adoptive families. The recruitment specialist shall provide services to child-placing agencies seeking to recruit adoptive and foster care families and qualified professional staff. The recruitment specialist shall:

(1) develop materials for use by the agencies in training staff;

(2) conduct in-service workshops for agency personnel;

(3) provide consultation, technical assistance, and other appropriate services to agencies to strengthen and improve service delivery to diverse populations; and

(4) conduct workshops for foster care and adoption recruiters to evaluate the effectiveness of techniques for recruiting foster and adoptive families; and

(5) perform other duties as assigned by the commissioner to implement the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

The commissioner may contract for portions of these services.

Subd. 4. **Duties of commissioner.** The commissioner of human services shall:

(1) provide practice guidance to responsible social services agencies and licensed child-placing agencies that reflect federal and state laws and policy direction on placement of children;

(2) develop criteria for determining whether a prospective adoptive or foster family has the ability to understand and validate the child's cultural background;

(3) provide a standardized training curriculum for adoption and foster care workers and administrators who work with children. Training must address the following objectives:

(i) developing and maintaining sensitivity to all cultures;

(ii) assessing values and their cultural implications;

(iii) making individualized placement decisions that advance the best interests of a particular child under section 260C.212, subdivision 2; and

(iv) issues related to cross-cultural placement;

(4) provide a training curriculum for all prospective adoptive and foster families that prepares them to care for the needs of adoptive and foster children taking into consideration the needs of children outlined in section 260C.212, subdivision 2, paragraph (b), and, as necessary, preparation is continued after placement of the child and includes the knowledge and skills related to reasonable and prudent parenting standards for the participation of the child in age or developmentally appropriate activities, according to section 260C.212, subdivision 14;

(5) develop and provide to responsible social services agencies and licensed child-placing agencies a home study format to assess the capacities and needs of prospective adoptive and foster families. The format must address problem-solving skills; parenting skills; evaluate the degree to which the prospective family has the ability to understand and validate the child's cultural background, and other issues needed to provide sufficient information for agencies to make an individualized placement decision consistent with section 260C.212, subdivision 2. For a study of a prospective foster parent, the format must also address the capacity of the prospective foster parent to provide a safe, healthy, smoke-free home environment. If a prospective adoptive parent has also been a foster parent, any update necessary to a home study for the purpose of adoption may be completed by the licensing authority responsible for the foster parent's license. If a prospective adoptive parent with an approved adoptive home study also applies for a foster care license, the license application may be made with the same agency which provided the adoptive home study;

(6) consult with representatives reflecting diverse populations from the councils established under sections 3.922 and 15.0145, and other state, local, and community organizations; and

(7) establish family foster setting licensing guidelines for county agencies and private agencies designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04. Guidelines that the commissioner establishes under this clause shall be considered directives of the commissioner under section 245A.16.

[See Note.]

Subd. 5. **Placement reports.** Beginning December 1, 1996, the commissioner shall provide to the Indian Affairs Council, the Minnesota Council on Latino Affairs, the Council for Minnesotans of African Heritage, and the Council on Asian-Pacific Minnesotans the annual report required under section 257.0725.

Subd. 6. **Duties of child-placing agencies.** (a) Each authorized child-placing agency must:

(1) develop and follow procedures for implementing the requirements of section 260C.212, subdivision 2, and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923;

(2) have a written plan for recruiting adoptive and foster families that reflect the ethnic and racial diversity of children who are in need of foster and adoptive homes. The plan must include:

(i) strategies for using existing resources in diverse communities;

(ii) use of diverse outreach staff wherever possible;

(iii) use of diverse foster homes for placements after birth and before adoption; and

(iv) other techniques as appropriate;

(3) have a written plan for training adoptive and foster families;

(4) have a written plan for employing staff in adoption and foster care who have the capacity to assess the foster and adoptive parents' ability to understand and validate a child's cultural and meet the child's individual needs, and to advance the best interests of the child, as required in section 260C.212, subdivision 2. The plan must include staffing goals and objectives;

(5) ensure that adoption and foster care workers attend training offered or approved by the Department of Human Services regarding cultural diversity and the needs of special needs children;

(6) develop and implement procedures for implementing the requirements of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act; and

(7) ensure that children in foster care are protected from the effects of secondhand smoke and that licensed foster homes maintain a smoke-free environment in compliance with subdivision 9.

(b) In determining the suitability of a proposed placement of an Indian child, the standards to be applied must be the prevailing social and cultural standards of the Indian child's community, and the agency shall defer to tribal judgment as to suitability of a particular home when the tribe has intervened pursuant to the Indian Child Welfare Act.

Subd. 7. **Reporting requirements.** Each authorized child-placing agency shall provide to the commissioner of human services all data needed by the commissioner for the report required by section 257.0725. The agency shall provide the data within 15 days of the end of the period for which the data is applicable.

Subd. 8. **Rules.** The commissioner of human services shall adopt rules to establish standards for conducting relative searches, recruiting foster and adoptive families, evaluating the role of relative status in the reconsideration of disqualifications under chapter 245C and granting variances of licensing requirements under section 245A.04, subdivision 9, in licensing or approving an individual related to a child.

Subd. 9. **Preventing exposure to secondhand smoke for children in foster care.** (a) A child in foster care shall not be exposed to any type of secondhand smoke in the following settings:

(1) a licensed foster home or any enclosed space connected to the home, including a garage, porch, deck, or similar space; or

(2) a motor vehicle while a foster child is transported.

(b) Smoking in outdoor areas on the premises of the home is permitted, except when a foster child is present and exposed to secondhand smoke.

(c) The home study required in subdivision 4, clause (5), must include a plan to maintain a smoke-free environment for foster children.

(d) If a foster parent fails to provide a smoke-free environment for a foster child, the child-placing agency must ask the foster parent to comply with a plan that includes training on the health risks of exposure to secondhand smoke. If the agency determines that the foster parent is unable to provide a smoke-free environment and that the home environment constitutes a health risk to a foster child, the agency must reassess whether the placement is based on the child's best interests consistent with section 260C.212, subdivision 2.

(e) Nothing in this subdivision shall delay the placement of a child with a relative, consistent with section 245A.035, unless the relative is unable to provide for the immediate health needs of the individual child.

(f) If a child's best interests would most effectively be served by placement in a home which will not meet the requirements of paragraph (a), the failure to meet the requirements of paragraph (a) shall not be a cause to deny placement in that home.

(g) Nothing in this subdivision shall be interpreted to interfere, conflict with, or be a basis for denying placement pursuant to the provisions of the federal Indian Child Welfare Act or Minnesota Indian Family Preservation Act.

(h) Nothing in this subdivision shall be interpreted to interfere with traditional or spiritual Native American or religious ceremonies involving the use of tobacco.

History: *1999 c 139 art 3 s 28; 2001 c 178 art 1 s 32; 2003 c 15 art 1 s 33; 2012 c 216 art 4 s 19,20; art 6 s 13; 2014 c 291 art 1 s 7-9; 2015 c 77 art 2 s 87; 2016 c 189 art 15 s 10; 1Sp2021 c 7 art 2 s 70*

NOTE: The amendment to subdivision 4 by Laws 2021, First Special Session chapter 7, article 2, section 70, is effective July 1, 2023. Laws 2021, First Special Session chapter 7, article 2, section 70, the effective date.

260C.217 MS 2010 [Renumbered 260C.139]

260C.219 AGENCY RESPONSIBILITIES FOR PARENTS AND CHILDREN IN PLACEMENT.

Subdivision 1. **Responsibilities for parents; noncustodial parents.** (a) When a child is in foster care, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

(b) The responsible social services agency shall assess whether a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child temporarily or permanently. An assessment under this paragraph may include, but is not limited to, obtaining information under section 260C.209. If after assessment, the responsible social services agency determines that a noncustodial or nonadjudicated parent is willing and capable of providing day-to-day care of the child, the responsible social services agency may seek authority from the custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.

(c) If, after assessment, the responsible social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall:

(1) prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care; and

(2) provide a parent who is the subject of a background study under section 260C.209 15 days' notice that it intends to use the study to recommend against putting the child with that parent, and the court shall afford the parent an opportunity to be heard concerning the study.

The results of a background study of a noncustodial parent shall not be used by the agency to determine that the parent is incapable of providing day-to-day care of the child unless the agency reasonably believes that placement of the child into the home of that parent would endanger the child's health, safety, or welfare.

(d) If, after the provision of services following an out-of-home placement plan under this subdivision, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.515, subdivision 4. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.

(e) The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section 260C.141.

Subd. 2. **Notice to parent or guardian.** The responsible social services agency shall give notice to the parent or guardian of each child in foster care, other than a child in voluntary foster care for treatment under chapter 260D, of the following information:

(1) that the child's placement in foster care may result in termination of parental rights or an order permanently placing the child out of the custody of the parent, but only after notice and a hearing as required under this chapter and the juvenile court rules;

(2) time limits on the length of placement and of reunification services, including the date on which the child is expected to be returned to and safely maintained in the home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

(3) the nature of the services available to the parent;

(4) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;

(5) the first consideration for placement with relatives;

(6) the benefit to the child in getting the child out of foster care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;

(7) when safe for the child, the benefits to the child and the parent of maintaining visitation with the child as soon as possible in the course of the case and, in any event, according to the visitation plan under this section; and

(8) the financial responsibilities and obligations, if any, of the parent or parents for the support of the child during the period the child is in foster care.

Subd. 3. **Information for a parent considering voluntary placement.** The responsible social services agency shall inform a parent considering voluntary placement of a child under section 260C.227 of the following information:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights or other permanent placement of the child away from the parent;

(4) if the responsible social services agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights or other permanent placement of the child away from the parent, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under section 260C.212, subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under sections 260C.503 to 260C.521.

Subd. 4. **Medical examinations.** When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has an examination within 30 days of coming into the agency's care and once a year in subsequent years.

Subd. 5. **Children reaching age of majority; copies of records.** Regardless of whether a child is under state guardianship, if a child leaves foster care by reason of having attained the age of majority under state law, the child must be given at no cost a copy of the child's social and medical history, as described in section 260C.212, subdivision 15, including the child's health and education report.

Subd. 6. **Initial foster care phone call.** (a) When a child enters foster care or moves to a new foster care placement, the responsible social services agency should attempt to coordinate a phone call between the foster parent or facility and the child's parent or legal guardian to establish a connection and encourage ongoing information sharing between the child's parent or legal guardian and the foster parent or facility; and to provide an opportunity to share any information regarding the child, the child's needs, or the child's care that would facilitate the child's adjustment to the foster home, promote stability, reduce the risk of trauma, or otherwise improve the quality of the child's care.

(b) The responsible social services agency should attempt to coordinate the phone call in paragraph (a) as soon as practicable after the child arrives at the placement but no later than 72 hours after the child's placement. If the responsible social services agency determines that the phone call is not in the child's best interests, or if the agency is unable to identify, locate, or contact the child's parent or legal guardian despite reasonable efforts, or despite active efforts if the child is an American Indian child, the agency may delay the phone call until up to 48 hours after the agency determines that the phone call is in the child's best interests, or up to 48 hours after the child's parent or legal guardian is located or becomes available for the phone call. The responsible social services agency is not required to attempt to coordinate the phone call if placing the phone call poses a danger to the mental or physical health of the child or foster parent.

(c) The responsible social services agency shall document the date and time of the phone call in paragraph (a), its efforts to coordinate the phone call, its efforts to identify, locate, or find availability for the child's parent or legal guardian, any determination of whether the phone call is in the child's best interests, and any reasons that the phone call did not occur, including any danger to the child's or foster parent's mental or physical health.

Subd. 7. **Prenatal alcohol exposure screening.** (a) The responsible social services agency shall coordinate a prenatal alcohol exposure screening for any child who enters foster care as soon as practicable but no later than 45 days after the removal of the child from the child's home, if the agency has determined that the child has not previously been screened or identified as prenatally exposed to alcohol.

(b) The responsible social services agency shall ensure that the screening is conducted in accordance with:

(1) existing prenatal alcohol exposure screening best practice guidelines; and

(2) the criteria developed and provided to the responsible social services agency by the statewide organization that focuses solely on prevention and intervention with fetal alcohol spectrum disorder and that receives funding under the appropriation for fetal alcohol spectrum disorder in Laws 2007, chapter 147, article 19, section 4, subdivision 2.

History: *1999 c 139 art 3 s 26; 1999 c 245 art 8 s 21; 2001 c 178 art 1 s 27; 2005 c 56 s 1; 2005 c 136 art 15 s 7; 2007 c 147 art 1 s 20; 2008 c 361 art 6 s 38; 2009 c 163 art 1 s 5; 2012 c 216 art 6 s 13; 1Sp2020 c 2 art 1 s 17; 2021 c 30 art 10 s 34*

260C.221 RELATIVE SEARCH.

(a) The responsible social services agency shall exercise due diligence to identify and notify adult relatives prior to placement or within 30 days after the child's removal from the parent. The county agency

shall consider placement with a relative under this section without delay and whenever the child must move from or be returned to foster care. The relative search required by this section shall be comprehensive in scope. After a finding that the agency has made reasonable efforts to conduct the relative search under this paragraph, the agency has the continuing responsibility to appropriately involve relatives, who have responded to the notice required under this paragraph, in planning for the child and to continue to consider relatives according to the requirements of section 260C.212, subdivision 2. At any time during the course of juvenile protection proceedings, the court may order the agency to reopen its search for relatives when it is in the child's best interest to do so.

(b) The relative search required by this section shall include both maternal and paternal adult relatives of the child; all adult grandparents; all legal parents, guardians, or custodians of the child's siblings; and any other adult relatives suggested by the child's parents, subject to the exceptions due to family violence in paragraph (c). The search shall also include getting information from the child in an age-appropriate manner about who the child considers to be family members and important friends with whom the child has resided or had significant contact. The relative search required under this section must fulfill the agency's duties under the Indian Child Welfare Act regarding active efforts to prevent the breakup of the Indian family under United States Code, title 25, section 1912(d), and to meet placement preferences under United States Code, title 25, section 1915. The relatives must be notified:

(1) of the need for a foster home for the child, the option to become a placement resource for the child, and the possibility of the need for a permanent placement for the child;

(2) of their responsibility to keep the responsible social services agency and the court informed of their current address in order to receive notice in the event that a permanent placement is sought for the child and to receive notice of the permanency progress review hearing under section 260C.204. A relative who fails to provide a current address to the responsible social services agency and the court forfeits the right to receive notice of the possibility of permanent placement and of the permanency progress review hearing under section 260C.204. A decision by a relative not to be identified as a potential permanent placement resource or participate in planning for the child at the beginning of the case shall not affect whether the relative is considered for placement of the child with that relative later;

(3) that the relative may participate in the care and planning for the child, including that the opportunity for such participation may be lost by failing to respond to the notice sent under this subdivision. "Participate in the care and planning" includes, but is not limited to, participation in case planning for the parent and child, identifying the strengths and needs of the parent and child, supervising visits, providing respite and vacation visits for the child, providing transportation to appointments, suggesting other relatives who might be able to help support the case plan, and to the extent possible, helping to maintain the child's familiar and regular activities and contact with friends and relatives;

(4) of the family foster care licensing requirements, including how to complete an application and how to request a variance from licensing standards that do not present a safety or health risk to the child in the home under section 245A.04 and supports that are available for relatives and children who reside in a family foster home; and

(5) of the relatives' right to ask to be notified of any court proceedings regarding the child, to attend the hearings, and of a relative's right or opportunity to be heard by the court as required under section 260C.152, subdivision 5.

(c) A responsible social services agency may disclose private data, as defined in section 13.02 and chapter 260E, to relatives of the child for the purpose of locating and assessing a suitable placement and

may use any reasonable means of identifying and locating relatives including the Internet or other electronic means of conducting a search. The agency shall disclose data that is necessary to facilitate possible placement with relatives and to ensure that the relative is informed of the needs of the child so the relative can participate in planning for the child and be supportive of services to the child and family. If the child's parent refuses to give the responsible social services agency information sufficient to identify the maternal and paternal relatives of the child, the agency shall ask the juvenile court to order the parent to provide the necessary information. If a parent makes an explicit request that a specific relative not be contacted or considered for placement due to safety reasons including past family or domestic violence, the agency shall bring the parent's request to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact the specific relative when the juvenile court finds that contacting the specific relative would endanger the parent, guardian, child, sibling, or any family member.

(d) At a regularly scheduled hearing not later than three months after the child's placement in foster care and as required in section 260C.202, the agency shall report to the court:

(1) its efforts to identify maternal and paternal relatives of the child and to engage the relatives in providing support for the child and family, and document that the relatives have been provided the notice required under paragraph (a); and

(2) its decision regarding placing the child with a relative as required under section 260C.212, subdivision 2, and to ask relatives to visit or maintain contact with the child in order to support family connections for the child, when placement with a relative is not possible or appropriate.

(e) Notwithstanding chapter 13, the agency shall disclose data about particular relatives identified, searched for, and contacted for the purposes of the court's review of the agency's due diligence.

(f) When the court is satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in paragraph (a), the court may find that reasonable efforts have been made to conduct a relative search to identify and provide notice to adult relatives as required under section 260.012, paragraph (e), clause (3). If the court is not satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in paragraph (a), the court may order the agency to continue its search and notice efforts and to report back to the court.

(g) When the placing agency determines that permanent placement proceedings are necessary because there is a likelihood that the child will not return to a parent's care, the agency must send the notice provided in paragraph (h), may ask the court to modify the duty of the agency to send the notice required in paragraph (h), or may ask the court to completely relieve the agency of the requirements of paragraph (h). The relative notification requirements of paragraph (h) do not apply when the child is placed with an appropriate relative or a foster home that has committed to adopting the child or taking permanent legal and physical custody of the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, permanency, and welfare of the child.

(h) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph (f), when the agency determines that it is necessary to prepare for permanent placement determination proceedings, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the

agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement.

History: *1999 c 245 art 8 s 22; 2001 c 178 art 1 s 28; 2004 c 288 art 3 s 30; 2005 c 56 s 1; 2009 c 163 art 2 s 34; 2012 c 216 art 1 s 18; art 4 s 17; art 6 s 13; 2013 c 125 art 1 s 105; 2015 c 71 art 1 s 61; 2016 c 158 art 1 s 151; 1Sp2020 c 2 art 8 s 125*

260C.223 CONCURRENT PERMANENCY PLANNING.

Subdivision 1. **Program; goals.** (a) The commissioner of human services shall establish a program for concurrent permanency planning for child protection services.

(b) Concurrent permanency planning involves a planning process for children who are placed out of the home of their parents pursuant to a court order, or who have been voluntarily placed out of the home by the parents for 60 days or more and who are not developmentally disabled or emotionally disabled under section 260C.212, subdivision 9. The responsible social services agency shall develop an alternative permanency plan while making reasonable efforts for reunification of the child with the family, if required by section 260.012. The goals of concurrent permanency planning are to:

(1) achieve early permanency for children;

(2) decrease children's length of stay in foster care and reduce the number of moves children experience in foster care; and

(3) develop a group of families who will work towards reunification and also serve as permanent families for children.

Subd. 2. **Development of guidelines and protocols.** The commissioner shall establish guidelines and protocols for social services agencies involved in concurrent permanency planning, including criteria for conducting concurrent permanency planning based on relevant factors such as:

(1) age of the child and duration of out-of-home placement;

(2) prognosis for successful reunification with parents;

(3) availability of relatives and other concerned individuals to provide support or a permanent placement for the child; and

(4) special needs of the child and other factors affecting the child's best interests.

In developing the guidelines and protocols, the commissioner shall consult with interest groups within the child protection system, including child protection workers, child protection advocates, county attorneys, law enforcement, community service organizations, the councils of color, and the ombudsperson for families.

Subd. 3. **Parental involvement and disclosure.** Concurrent permanency planning programs must include involvement of parents and full disclosure of their rights and responsibilities; goals of concurrent permanency planning; support services that are available for families; permanency options; and the consequences of not complying with case plans.

Subd. 4. **Technical assistance.** The commissioner of human services shall provide ongoing technical assistance, support, and training for responsible social services agencies and other individuals and agencies involved in concurrent permanency planning.

Subd. 5. **Availability of funding.** The requirements of this section relating to concurrent permanency planning are effective only for state fiscal years when aid is distributed for concurrent permanency planning.

History: *1999 c 139 art 3 s 27; 2000 c 260 s 41; 2001 c 178 art 1 s 44; 1Sp2003 c 14 art 11 s 11; 2005 c 56 s 1; 2012 c 216 art 6 s 13*

260C.225 COUNTY RESPONSIBILITY FOR TRANSITIONAL SERVICES PLANS.

When a child is subject to a court dispositional order resulting in an out-of-home placement potentially exceeding 30 days in a residential program under this chapter, the county in which the court is located is responsible for monitoring the implementation of a transitional service plan upon the child's discharge from the program. The county's responsibility under this section extends to juveniles committed to the commissioner of corrections who have completed the 90-day residential after-care component of the program. The county's responsibility includes monitoring and coordinating after-care services to the child.

History: *1999 c 139 art 4 s 2; 1999 c 216 art 6 s 12; 2012 c 216 art 6 s 13*

260C.227 VOLUNTARY FOSTER CARE; REQUIRED COURT REVIEW.

(a) When the responsible social services agency and the child's parent or guardian agree that the child's safety, health, and best interests require that the child be in foster care, the agency and the parent or guardian may enter into a voluntary agreement for the placement of the child in foster care. The voluntary agreement must be in writing and in a form approved by the commissioner.

(b) When the child has been placed in foster care pursuant to a voluntary foster care agreement between the agency and the parent, under this section and the child is not returned home within 90 days after initial placement in foster care, the agency responsible for the child's placement in foster care shall:

(1) return the child to the home of the parent or parents; or

(2) file a petition according to section 260C.141, subdivision 1 or 2, which may:

(i) ask the court to review the child's placement in foster care and approve it as continued voluntary foster care for up to an additional 90 days;

(ii) ask the court to order continued foster care according to sections 260C.178 and 260C.201; or

(iii) ask the court to terminate parental rights under section 260C.301.

(3) The out-of-home placement plan must be updated and filed along with the petition.

(c) If the court approves continuing the child in foster care for up to 90 more days on a voluntary basis, at the end of the court-approved 90-day period, the child must be returned to the parent's home. If the child is not returned home, the responsible social services agency must proceed on the petition filed alleging the child in need of protection or services or the petition for termination of parental rights or other permanent placement of the child away from the parent. The court must find a statutory basis to order the placement of the child under section 260C.178; 260C.201; 260C.503 to 260C.521; or 260C.317.

(d) If the child is placed in a qualified residential treatment program, the placement must follow the requirements of sections 260C.70 to 260C.714.

History: *1999 c 245 art 8 s 25; 2001 c 178 art 1 s 30; 2005 c 56 s 1; 2008 c 361 art 6 s 41; 2012 c 216 art 6 s 13; 1Sp2020 c 2 art 5 s 81*

260C.228 VOLUNTARY FOSTER CARE; CHILD IS COLOCATED WITH PARENT IN TREATMENT PROGRAM.

Subdivision 1. **Generally.** When a parent requests assistance from an agency and both the parent and agency agree that a child's placement in foster care and colocation with a parent in a licensed residential family-based substance use treatment facility as defined by section 260C.007, subdivision 22a, is in the child's best interests, the agency must specify the recommendation for the placement in the child's case plan. After the child's case plan includes the recommendation, the agency and the parent may enter into a written voluntary placement agreement on a form approved by the commissioner.

Subd. 2. **Judicial review.** (a) A judicial review of a child's voluntary placement is required within 165 days of the date the voluntary agreement was signed. The agency responsible for the child's placement in foster care shall request the judicial review.

(b) The agency must forward a written report to the court at least five business days prior to the judicial review in paragraph (a). The report must contain:

(1) a statement regarding whether the colocation of the child with a parent in a licensed residential family-based substance use disorder treatment program meets the child's needs and continues to be in the child's best interests;

(2) the child's name, date of birth, race, gender, and current address;

(3) the names, race, dates of birth, residences, and post office addresses of the child's parents or custodian;

(4) a statement regarding the child's eligibility for membership or enrollment in an Indian tribe and the agency's compliance with applicable provisions of sections 260.751 to 260.835;

(5) the name and address of the licensed residential family-based substance use disorder treatment program where the child and parent or custodian are colocated;

(6) a copy of the out-of-home placement plan under section 260C.212, subdivisions 1 and 3;

(7) a written summary of the proceedings of any administrative review required under section 260C.203; and

(8) any other information the agency, parent or custodian, child, or licensed residential family-based substance use disorder treatment program wants the court to consider.

(c) The agency must inform a child, if the child is 12 years of age or older; the child's parent; and the licensed residential family-based substance use disorder treatment program of the reporting and court review requirements of this section and of their rights to submit information to the court as follows:

(1) if the child, the child's parent, or the licensed residential family-based substance use disorder treatment program wants to send information to the court, the agency shall advise those persons of the reporting date and the date by which the agency must receive the information to submit to the court with the agency's report; and

(2) the agency must inform the child, the child's parent, and the licensed residential family-based substance use disorder treatment program that they have the right to be heard in person by the court. An in-person hearing must be held if requested by the child, parent or legal guardian, or licensed residential family-based substance use disorder treatment program.

(d) If, at the time required for the agency's report under this section, a child 12 years of age or older disagrees about the placement colocating the child with the parent in a licensed residential family-based substance use disorder treatment program or services provided under the out-of-home placement plan under section 260C.212, subdivision 1, the agency shall include information regarding the child's disagreement and to the extent possible the basis for the child's disagreement in the report.

(e) Regardless of whether an in-person hearing is requested within ten days of receiving the agency's report, the court has jurisdiction to and must determine:

(1) whether the voluntary foster care arrangement is in the child's best interests;

(2) whether the parent and agency are appropriately planning for the child; and

(3) if a child 12 years of age or older disagrees with the foster care placement colocating the child with the parent in a licensed residential family-based substance use disorder treatment program or services provided under the out-of-home placement plan, whether to appoint counsel and a guardian ad litem for the child according to section 260C.163.

(f) Unless requested by the parent, representative of the licensed residential family-based substance use disorder treatment program, or child, an in-person hearing is not required for the court to make findings and issue an order.

(g) If the court finds the voluntary foster care arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child, the court shall issue an order containing explicit individualized findings to support the court's determination. The individual findings shall be based on the agency's written report and other materials submitted to the court. The court may make this determination notwithstanding the child's disagreement, if any, reported to the court under paragraph (d).

(h) The court shall send a copy of the order to the county attorney, the agency, the parent, a child 12 years of age or older, and the licensed residential family-based substance use disorder treatment program.

(i) If the court finds continuing the voluntary foster care arrangement is not in the child's best interests or that the agency or the parent is not appropriately planning for the child, the court shall notify the agency, the parent, the licensed residential family-based substance use disorder treatment program, a child 12 years of age or older, and the county attorney of the court's determination and the basis for the court's determination. The court shall set the matter for hearing and appoint a guardian ad litem for the child under section 260C.163, subdivision 5.

Subd. 3. **Termination.** The voluntary placement agreement terminates at the parent's discharge from the licensed residential family-based substance use disorder treatment program, or upon receipt of a written and dated request from the parent, unless the request specifies a later date. If the child's voluntary foster care placement meets the calculated time to require a permanency proceeding under section 260C.503, subdivision 3, paragraph (a), and the child is not returned home, the agency must file a petition according to section 260C.141 or 260C.505.

History: *1Sp2019 c 9 art 1 s 31*

260C.229 VOLUNTARY FOSTER CARE FOR CHILDREN OVER AGE 18; REQUIRED COURT REVIEW.

(a) When a child asks to continue or to reenter foster care after age 18 under section 260C.451, the child and the responsible social services agency may enter into a voluntary agreement for the child to be in foster care under the terms of section 260C.451. The voluntary agreement must be in writing and on a form prescribed by the commissioner.

(b) When the child is in foster care pursuant to a voluntary foster care agreement between the agency and the child, and the child is not already under court jurisdiction pursuant to section 260C.193, subdivision 6, the agency responsible for the child's placement in foster care shall:

(1) file a motion to reopen the juvenile protection matter where the court previously had jurisdiction over the child within 30 days of the child and the agency executing the voluntary placement agreement under paragraph (a) and ask the court to review the child's placement in foster care and find that the placement is in the best interests of the child; and

(2) file the out-of-home placement plan required under subdivision 1 with the motion to reopen jurisdiction.

(c) The court shall conduct a hearing on the matter within 30 days of the agency's motion to reopen the matter and, if the court finds that placement is in the best interests of the child, shall conduct the review for the purpose and with the content required under section 260C.203 at least every 12 months as long as the child continues in foster care.

History: *2012 c 216 art 4 s 21*

TERMINATION OF PARENTAL RIGHTS

260C.301 TERMINATION OF PARENTAL RIGHTS.

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

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

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

(1) that the parent has abandoned the child;

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

(3) that a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause. This clause shall not be construed to state a grounds for termination of parental rights of a noncustodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth;

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

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

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

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

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

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

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

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

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

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

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

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

(E) the parent continues to abuse chemicals.

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

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

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

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

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

Subd. 2. **Evidence of abandonment.** For purposes of subdivision 1, clause (b), item (1):

(a) Abandonment is presumed when:

(1) the parent has had no contact with the child on a regular basis and not demonstrated consistent interest in the child's well-being for six months and the social services agency has made reasonable efforts to facilitate contact, unless the parent establishes that an extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from making contact with the child. This presumption does not apply to children whose custody has been determined under chapter 257 or 518; or

(2) the child is an infant under two years of age and has been deserted by the parent under circumstances that show an intent not to return to care for the child.

The court is not prohibited from finding abandonment in the absence of the presumptions in clauses (1) and (2).

(b) The following are prima facie evidence of abandonment where there has been a showing that the person was not entitled to notice of an adoption proceeding under section 259.49:

(1) failure to register with the fathers' adoption registry under section 259.52; or

(2) if the person registered with the fathers' adoption registry under section 259.52:

(i) filing a denial of paternity within 30 days of receipt of notice under section 259.52, subdivision 8;

(ii) failing to timely file an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10; or

(iii) timely filing an intent to claim parental rights with entry of appearance form within 30 days of receipt of notice under section 259.52, subdivision 10, but failing to initiate a paternity action within 30 days of receiving the fathers' adoption registry notice where there has been no showing of good cause for the delay.

Subd. 3. [Repealed, 2013 c 125 art 1 s 108]

Subd. 4. **Current foster care children.** Except for cases where the child is in placement due solely to the child's developmental disability or emotional disturbance, where custody has not been transferred to the responsible social services agency, and where the court finds compelling reasons to continue placement, the county attorney shall file a termination of parental rights petition or a petition to transfer permanent legal and physical custody to a relative under section 260C.515, subdivision 4, for all children who have been in

out-of-home care for 15 of the most recent 22 months. This requirement does not apply if there is a compelling reason approved by the court for determining that filing a termination of parental rights petition or other permanency petition would not be in the best interests of the child or if the responsible social services agency has not provided reasonable efforts necessary for the safe return of the child, if reasonable efforts are required.

Subd. 5. **Adoptive parent.** For purposes of subdivision 1, clause (a), an adoptive parent may not terminate parental rights to an adopted child for a reason that would not apply to a birth parent seeking termination of parental rights to a child under subdivision 1, clause (a).

Subd. 6. **When prior finding required.** For purposes of subdivision 1, clause (b), no prior judicial finding of need for protection or services, or neglected and in foster care is required, except as provided in subdivision 1, clause (b), item (5).

Subd. 7. **Best interests of child paramount.** In any proceeding under this section, the best interests of the child must be the paramount consideration, provided that the conditions in subdivision 1, clause (a), or at least one condition in subdivision 1, clause (b), are found by the court. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq. Where the interests of parent and child conflict, the interests of the child are paramount.

Subd. 8. **Findings regarding reasonable efforts.** In any proceeding under this section, the court shall make specific findings:

(1) that reasonable efforts to finalize the permanency plan to reunify the child and the parent were made including individualized and explicit findings regarding the nature and extent of efforts made by the social services agency to rehabilitate the parent and reunite the family; or

(2) that reasonable efforts for reunification are not required as provided under section 260.012.

History: *1999 c 139 art 3 s 29; art 4 s 2; 1999 c 245 art 8 s 59-64; 2001 c 178 art 1 s 33-36,44; 1Sp2001 c 9 art 11 s 5; 2002 c 379 art 1 s 113; 2010 c 382 s 53; 2012 c 216 art 4 s 22; art 6 s 4,13*

260C.303 VENUE.

Venue for proceedings for the termination of parental rights is either the county where the child resides or is found. However, if a court has made an order under the provisions of section 260C.201, and the order is in force at the time a petition for termination of parental rights is filed, the court making the order shall hear the termination of parental rights proceeding unless it transfers the proceeding in the manner provided in section 260C.121, subdivision 2.

History: *1999 c 139 art 3 s 30*

260C.307 PROCEDURES IN TERMINATING PARENTAL RIGHTS.

Subdivision 1. **Who may petition.** Any reputable person, including but not limited to any agent of the commissioner of human services, having knowledge of circumstances which indicate that the rights of a parent to a child should be terminated, may petition the juvenile court in the manner provided in section 260C.141, subdivisions 4 and 5.

Subd. 2. **Hearing requirement.** The termination of parental rights under the provisions of section 260C.301, shall be made only after a hearing before the court, in the manner provided in section 260C.163.

Subd. 3. **Notice.** The court shall have notice of the time, place, and purpose of the hearing served on the parents, as defined in sections 257.51 to 257.74 or 259.49, subdivision 1, clause (2), and upon the child's grandparent if the child has lived with the grandparent within the two years immediately preceding the filing of the petition. Notice must be served in the manner provided in sections 260C.151 and 260C.152, except that personal service shall be made at least ten days before the day of the hearing. Published notice shall be made for three weeks, the last publication to be at least ten days before the day of the hearing; and notice sent by certified mail shall be mailed at least 20 days before the day of the hearing. A parent who consents to the termination of parental rights under the provisions of section 260C.301, subdivision 1, clause (a), may waive in writing the notice required by this subdivision; however, if the parent is a minor or incompetent the waiver shall be effective only if the parent's guardian ad litem concurs in writing.

Subd. 4. **Consent.** No parental rights of a minor or incompetent parent may be terminated on consent of the parents under the provisions of section 260C.301, subdivision 1, clause (a), unless the guardian ad litem, in writing, joins in the written consent of the parent to the termination of parental rights.

History: *1999 c 139 art 3 s 31; 2014 c 275 art 1 s 86*

260C.312 DISPOSITION; PARENTAL RIGHTS NOT TERMINATED.

(a) If, after a hearing, the court does not terminate parental rights but determines that the child is in need of protection or services, or that the child is neglected and in foster care, the court may find the child is in need of protection or services or neglected and in foster care and may enter an order in accordance with the provisions of section 260C.201.

(b) When a child has been in placement 15 of the last 22 months after a trial on a termination of parental rights petition, if the court finds that the petition is not proven or that termination of parental rights is not in the child's best interests, the court must order the child returned to the care of the parent unless the court approves the responsible social services agency's determination of compelling reasons why the child should remain out of the care of the parent. If the court orders the child returned to the care of the parent, the court may order a trial home visit, protective supervision, or monitoring under section 260C.201.

History: *1999 c 139 art 3 s 32; 2001 c 178 art 1 s 37; 2005 c 159 art 2 s 19*

260C.317 TERMINATION OF PARENTAL RIGHTS; EFFECT.

Subdivision 1. **Termination.** If, after a hearing, the court finds by clear and convincing evidence that one or more of the conditions set out in section 260C.301 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.

Subd. 2. **Order; terminating relationship.** An order terminating the parent and child relationship shall not disentitle a child to any benefit due the child from any third person, agency, state, or the United States, nor shall any action under this section be deemed to affect any rights and benefits that a child derives from the child's descent from a member of a federally recognized Indian tribe.

Subd. 3. **Order; retention of jurisdiction.** (a) A certified copy of the findings and the order terminating parental rights, and a summary of the court's information concerning the child shall be furnished by the court to the commissioner or the agency to which guardianship is transferred.

(b) The orders shall be on a document separate from the findings. The court shall furnish the guardian a copy of the order terminating parental rights.

(c) When the court orders guardianship pursuant to this section, the guardian ad litem and counsel for the child shall continue on the case until an adoption decree is entered. An in-court appearance hearing must be held every 90 days following termination of parental rights for the court to review progress toward an adoptive placement and the specific recruitment efforts the agency has taken to find an adoptive family for the child and to finalize the adoption or other permanency plan. Review of the progress toward adoption of a child under guardianship of the commissioner of human services shall be conducted according to section 260C.607.

(d) Upon terminating parental rights or upon a parent's consent to adoption under Minnesota Statutes 2010, section 260C.201, subdivision 11, or section 260C.515, subdivision 5, resulting in an order for guardianship to the commissioner of human services, the court shall retain jurisdiction:

(1) until the child is adopted;

(2) through the child's minority; or

(3) as long as the child continues in or reenters foster care, until the individual becomes 21 years of age according to sections 260C.193, subdivision 6, and 260C.451.

Subd. 4. **Rights of terminated parent.** (a) Upon entry of an order terminating the parental rights of any person who is identified as a parent on the original birth record of the child as to whom the parental rights are terminated, the court shall cause written notice to be made to that person setting forth:

(1) the right of the person to file at any time with the state registrar of vital records a consent to disclosure, as defined in section 144.212, subdivision 11;

(2) the right of the person to file at any time with the state registrar of vital records an affidavit stating that the information on the original birth record shall not be disclosed as provided in section 144.2252; and

(3) the effect of a failure to file either a consent to disclosure, as defined in section 144.212, subdivision 11, or an affidavit stating that the information on the original birth record shall not be disclosed.

(b) A parent whose rights are terminated under this section shall retain the ability to enter into a contact or communication agreement under section 260C.619 if an agreement is determined by the court to be in the best interests of the child. The agreement shall be filed with the court at or prior to the time the child is adopted. An order for termination of parental rights shall not be conditioned on an agreement under section 260C.619.

History: *1999 c 139 art 3 s 33; 2001 c 178 art 1 s 38; 1Sp2001 c 9 art 15 s 31,32; 2002 c 290 s 3; 2002 c 379 art 1 s 113; 2005 c 159 art 2 s 20; 2007 c 147 art 1 s 22; 2010 c 269 art 3 s 8; 2012 c 216 art 1 s 20,21; art 6 s 13; 2015 c 21 art 1 s 109*

260C.325 GUARDIAN.

Subdivision 1. **Guardianship.** (a) When the court terminates parental rights of both parents or of the only known living legal parent, the court shall order the guardianship of the child to:

(1) the commissioner of human services;

(2) a licensed child-placing agency; or

(3) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order guardianship of a child to the commissioner of human services when the responsible county social services agency had legal responsibility for planning for the permanent placement of the child and the child was in foster care under the legal responsibility of the responsible county social services agency at the time the court orders guardianship to the commissioner. The court shall not order guardianship to the commissioner under any other circumstances, except as provided in subdivision 3.

Subd. 2. [Repealed, 2001 c 178 art 1 s 43]

Subd. 3. **Both parents deceased.** (a) If upon petition for guardianship by a reputable person, including but not limited to the responsible social services agency as agent of the commissioner of human services, and upon hearing in the manner provided in section 260C.163, the court finds that both parents or the only known legal parent are or is deceased and no appointment has been made or petition for appointment filed pursuant to sections 524.5-201 to 524.5-317, the court shall order the guardianship of the child transferred to:

(1) the commissioner of human services; or

(2) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order guardianship of a child to the commissioner of human services only if there is no individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Subd. 4. **Guardian's responsibilities.** (a) A guardian appointed under this section has legal custody of the child and the right to visit the child in foster care, the adoptive placement, or any other suitable setting at any time prior to finalization of the adoption of the child. When the child is under the guardianship of the commissioner, the responsible social services agency, as agent of the commissioner, has the right to visit the child.

(b) When the guardian is a licensed child-placing agency, the guardian shall make all major decisions affecting the child, including, but not limited to, giving consent, when consent is legally required, to the marriage, enlistment in the armed forces, medical, surgical, or psychiatric treatment, or adoption of the child.

(c) When the commissioner is appointed guardian, the duties of the commissioner of human services are established under sections 260C.601 to 260C.635.

(d) A guardianship created under this section shall not include the guardianship of the estate of the child.

(e) The commissioner of human services, through the responsible social services agency, or a licensed child-placing agency who is a guardian or who has authority and responsibility for planning for the adoption of the child under section 259.25 or 259.47, has the duty to make reasonable efforts to finalize the adoption of the child.

History: *1999 c 139 art 3 s 34; 2001 c 178 art 1 s 39; 2004 c 146 art 3 s 31; 2008 c 361 art 6 s 42,43; 2012 c 216 art 1 s 22-24*

260C.328 CHANGE OF GUARDIAN; TERMINATION OF GUARDIANSHIP.

(a) Upon its own motion or upon petition of an interested party, the juvenile court having jurisdiction of the child may, after notice to the parties and a hearing, remove the guardian appointed by the juvenile court and appoint a new guardian in accordance with section 260C.325, subdivision 1.

(b) The authority of a guardian appointed by the juvenile court terminates when the individual under guardianship becomes age 18. However, an individual who has been under the guardianship of the commissioner and who has not been adopted may continue in foster care or reenter foster care pursuant to section 260C.451 and the responsible social services agency has continuing legal responsibility for the placement of the individual.

History: *1999 c 139 art 3 s 35; 2012 c 216 art 1 s 25; art 4 s 23*

FAMILY REUNIFICATION

260C.329 REESTABLISHMENT OF THE LEGAL PARENT AND CHILD RELATIONSHIP.

Subdivision 1. **Citation.** This section may be cited as the "Family Reunification Act of 2013."

Subd. 2. **Definition.** "Reestablishment of the legal parent and child relationship" means the physical reunification of a child under the guardianship of the commissioner of human services and a previously terminated legal parent and restoration of all rights, powers, privileges, immunities, duties, and obligations that were severed and terminated by the court under section 260C.317.

Subd. 3. **Petition.** The county attorney or a parent whose parental rights were terminated under a previous order of the court may file a petition for the reestablishment of the legal parent and child relationship. A parent filing a petition under this section shall pay a filing fee in the amount required under section 357.021, subdivision 2, clause (1). The filing fee may be waived pursuant to chapter 563. A petition for the reestablishment of the legal parent and child relationship may be filed when:

(1) in cases where the county attorney is the petitioning party, both the responsible social services agency and the county attorney agree that reestablishment of the legal parent and child relationship is in the child's best interests;

(2) the parent has corrected the conditions that led to an order terminating parental rights;

(3) the parent is willing and has the capability to provide day-to-day care and maintain the health, safety, and welfare of the child;

(4) the child has been in foster care for at least 48 months after the court issued the order terminating parental rights;

(5) the child has not been adopted; and

(6) the child is not the subject of a written adoption placement agreement between the responsible social services agency and the prospective adoptive parent, as required under Minnesota Rules, part 9560.0060, subpart 2.

Subd. 3a. **Contents of parent's petition.** (a) A parent's petition for reestablishment of the legal parent and child relationship shall be signed under oath by the petitioner and shall state the following:

(1) the petitioner's full name, date of birth, address, and all other legal names or aliases by which the petitioner has been known at any time;

(2) the name and date of birth of each child for whom reunification is sought;

(3) the petitioner's relationship to each child for whom reunification is sought;

(4) why reunification is sought and why reunification is in the child's best interest;

(5) the details of the termination of parental rights for which reunification is sought, including the date and jurisdiction of the order, and the court file number and date of any prior order terminating parental rights;

(6) what steps the petitioner has taken toward personal rehabilitation since the time of the order terminating parental rights, including treatment, work, or other personal history that demonstrates rehabilitation;

(7) how the petitioner has corrected the conditions that led to the order terminating parental rights for which reunification is sought;

(8) reasons why the petitioner is willing and capable to provide day-to-day care and maintain the health, safety, and welfare of the child; and

(9) all prior requests by the petitioner, whether for the present order terminating parental rights or for any other orders terminating parental rights, whether granted or not.

(b) Prior to filing a petition for reestablishment under this section, a parent must notify the responsible social services agency of their intent to petition for reestablishment. Notice must be provided 45 days prior to filing using a form created by the commissioner that includes the information listed in paragraph (a). The parent must file a copy of the notice with the petition for reestablishment.

Subd. 4. **Petition may not be brought in certain circumstances.** A petition for the reestablishment of the legal parent and child relationship may not be brought if the parent whose rights are the subject of the petition for reestablishment has:

(1) previously had parental rights terminated based on a finding in a legal proceeding of either sexual abuse or other conduct that resulted in the death of a minor; or

(2) has been convicted of any crime enumerated under section 260C.007, subdivision 14.

Subd. 5. MS 2018 [Repealed, 2019 c 14 s 6]

Subd. 6. **Venue.** The petition must be filed with the court that issued the order for guardianship and legal custody and conducts the reviews required under section 260C.607.

Subd. 7. **Service of petition on the parties.** The petition for the reestablishment of the legal parent and child relationship and notice of hearing on the petition must be served on:

(1) the child;

(2) in cases where the county attorney is the petitioning party, the parent whose rights have been terminated and with whom the legal parent and child relationship is proposed to be reestablished;

(3) the county attorney;

(4) the responsible social services agency;

(5) the child's guardian ad litem; and

(6) the child's tribe if the child is subject to the Indian Child Welfare Act.

Subd. 8. **Hearing.** The court may grant the petition ordering the reestablishment of the legal parent and child relationship only if it finds by clear and convincing evidence that:

(1) reestablishment of the legal parent and child relationship is in the child's best interests;

(2) the child has not been adopted;

(3) the child is not the subject of a written adoption placement agreement between the responsible social services agency and the prospective adoptive parent, as required under Minnesota Rules, part 9560.0060, subpart 2;

(4) at least 48 months have elapsed following a final order terminating parental rights and the child remains in foster care;

(5) the child desires to reside with the parent;

(6) the parent has corrected the conditions that led to an order terminating parental rights; and

(7) the parent is willing and has the capability to provide day-to-day care and maintain the health, safety, and welfare of the child.

Subd. 9. **Service of order.** The court administrator must serve:

(1) a copy of the final court order granting or denying the petition for the reestablishment of the legal parent and child relationship on all persons or entities entitled under subdivision 7 to service; and

(2) a certified copy of any order for the reestablishment of the legal parent and child relationship on the commissioner of human services.

Subd. 10. **No right to appointed counsel.** A petition for the reestablishment of the legal parent and child relationship made under this chapter does not provide a right to the appointment of counsel to the parent under section 260C.163, subdivision 3, or the Rules of Juvenile Protection Procedure, rule 25.02, subdivision 2.

Subd. 11. **Effect of order.** (a) As of the effective date of a court order providing for the reestablishment of the legal parent and child relationship:

(1) the child is the legal child of the parent;

(2) the parent whose rights were terminated under a previous order of the court is restored to the status of legal parent of the child and all rights, powers, privileges, immunities, duties, and obligations that were severed and terminated by the court under section 260C.317 are restored;

(3) the order placing the child under the guardianship of the commissioner of human services is dismissed; and

(4) permanent legal and physical custody of the child is awarded to the parent.

(b) An order reestablishing the legal parent and child relationship as to one parent of the child has no effect on:

(1) the legal rights of any other parent whose rights to the child have been terminated by the court; or

(2) the legal sibling relationship between the child and any other children of the parent.

Subd. 12. **Denial; subsequent petitions.** If the court denies a parent's petition under this section after a hearing, the court must make a written order barring the filing of subsequent petitions by the parent. The court must provide the length of the time period the parent is barred from filing a subsequent petition, make written findings in support of the order, and evaluate the best interests of the child.

History: *2013 c 30 s 2; 2019 c 14 s 1-5*

COURT PROCEDURE AND COSTS; CRIMINAL PENALTIES

260C.331 COSTS OF CARE.

Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a responsible social services agency,

(2) whenever legal custody is transferred to a person other than the responsible social services agency, but under the supervision of the responsible social services agency, or

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, and the responsible social services agency shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, Social Security benefits, Supplemental Security Income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the responsible social services agency shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance. Income does not include earnings from a child over the age of 18 who is working as part of a plan under section 260C.212, subdivision 1, paragraph (c), clause (12), to transition from foster care, or the income and resources from sources other than Supplemental Security Income and child support that are needed to complete the requirements listed in section 260C.203.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the responsible social services agency shall require, the parents to contribute to the cost of care, examination, or treatment of the child. When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the responsible social services agency and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518A from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, co-payments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

(f) Notwithstanding paragraph (b), (c), or (d), a parent, custodian, or guardian of the child is not required to use income and resources attributable to the child to reimburse the county for costs of care and is not required to contribute to the cost of care of the child during any period of time when the child is returned to the home of that parent, custodian, or guardian pursuant to a trial home visit under section 260C.201, subdivision 1, paragraph (a).

Subd. 2. **Cost of group foster care.** Whenever a child is placed in a group foster care facility as provided in section 260C.201, subdivision 1, paragraph (b), clause (2) or (3), the cost of providing the care shall, upon certification by the juvenile court, be paid from the welfare fund of the county in which the proceedings were held. To reimburse the counties for the costs of promoting the establishment of suitable group foster homes, the state shall quarterly, from funds appropriated for that purpose, reimburse counties 50 percent of the costs not paid by federal and other available state aids and grants. Reimbursement shall be prorated if the appropriation is insufficient.

The commissioner of corrections shall establish procedures for reimbursement and certify to the commissioner of management and budget each county entitled to receive state aid under the provisions of this subdivision. Upon receipt of a certificate the commissioner of management and budget shall issue a state payment to the county treasurer for the amount due, together with a copy of the certificate prepared by the commissioner of corrections.

Subd. 3. **Court expenses.** The following expenses are a charge upon the county in which proceedings are held upon certification of the judge of juvenile court or upon such other authorization provided by law:

(1) the fees and mileage of witnesses, and the expenses and mileage of officers serving notices and subpoenas ordered by the court, as prescribed by law;

(2) the expense of transporting a child to a place designated by a child-placing agency for the care of the child if the court transfers legal custody to a child-placing agency;

(3) the expense of transporting a minor to a place designated by the court;

(4) reasonable compensation for an attorney appointed by the court to serve as counsel.

The State Guardian Ad Litem Board shall pay for guardian ad litem expenses and reasonable compensation for an attorney to serve as counsel for a guardian ad litem, if necessary. In no event may the court order that guardian ad litem expenses or compensation for an attorney serving as counsel for a guardian ad litem be charged to a county.

Subd. 4. **Legal settlement.** The county charged with the costs and expenses under subdivisions 1 and 3 may recover these costs and expenses from the county where the minor has legal settlement for general assistance purposes by filing verified claims which shall be payable as are other claims against the county. A detailed statement of the facts upon which the claim is based shall accompany the claim. If a dispute relating to general assistance settlement arises, the responsible social services agency of the county denying legal settlement shall send a detailed statement of the facts upon which the claim is denied together with a copy of the detailed statement of the facts upon which the claim is based to the commissioner of human services. The commissioner shall immediately investigate and determine the question of general assistance settlement and shall certify findings to the responsible social services agency of each county. The decision of the commissioner is final and shall be complied with unless, within 30 days thereafter, action is taken in district court as provided in section 256.045.

Subd. 5. **Attorney fees.** (a) In proceedings in which the court has appointed counsel pursuant to sections 260C.163, subdivision 3, and 611.14, clause (4), for a minor unable to employ counsel, the court shall inquire into the ability of the parents to pay for such counsel's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay attorney fees.

(b) In proceedings in which the court has appointed counsel pursuant to section 260C.163, subdivision 3, for a parent, guardian, or custodian, the court shall inquire into the ability of the parents, guardians, or custodians to pay for such counsel's services and, after giving these persons a reasonable opportunity to be heard, may order the appropriate person to pay attorney fees.

(c) The court may order the appropriate person or persons under paragraph (a) or (b), or both, to reimburse the governmental unit providing counsel for the cost of appointed counsel. In determining the amount of reimbursement, the court shall consider the appropriate person's income, assets, and employment. If reimbursement is required under this subdivision, the court shall order the reimbursement when counsel is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement from a person if the person's financial circumstances warrant establishing a reduced reimbursement schedule. If the person does not agree to make payments, the court may order the person's employer to withhold a percentage of the person's income to be turned over to the court.

Subd. 6. **Guardian ad litem fees.** (a) In proceedings in which the court appoints a guardian ad litem pursuant to section 260C.163, subdivision 5, paragraph (a), the court may inquire into the ability of the parents to pay for the guardian ad litem's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay guardian ad litem fees.

(b) In each fiscal year, the commissioner of management and budget shall deposit guardian ad litem reimbursements in the special revenue fund and credit them to a separate account with the State Guardian Ad Litem Board. The balance of this account is appropriated to the State Guardian Ad Litem Board and does not cancel but is available until expended. Revenue from this account must be spent in the judicial district in which the reimbursement is collected.

History: *1999 c 139 art 3 s 36; art 4 s 2; 1999 c 216 art 7 s 22,23; 2001 c 178 art 1 s 44; 2003 c 112 art 2 s 50; 2005 c 164 s 29; 1Sp2005 c 7 s 28; 2007 c 147 art 1 s 23; 2009 c 101 art 2 s 109; 2009 c 150 s 1; 2010 c 269 art 2 s 2; 2010 c 309 s 3,4; 1Sp2010 c 1 art 14 s 10; 1Sp2011 c 1 art 3 s 2; 2012 c 212 s 6; 2012 c 216 art 6 s 13; 2013 c 37 s 4; 2015 c 71 art 1 s 62; 1Sp2019 c 10 art 3 s 40*

260C.335 CIVIL JURISDICTION OVER PERSONS CONTRIBUTING TO NEED FOR PROTECTION OR SERVICES; COURT ORDERS.

Subdivision 1. **Jurisdiction.** The juvenile court has civil jurisdiction over persons contributing to the need for protection or services of a child under the provisions of this section.

Subd. 2. **Petition; order to show cause.** A request for jurisdiction over a person described in subdivision 1 shall be initiated by the filing of a verified petition by the county attorney having jurisdiction over the place where the child is found, resides, or where the alleged act of contributing occurred. A prior or pending petition alleging that the child is in need of protection or services is not a prerequisite to a petition under this section. The petition shall allege the factual basis for the claim that the person is contributing to the child's need for protection or services. If the court determines, upon review of the verified petition, that probable cause exists to believe that the person has contributed to the child's need for protection or services, the court shall issue an order to show cause why the person should not be subject to the jurisdiction of the court. The order to show cause and a copy of the verified petition shall be served personally upon the person and shall set forth the time and place of the hearing to be conducted under subdivision 3.

Subd. 3. **Hearing.** (a) The court shall conduct a hearing on the petition in accordance with the procedures contained in paragraph (b).

(b) Hearings under this subdivision shall be without a jury. The rules of evidence promulgated pursuant to section 480.0591 and the provisions under section 260C.165 shall apply. In all proceedings under this section, the court shall admit only evidence that would be admissible in a civil trial. When the respondent is an adult, hearings under this subdivision shall be open to the public. Hearings shall be conducted within five days of personal service of the order to show cause and may be continued for a reasonable period of time if a continuance is in the best interest of the child or in the interests of justice.

(c) At the conclusion of the hearing, if the court finds by a fair preponderance of the evidence that the person has contributed to the child's need for protection or services, as defined in section 260C.425, the court may make any of the following orders:

(1) restrain the person from any further act or omission in violation of section 260C.425;

(2) prohibit the person from associating or communicating in any manner with the child;

(3) require the person to participate in evaluation or services determined necessary by the court to correct the conditions that contributed to the child's need for protection or services;

(4) require the person to provide supervision, treatment, or other necessary care;

(5) require the person to pay restitution to a victim for pecuniary damages arising from an act of the child relating to the child's need for protection or services;

(6) require the person to pay the cost of services provided to the child or for the child's protection; or

(7) require the person to provide for the child's maintenance or care if the person is responsible for the maintenance or care, and direct when, how, and where money for the maintenance or care shall be paid. If the person is receiving public assistance for the child's maintenance or care, the court shall authorize the public agency responsible for administering the public assistance funds to make payments directly to vendors for the cost of food, shelter, medical care, utilities, and other necessary expenses.

(d) An order issued under this section shall be for a fixed period of time, not to exceed one year. The order may be renewed or modified prior to expiration upon notice and motion when there has not been

compliance with the court's order or the order continues to be necessary to eliminate the contributing behavior or to mitigate its effect on the child.

Subd. 4. **Criminal proceedings.** The county attorney may bring both a criminal proceeding under section 260C.425 and a civil action under this section.

History: *1999 c 139 art 3 s 37; art 4 s 2*

260C.401 [Repealed, 2000 c 260 s 97]

260C.405 VIOLATION OF AN ORDER FOR PROTECTION.

Subdivision 1. **Violation; penalty.** Whenever an order for protection is granted pursuant to section 260C.148 or 260C.201, subdivision 3, restraining the person or excluding the person from the residence, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor.

Subd. 2. **Arrest.** A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order granted pursuant to section 260C.148 or 260C.201, subdivision 3, restraining the person or excluding the person from the residence, if the existence of the order can be verified by the officer.

Subd. 3. **Contempt.** A violation of an order for protection shall also constitute contempt of court and the person violating the order shall be subject to the penalties for contempt.

Subd. 4. **Order to show cause.** Upon the filing of an affidavit by the agency or any peace officer, alleging that the respondent has violated an order for protection granted pursuant to section 260C.148 or 260C.201, subdivision 3, the court may issue an order to the respondent, requiring the respondent to appear and show cause within 14 days why the respondent should not be found in contempt of court. The hearing may be held by the court in any county in which the child or respondent temporarily or permanently resides at the time of the alleged violation.

A peace officer is not liable under section 609.43, clause (1), for failure to perform a duty required by subdivision 2.

History: *1999 c 139 art 3 s 39*

260C.411 NEW EVIDENCE.

A child whose status has been adjudicated by a juvenile court, or the child's parent, guardian, custodian or spouse may, at any time within 15 days of the filing of the court's order, petition the court for a rehearing on the ground that new evidence has been discovered affecting the advisability of the court's original adjudication or disposition. Upon a showing that such evidence does exist the court shall order that a new hearing be held within 30 days, unless the court extends this time period for good cause shown within the 30-day period, and shall make such disposition of the case as the facts and the best interests of the child warrant.

History: *1999 c 139 art 3 s 40*

260C.415 APPEAL.

Subdivision 1. **Persons entitled to appeal; procedure.** An appeal may be taken by the aggrieved person from a final order of the juvenile court affecting a substantial right of the aggrieved person, including but

not limited to an order adjudging a child to be in need of protection or services, neglected and in foster care. The appeal shall be taken within 30 days of the filing of the appealable order. The court administrator shall notify the person having legal custody of the minor of the appeal. Failure to notify the person having legal custody of the minor shall not affect the jurisdiction of the appellate court. The order of the juvenile court shall stand, pending the determination of the appeal, but the reviewing court may in its discretion and upon application stay the order.

Subd. 2. **Appeal.** The appeal from a juvenile court is taken to the court of appeals as in civil cases, except as provided in subdivision 1.

History: *1999 c 139 art 3 s 41*

260C.421 CONTEMPT.

Any person knowingly interfering with an order of the juvenile court is in contempt of court. However, a child who is under the continuing jurisdiction of the court for reasons other than having committed a delinquent act or a juvenile petty offense may not be adjudicated as a delinquent solely on the basis of having knowingly interfered with or disobeyed an order of the court.

History: *1999 c 139 art 3 s 42*

260C.425 CRIMINAL JURISDICTION FOR CONTRIBUTING TO NEED FOR PROTECTION OR SERVICES.

Subdivision 1. **Crimes.** (a) Any person who by act, word, or omission encourages, causes, or contributes to the need for protection or services is guilty of a gross misdemeanor.

(b) This section does not apply to licensed social services agencies and outreach workers who, while acting within the scope of their professional duties, provide services to runaway children.

Subd. 2. **Complaint; venue.** A complaint under this section may be filed by the county attorney having jurisdiction where the child is found, resides, or where the alleged act of contributing occurred. The complaint may be filed in either the juvenile or criminal divisions of the district court. A prior or pending petition alleging that the child is delinquent, a juvenile petty offender, or in need of protection or services is not a prerequisite to a complaint or a conviction under this section.

Subd. 3. **Affirmative defense.** If the child's conduct is the basis for the child's need for protection services, it is an affirmative defense to a prosecution under subdivision 1 if the defendant proves, by a preponderance of the evidence, that the defendant took reasonable steps to control the child's conduct.

History: *1999 c 139 art 3 s 43*

260C.431 [Repealed, 2008 c 361 art 6 s 59]

260C.435 [Repealed, 2008 c 361 art 6 s 59]

COSTS AND PAYMENTS

260C.441 MS 2012 [Repealed, 2013 c 108 art 17 s 24]

260C.4411 PRE-NORTHSTAR CARE FOR CHILDREN FOSTER CARE PROGRAM.

Subdivision 1. **Pre-Northstar Care for Children foster care program.** (a) For a child placed in family foster care on or before December 31, 2014, the county of financial responsibility under section 256G.02 or tribal agency authorized under section 256.01, subdivision 14b, shall pay the local share under section 256N.27, subdivision 3, for foster care maintenance including any difficulty of care as defined in Minnesota Rules, part 9560.0521, subparts 7 and 10. Family foster care includes:

(1) emergency relative placement under section 245A.035;

(2) licensed foster family settings, foster residence settings, or treatment foster care settings, licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, and served by a public or private child care agency authorized by Minnesota Rules, parts 9545.0755 to 9545.0845;

(3) family foster care homes approved by a tribal agency; and

(4) unlicensed supervised settings for foster youth ages 18 to 21.

(b) The county of financial responsibility under section 256G.02 or tribal social services agency authorized in section 256.01, subdivision 14b, shall pay the entire cost of any initial clothing allowance, administrative payments to child care agencies specified in section 317A.907, or any other support services it authorizes, except as otherwise provided by law.

(c) The rates for the pre-Northstar Care for Children foster care program remain those in effect on January 1, 2013, continuing the preexisting rate structure for foster children who remain with the same caregivers and do not transition into Northstar Care for Children under section 256N.21, subdivision 6.

(d) Difficulty of care payments must be maintained consistent with Minnesota Rules, parts 9560.0652 and 9560.0653, using the established reassessment tool in Minnesota Rules, part 9560.0654. The preexisting rate structure for the pre-Northstar Care for Children foster care program must be maintained, provided that when the number of foster children in the program is less than ten percent of the population in 2012, the commissioner may apply the same assessment tool to both the pre-Northstar Care for Children foster care program and Northstar Care for Children under the authority granted in section 256N.24, subdivision 2.

(e) The county of financial responsibility under section 256G.02 or tribal agency authorized under section 256.01, subdivision 14b, shall document the determined pre-Northstar Care for Children foster care rate in the case record, including a description of each condition on which the difficulty of care assessment is based. The difficulty of care rate is reassessed:

(1) every 12 months;

(2) at the request of the foster parent; or

(3) if the child's level of need changes in the current foster home.

(f) The pre-Northstar Care for Children foster care program must maintain the following existing program features:

(1) monthly payments must be made to the family foster home provider;

(2) notice and appeal procedures must be consistent with Minnesota Rules, part 9560.0665; and

(3) medical assistance eligibility for foster children must continue to be determined according to section 256B.055.

(g) The county of financial responsibility under section 256G.02 or tribal agency authorized under section 256.01, subdivision 14b, may continue existing program features, including:

(1) establishing a local fund of county money through which the agency may reimburse foster parents for the cost of repairing damage done to the home and contents by the foster child and the additional care insurance premium cost of a child who possesses a permit or license to drive a car; and

(2) paying a fee for specific services provided by the foster parent, based on the parent's skills, experience, or training. This fee must not be considered foster care maintenance.

(h) The following events end the child's enrollment in the pre-Northstar Care for Children foster care program:

(1) reunification with parent or other relative;

(2) adoption or transfer of permanent legal and physical custody;

(3) removal from the current foster home to a different foster home;

(4) another event that ends the current placement episode; or

(5) attaining the age of 21.

Subd. 2. **Consideration of other programs.** (a) When a child in foster care is eligible to receive a grant of Retirement Survivors Disability Insurance (RSDI) or Supplemental Security Income for the aged, blind, and disabled, or a foster care maintenance payment under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the child's needs must be met through these programs. Every effort must be made to establish a child's eligibility for a title IV-E grant to reimburse the county or tribe from the federal funds available for this purpose.

(b) When a child in foster care qualifies for home and community-based waivered services under section 256B.49 for community alternative care (CAC), community access for disability inclusion (CADI), or traumatic brain injury (TBI) waivers, this service does not substitute for the child foster care program. When a foster child is receiving waivered services benefits, the county of financial responsibility under section 256G.02 or tribal agency authorized under section 256.01, subdivision 14b, assesses and provides foster care maintenance including difficulty of care using the established tool in Minnesota Rules, part 9560.0654. If it is determined that additional services are needed to meet the child's needs in the home that are not or cannot be met by the foster care program, the needs must be referred to the waivered service program.

History: *2013 c 108 art 17 s 20; 2015 c 78 art 6 s 31*

260C.4412 PAYMENT FOR RESIDENTIAL PLACEMENTS.

(a) When a child is placed in a foster care group residential setting under Minnesota Rules, parts 2960.0020 to 2960.0710, a foster residence licensed under chapter 245A that meets the standards of Minnesota Rules, parts 2960.3200 to 2960.3230, or a children's residential facility licensed or approved by a tribe, foster care maintenance payments must be made on behalf of the child to cover the cost of providing food, clothing, shelter, daily supervision, school supplies, child's personal incidentals and supports, reasonable travel for visitation, or other transportation needs associated with the items listed. Daily supervision in the group residential setting includes routine day-to-day direction and arrangements to ensure the well-being and safety of the child. It may also include reasonable costs of administration and operation of the facility.

(b) The commissioner of human services shall specify the title IV-E administrative procedures under section 256.82 for each of the following residential program settings:

(1) residential programs licensed under chapter 245A or licensed by a tribe, including:

(i) qualified residential treatment programs as defined in section 260C.007, subdivision 26d;

(ii) program settings specializing in providing prenatal, postpartum, or parenting supports for youth; and

(iii) program settings providing high-quality residential care and supportive services to children and youth who are, or are at risk of becoming, sex trafficking victims;

(2) licensed residential family-based substance use disorder treatment programs as defined in section 260C.007, subdivision 22a; and

(3) supervised settings in which a foster child age 18 or older may live independently, consistent with section 260C.451.

(c) A lead contract under section 256.0112, subdivision 6, is not required to establish the foster care maintenance payment in paragraph (a) for foster residence settings licensed under chapter 245A that meet the standards of Minnesota Rules, parts 2960.3200 to 2960.3230. The foster care maintenance payment for these settings must be consistent with section 256N.26, subdivision 3, and subject to the annual revision as specified in section 256N.26, subdivision 9.

History: *2013 c 108 art 17 s 21; 1Sp2020 c 2 art 5 s 82; 2021 c 30 art 10 s 35*

260C.4413 INITIAL CLOTHING ALLOWANCE.

(a) An initial clothing allowance must be available to a child eligible for:

(1) the pre-Northstar Care for Children foster care program under section 260C.4411, subdivision 1; and

(2) the Northstar Care for Children benefits under section 256N.21.

(b) An initial clothing allowance must also be available for a foster child in a group residential setting based on the child's individual needs during the first 60 days of the child's initial placement. The agency must consider the parent's ability to provide for a child's clothing needs and the residential facility contracts.

(c) The county of financial responsibility under section 256G.02 or tribal agency authorized under section 256.01, subdivision 14b, shall approve an initial clothing allowance consistent with the child's needs. The amount of the initial clothing allowance must not exceed the monthly basic rate for the child's age group under section 256N.26, subdivision 3.

History: *2013 c 108 art 17 s 22*

260C.446 DISTRIBUTION OF FUNDS RECOVERED FOR ASSISTANCE FURNISHED.

When any amount shall be recovered from any source for assistance furnished under the provisions of sections 260C.001 to 260C.421, there shall be paid into the treasury of the state or county in the proportion in which they have respectively contributed toward the total assistance paid.

History: *1999 c 139 art 3 s 47; 2009 c 86 art 1 s 46; 2013 c 108 art 17 s 23*

FOSTER CARE BENEFITS

260C.451 FOSTER CARE BENEFITS PAST AGE 18.

Subdivision 1. **Notification.** Six months prior to the child's 18th birthday, the responsible social services agency shall provide written notice on a form prescribed by the commissioner of human services to any child in foster care under this chapter who cannot reasonably be expected to return home or have another legally permanent family by the age of 18, the child's parents or legal guardian, if any, the child's guardian ad litem, and the child's foster parents of the availability of foster care up to age 21, when the child is eligible under subdivisions 3 and 3a.

Subd. 2. **Independent living plan.** Upon the request of any child in foster care immediately prior to the child's 18th birthday and who is in foster care at the time of the request, the responsible social services agency shall, in conjunction with the child and other appropriate parties, update the independent living plan required under section 260C.212, subdivision 1, paragraph (c), clause (12), related to the child's employment, vocational, educational, social, or maturational needs. The agency shall provide continued services and foster care for the child including those services that are necessary to implement the independent living plan.

Subd. 3. **Eligibility to continue in foster care.** A child in foster care immediately prior to the child's 18th birthday may continue in foster care past age 18 unless:

(1) the child can safely return home;

(2) the child is in placement pursuant to the agency's duties under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the child's needs due to a developmental disability or related condition, and the child will be served as an adult under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016; or

(3) the child can be adopted or have permanent legal and physical custody transferred to a relative prior to the child's 18th birthday.

Subd. 3a. **Eligibility criteria.** The child must meet at least one of the following conditions to be considered eligible to continue in or return to foster care and remain there to age 21. The child must be:

(1) completing secondary education or a program leading to an equivalent credential;

(2) enrolled in an institution that provides postsecondary or vocational education;

(3) participating in a program or activity designed to promote or remove barriers to employment;

(4) employed for at least 80 hours per month; or

(5) incapable of doing any of the activities described in clauses (1) to (4) due to a medical condition.

Subd. 4. **Foster care benefits.** For children between the ages of 18 and 21, "foster care benefits" means payment for those foster care settings defined in section 260C.007, subdivision 18. Additionally, foster care benefits means payment for a supervised setting, approved by the responsible social services agency, in which a child may live independently.

Subd. 5. **Foster care setting.** The particular foster care setting, including supervised settings, shall be selected by the agency and the child based on the best interest of the child consistent with section 260C.212, subdivision 2. Supervision in approved settings must be determined by an individual determination of the

child's needs by the responsible social services agency and consistent with section 260C.212, subdivision 4a.

Subd. 6. **Reentering foster care and accessing services after 18 years of age and up to 21 years of age.** (a) Upon request of an individual who had been under the guardianship of the commissioner and who has left foster care without being adopted, the responsible social services agency which had been the commissioner's agent for purposes of the guardianship shall develop with the individual a plan to increase the individual's ability to live safely and independently using the plan requirements of section 260C.212, subdivision 1, paragraph (c), clause (12), and to assist the individual to meet one or more of the eligibility criteria in subdivision 4 if the individual wants to reenter foster care. The responsible social services agency shall provide foster care as required to implement the plan. The responsible social services agency shall enter into a voluntary placement agreement under section 260C.229 with the individual if the plan includes foster care.

(b) Individuals who had not been under the guardianship of the commissioner of human services prior to 18 years of age may ask to reenter foster care after age 18 and the responsible social services agency that had responsibility for planning for the individual before discharge from foster care shall provide foster care or other services to the individual for the purpose of increasing the individual's ability to live safely and independently and to meet the eligibility criteria in subdivision 3a, if the individual:

(1) was in foster care for the six consecutive months prior to the person's 18th birthday, or left foster care within six months prior to the person's 18th birthday, and was not discharged home, adopted, or received into a relative's home under a transfer of permanent legal and physical custody under section 260C.515, subdivision 4; or

(2) was discharged from foster care while on runaway status after age 15.

(c) In conjunction with a qualifying and eligible individual under paragraph (b) and other appropriate persons, the responsible social services agency shall develop a specific plan related to that individual's vocational, educational, social, or maturational needs and provide foster care as required to implement the plan. The responsible social services agency shall enter into a voluntary placement agreement with the individual if the plan includes foster care.

(d) A child who left foster care while under guardianship of the commissioner of human services retains eligibility for foster care for placement at any time prior to 21 years of age.

Subd. 7. **Jurisdiction.** Individuals in foster care pursuant to this section are adults for all purposes except the continued provision of foster care. Any order establishing guardianship under section 260C.325, any legal custody order under section 260C.201, subdivision 1, and any order for legal custody associated with an order for permanent custody under section 260C.515, subdivision 5, terminates on the child's 18th birthday. The responsible social services agency has legal responsibility for the individual's placement and care when the matter continues under court jurisdiction pursuant to section 260C.193 or when the individual and the responsible agency execute a voluntary placement agreement pursuant to section 260C.229.

Subd. 8. **Notice of termination of foster care.** When a child in foster care between the ages of 18 and 21 ceases to meet one of the eligibility criteria of subdivision 3a, the responsible social services agency shall give the child written notice that foster care will terminate 30 days from the date the notice is sent. The child or the child's guardian ad litem may file a motion asking the court to review the agency's determination within 15 days of receiving the notice. The child shall not be discharged from foster care until the motion is heard. The agency shall work with the child to transition out of foster care as required under section 260C.203, paragraph (d), clause (2). The written notice of termination of benefits shall be on a form prescribed

by the commissioner and shall also give notice of the right to have the agency's determination reviewed by the court in the proceeding where the court conducts the reviews required under section 260C.203, 260C.317, or 260C.515, subdivision 5 or 6. A copy of the termination notice shall be sent to the child and the child's attorney, if any, the foster care provider, the child's guardian ad litem, and the court. The agency is not responsible for paying foster care benefits for any period of time after the child actually leaves foster care.

Subd. 9. **Administrative or court review of placements.** (a) The court shall conduct reviews at least annually to ensure the responsible social services agency is making reasonable efforts to finalize the permanency plan for the child.

(b) The court shall find that the responsible social services agency is making reasonable efforts to finalize the permanency plan for the child when the responsible social services agency:

(1) provides appropriate support to the child and foster care provider to ensure continuing stability and success in placement;

(2) works with the child to plan for transition to adulthood and assists the child in demonstrating progress in achieving related goals;

(3) works with the child to plan for independent living skills and assists the child in demonstrating progress in achieving independent living goals; and

(4) prepares the child for independence according to sections 260C.203, paragraph (d), and 260C.452, subdivision 4.

(c) The responsible social services agency must ensure that an administrative review that meets the requirements of this section and section 260C.203 is completed at least six months after each of the court's annual reviews.

History: *1999 c 139 art 3 s 48; 2010 c 269 art 3 s 9; 2010 c 301 art 3 s 9; 2012 c 216 art 4 s 24; 2015 c 71 art 1 s 63,64; 2016 c 189 art 15 s 11,12; 2017 c 40 art 1 s 91; 1Sp2017 c 6 art 7 s 32*

260C.452 SUCCESSFUL TRANSITION TO ADULTHOOD.

Subdivision 1. **Scope; purpose.** (a) For purposes of this section, "youth" means a person who is at least 14 years of age and under 23 years of age.

(b) This section pertains to a youth who:

(1) is in foster care and is 14 years of age or older, including a youth who is under the guardianship of the commissioner of human services;

(2) has a permanency disposition of permanent custody to the agency;

(3) will leave foster care when the youth is 18 years of age or older and under 21 years of age;

(4) has left foster care due to adoption when the youth was 16 years of age or older;

(5) has left foster care due to a transfer of permanent legal and physical custody to a relative, or Tribal equivalent, when the youth was 16 years of age or older; or

(6) was reunified with the youth's primary caretaker when the youth was 14 years of age or older and under 18 years of age.

(c) The purpose of this section is to provide support to each youth who is transitioning to adulthood by providing services to the youth in the areas of:

(1) education;

(2) employment;

(3) daily living skills such as financial literacy training and driving instruction, preventive health activities including promoting abstinence from substance use and smoking, and nutrition education and pregnancy prevention;

(4) forming meaningful, permanent connections with caring adults;

(5) engaging in age-appropriate and developmentally appropriate activities under section 260C.212, subdivision 14, and positive youth development;

(6) financial, housing, counseling, and other services to assist a youth over 18 years of age in achieving self-sufficiency and accepting personal responsibility for the transition from adolescence to adulthood; and

(7) making vouchers available for education and training.

(d) The responsible social services agency may provide support and case management services to a youth as defined in paragraph (a) until the youth reaches 23 years of age. According to section 260C.451, a youth's placement in a foster care setting will end when the youth reaches 21 years of age.

Subd. 1a. **Case management services.** Case management services include the responsibility for planning, coordinating, authorizing, monitoring, and evaluating services for a youth and shall be provided to a youth by the responsible social services agency or the contracted agency. Case management services include the out-of-home placement plan under section 260C.212, subdivision 1, when the youth is in out-of-home placement.

Subd. 2. **Independent living plan.** When the youth is 14 years of age or older and is receiving support from the responsible social services agency under this section, the responsible social services agency, in consultation with the youth, shall complete the youth's independent living plan according to section 260C.212, subdivision 1, paragraph (c), clause (12), regardless of the youth's current placement status.

Subd. 3. MS 2020 [Repealed by amendment, 2021 c 30 art 10 s 36]

Subd. 4. **Administrative or court review of placements.** (a) When the youth is 14 years of age or older, the court, in consultation with the youth, shall review the youth's independent living plan according to section 260C.203, paragraph (d).

(b) The responsible social services agency shall file a copy of the notification of foster care benefits for a youth who is 18 years of age or older according to section 260C.451, subdivision 1, with the court. If the responsible social services agency does not file the notice by the time the youth is 17-1/2 years of age, the court shall require the responsible social services agency to file the notice.

(c) When a youth is 18 years of age or older, the court shall ensure that the responsible social services agency assists the youth in obtaining the following documents before the youth leaves foster care: a Social Security card; an official or certified copy of the youth's birth certificate; a state identification card or driver's license, tribal enrollment identification card, green card, or school visa; health insurance information; the youth's school, medical, and dental records; a contact list of the youth's medical, dental, and mental health providers; and contact information for the youth's siblings, if the siblings are in foster care.

(d) For a youth who will be discharged from foster care at 18 years of age or older because the youth is not eligible for extended foster care benefits or chooses to leave foster care, the responsible social services agency must develop a personalized transition plan as directed by the youth during the 180-day period immediately prior to the expected date of discharge. The transition plan must be as detailed as the youth elects and include specific options, including but not limited to:

(1) affordable housing with necessary supports that does not include a homeless shelter;

(2) health insurance, including eligibility for medical assistance as defined in section 256B.055, subdivision 17;

(3) education, including application to the Education and Training Voucher Program;

(4) local opportunities for mentors and continuing support services;

(5) workforce supports and employment services;

(6) a copy of the youth's consumer credit report as defined in section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report, at no cost to the youth;

(7) information on executing a health care directive under chapter 145C and on the importance of designating another individual to make health care decisions on behalf of the youth if the youth becomes unable to participate in decisions;

(8) appropriate contact information through 21 years of age if the youth needs information or help dealing with a crisis situation; and

(9) official documentation that the youth was previously in foster care.

Subd. 5. **Notice of termination of social services.** (a) Before a youth who is 18 years of age or older leaves foster care, the responsible social services agency shall give the youth written notice that foster care shall terminate 30 days from the date that the notice is sent by the agency according to section 260C.451, subdivision 8.

(b) Before case management services will end for a youth who is at least 18 years of age and under 23 years of age, the responsible social services agency shall give the youth: (1) written notice that case management services for the youth shall terminate; and (2) written notice that the youth has the right to appeal the termination of case management services under section 256.045, subdivision 3, by responding in writing within ten days of the date that the agency mailed the notice. The termination notice must include information about services for which the youth is eligible and how to access the services.

History: *2016 c 189 art 15 s 13; 1Sp2019 c 9 art 1 s 32; 2021 c 30 art 10 s 36*

260C.456 [Repealed, 2012 c 216 art 6 s 14]

260C.501 MS 2010 [Renumbered 260C.177]

PERMANENCY PROCEEDINGS

260C.503 PERMANENCY PROCEEDINGS.

Subdivision 1. **Required permanency proceedings.** (a) Except for children in foster care pursuant to chapter 260D, where the child is in foster care or in the care of a noncustodial or nonresident parent, the

court shall commence proceedings to determine the permanent status of a child by holding the admit-deny hearing required under section 260C.507 not later than 12 months after the child is placed in foster care or in the care of a noncustodial or nonresident parent. Permanency proceedings for children in foster care pursuant to chapter 260D shall be according to section 260D.07.

(b) Permanency proceedings for a foster child who is colocated with a parent in a licensed residential family-based substance use disorder treatment program shall be conducted according to section 260C.190.

Subd. 2. **Termination of parental rights.** (a) The responsible social services agency must ask the county attorney to immediately file a termination of parental rights petition when:

(1) the child has been subjected to egregious harm as defined in section 260C.007, subdivision 14;

(2) the child is determined to be the sibling of a child who was subjected to egregious harm;

(3) the child is an abandoned infant as defined in section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the child's parent has lost parental rights to another child through an order involuntarily terminating the parent's rights;

(5) the parent has committed sexual abuse as defined in section 260E.03, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) another child of the parent is the subject of an order involuntarily transferring permanent legal and physical custody of the child to a relative under this chapter or a similar law of another jurisdiction.

The county attorney shall file a termination of parental rights petition unless the conditions of paragraph (d) are met.

(b) When the termination of parental rights petition is filed under this subdivision, the responsible social services agency shall identify, recruit, and approve an adoptive family for the child. If a termination of parental rights petition has been filed by another party, the responsible social services agency shall be joined as a party to the petition.

(c) If criminal charges have been filed against a parent arising out of the conduct alleged to constitute egregious harm, the county attorney shall determine which matter should proceed to trial first, consistent with the best interests of the child and subject to the defendant's right to a speedy trial.

(d) The requirement of paragraph (a) does not apply if the responsible social services agency and the county attorney determine and file with the court:

(1) a petition for transfer of permanent legal and physical custody to a relative under sections 260C.505 and 260C.515, subdivision 4, including a determination that adoption is not in the child's best interests and that transfer of permanent legal and physical custody is in the child's best interests; or

(2) a petition under section 260C.141 alleging the child, and where appropriate, the child's siblings, to be in need of protection or services accompanied by a case plan prepared by the responsible social services agency documenting a compelling reason why filing a termination of parental rights petition would not be in the best interests of the child.

Subd. 3. **Calculating time to required permanency proceedings.** (a) For purposes of this section, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian. For purposes of this section, time spent by a child in the home of the noncustodial parent pursuant to court order under section 260C.178 or under the protective supervision of the responsible social services agency in the home of the noncustodial parent pursuant to an order under section 260C.201, subdivision 1, counts towards the requirement of a permanency hearing under this section. Time spent on a trial home visit counts towards the requirement of a permanency hearing under this section and the permanency progress review required under section 260C.204.

(b) For the purposes of this section, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed in foster care or in the home of a noncustodial parent are cumulated; and

(2) if a child has been placed in foster care within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed in foster care within the previous five years are cumulated. If a child under this clause has been in foster care for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

(c) If the child is on a trial home visit 12 months after the child was placed in foster care or in the care of a noncustodial parent, the responsible social services agency may file a report with the court regarding the child's and parent's progress on the trial home visit and the agency's reasonable efforts to finalize the child's safe and permanent return to the care of the parent in lieu of filing the petition required under section 260C.505. The court shall make findings regarding the reasonable efforts of the agency to finalize the child's return home as the permanency disposition order in the best interests of the child. The court may continue the trial home visit to a total time not to exceed six months as provided in section 260C.201, subdivision 1, paragraph (a), clause (3). If the court finds the agency has not made reasonable efforts to finalize the child's return home as the permanency disposition order in the child's best interests, the court may order other or additional efforts to support the child remaining in the care of the parent. If a trial home visit ordered or continued at permanency proceedings under sections 260C.503 to 260C.521 terminates, the court shall commence or recommence permanency proceedings under this chapter no later than 30 days after the child is returned to foster care or to the care of a noncustodial parent.

Subd. 4. **Qualified residential treatment program; permanency hearing requirements.** When a child is placed in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, the responsible social services agency must submit evidence to the court as specified in section 260C.712.

History: *2012 c 216 art 4 s 25; 2013 c 125 art 1 s 58; 1Sp2019 c 9 art 1 s 33; 1Sp2020 c 2 art 5 s 83; art 8 s 126; 2021 c 30 art 10 s 37*

260C.505 PETITION.

(a) A permanency or termination of parental rights petition must be filed at or prior to the time the child has been in foster care or in the care of a noncustodial or nonresident parent for 11 months or in the expedited manner required in section 260C.503, subdivision 2, paragraph (a). The court administrator shall serve the petition as required in the Minnesota Rules of Juvenile Protection Procedure and section 260C.152 for the admit-deny hearing on the petition required in section 260C.507.

(b) A petition under this section is not required if the responsible social services agency intends to recommend that the child return to the care of the parent from whom the child was removed at or prior to the time the court is required to hold the admit-deny hearing required under section 260C.507.

History: *2012 c 216 art 4 s 26*

260C.507 ADMIT-DENY HEARING.

(a) An admit-deny hearing on the permanency or termination of parental rights petition shall be held not later than 12 months from the child's placement in foster care or an order for the child to be in the care of a noncustodial or nonresident parent.

(b) An admit-deny hearing on the termination of parental rights or transfer of permanent legal and physical custody petition required to be immediately filed under section 260C.503, subdivision 2, paragraph (a), shall be within ten days of the filing of the petition.

(c) At the admit-deny hearing, the court shall determine whether there is a prima facie basis for finding that the agency made reasonable efforts, or in the case of an Indian child active efforts, for reunification as required or that reasonable efforts for reunification are not required under section 260.012 and proceed according to the Minnesota Rules of Juvenile Protection Procedure.

History: *2012 c 216 art 4 s 27*

260C.509 TRIAL.

The permanency proceedings shall be conducted in a timely fashion including that any trial required under section 260C.163 shall be commenced within 60 days of the admit-deny hearing required under section 260C.507. At the conclusion of the permanency proceedings, the court shall:

(1) order the child returned to the care of the parent or guardian from whom the child was removed; or

(2) order a permanency disposition under section 260C.515 or termination of parental rights under sections 260C.301 to 260C.328 if a permanency disposition order or termination of parental rights is in the child's best interests.

History: *2012 c 216 art 4 s 28*

260C.511 BEST INTERESTS OF THE CHILD.

(a) The "best interests of the child" means all relevant factors to be considered and evaluated. In the case of an Indian child, best interests of the child includes best interests of an Indian child as defined in section 260.755, subdivision 2a.

(b) In making a permanency disposition order or termination of parental rights, 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.

History: *2012 c 216 art 4 s 29; 2015 c 78 art 1 s 34*

260C.513 PERMANENCY DISPOSITIONS WHEN CHILD CANNOT RETURN HOME.

(a) Termination of parental rights and adoption, or guardianship to the commissioner of human services through a consent to adopt, are preferred permanency options for a child who cannot return home. If the court finds that termination of parental rights and guardianship to the commissioner is not in the child's best

interests, the court may transfer permanent legal and physical custody of the child to a relative when that order is in the child's best interests.

(b) When the court has determined that permanent placement of the child away from the parent is necessary, the court shall consider permanent alternative homes that are available both inside and outside the state.

History: *2012 c 216 art 4 s 30*

260C.515 PERMANENCY DISPOSITION ORDERS.

Subdivision 1. **Court order required.** If the child is not returned to the home at or before the conclusion of permanency proceedings under sections 260C.503 to 260C.521, the court must order one of the permanency dispositions in this section.

Subd. 2. **Termination of parental rights.** The court may order:

(1) termination of parental rights when the requirements of sections 260C.301 to 260C.328 are met; or

(2) the responsible social services agency to file a petition for termination of parental rights in which case all the requirements of sections 260C.301 to 260C.328 remain applicable.

Subd. 3. **Guardianship; commissioner.** The court may issue an order that the child is under the guardianship of the commissioner of human services under the following procedures and conditions:

(1) there is an identified prospective adoptive parent agreed to by the responsible social services agency that has legal custody of the child pursuant to court order under this chapter and that prospective adoptive parent has agreed to adopt the child;

(2) the court accepts the parent's voluntary consent to adopt in writing on a form prescribed by the commissioner, executed before two competent witnesses and confirmed by the consenting parent before the court or executed before the court. The consent shall contain notice that consent given under this chapter:

(i) is irrevocable upon acceptance by the court unless fraud is established and an order is issued permitting revocation as stated in clause (9) unless the matter is governed by the Indian Child Welfare Act, United States Code, title 25, section 1913(c); and

(ii) will result in an order that the child is under the guardianship of the commissioner of human services;

(3) a consent executed and acknowledged outside of this state, either in accordance with the law of this state or in accordance with the law of the place where executed, is valid;

(4) the court must review the matter at least every 90 days under section 260C.317;

(5) a consent to adopt under this subdivision vests guardianship of the child with the commissioner of human services and makes the child a ward of the commissioner of human services under section 260C.325;

(6) the court must forward to the commissioner a copy of the consent to adopt, together with a certified copy of the order transferring guardianship to the commissioner;

(7) if an adoption is not finalized by the identified prospective adoptive parent within six months of the execution of the consent to adopt under this clause, the responsible social services agency shall pursue adoptive placement in another home unless the court finds in a hearing under section 260C.317 that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent;

(8) notwithstanding clause (7), the responsible social services agency must pursue adoptive placement in another home as soon as the agency determines that finalization of the adoption with the identified prospective adoptive parent is not possible, that the identified prospective adoptive parent is not willing to adopt the child, or that the identified prospective adoptive parent is not cooperative in completing the steps necessary to finalize the adoption. The court may order a termination of parental rights under subdivision 2; and

(9) unless otherwise required by the Indian Child Welfare Act, United States Code, title 25, section 1913(c), a consent to adopt executed under this section shall be irrevocable upon acceptance by the court except upon order permitting revocation issued by the same court after written findings that consent was obtained by fraud.

Subd. 4. **Custody to relative.** The court may order permanent legal and physical custody to a fit and willing relative in the best interests of the child according to the following requirements:

(1) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;

(2) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards applicable under this chapter and chapter 260, and the procedures in the Minnesota Rules of Juvenile Protection Procedure;

(3) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;

(4) a permanent legal and physical custodian may not return a child to the permanent care of a parent from whom the court removed custody without the court's approval and without notice to the responsible social services agency;

(5) the social services agency may file a petition naming a fit and willing relative as a proposed permanent legal and physical custodian. A petition for transfer of permanent legal and physical custody to a relative who is not a parent shall be accompanied by a kinship placement agreement under section 256N.22, subdivision 2, between the agency and proposed permanent legal and physical custodian;

(6) another party to the permanency proceeding regarding the child may file a petition to transfer permanent legal and physical custody to a relative. The petition must include facts upon which the court can make the determination required under clause (7) and must be filed not later than the date for the required admit-deny hearing under section 260C.507; or if the agency's petition is filed under section 260C.503, subdivision 2, the petition must be filed not later than 30 days prior to the trial required under section 260C.509;

(7) where a petition is for transfer of permanent legal and physical custody to a relative who is not a parent, the court must find that:

(i) transfer of permanent legal and physical custody and receipt of Northstar kinship assistance under chapter 256N, when requested and the child is eligible, are in the child's best interests;

(ii) adoption is not in the child's best interests based on the determinations in the kinship placement agreement required under section 256N.22, subdivision 2;

(iii) the agency made efforts to discuss adoption with the child's parent or parents, or the agency did not make efforts to discuss adoption and the reasons why efforts were not made; and

(iv) there are reasons to separate siblings during placement, if applicable;

(8) the court may defer finalization of an order transferring permanent legal and physical custody to a relative when deferring finalization is necessary to determine eligibility for Northstar kinship assistance under chapter 256N;

(9) the court may finalize a permanent transfer of physical and legal custody to a relative regardless of eligibility for Northstar kinship assistance under chapter 256N; and

(10) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met.

Subd. 5. **Permanent custody to agency.** The court may order permanent custody to the responsible social services agency for continued placement of the child in foster care but only if it approves the responsible social services agency's compelling reasons that no other permanency disposition order is in the child's best interests and:

(1) the child has reached age 16 and has been asked about the child's desired permanency outcome;

(2) the responsible social services agency has made reasonable efforts to locate and place the child with an adoptive family or a fit and willing relative who would either agree to adopt the child or to a transfer of permanent legal and physical custody of the child, but these efforts have not proven successful; and

(3) the parent will continue to have visitation or contact with the child and will remain involved in planning for the child.

Subd. 6. **Temporary legal custody to agency.** The court may order temporary legal custody to the responsible social services agency for continued placement of the child in foster care for a specified period of time according to the following conditions:

(1) the sole basis for an adjudication that the child is in need of protection or services is the child's behavior;

(2) the court finds that foster care for a specified period of time is in the best interests of the child;

(3) the court approves the responsible social services agency's compelling reasons that neither an award of permanent legal and physical custody to a relative nor termination of parental rights is in the child's best interests; and

(4) the order specifies that the child continue in foster care no longer than one year.

History: *2012 c 216 art 4 s 31; 2014 c 312 art 25 s 30; 2015 c 71 art 1 s 65; 2021 c 30 art 10 s 38*

260C.517 FINDINGS AND CONTENT OF ORDER FOR PERMANENCY DISPOSITION.

(a) Except for an order terminating parental rights, an order permanently placing a child out of the home of the parent or guardian 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 services agency's reasonable efforts or, in the case of an Indian child, active efforts to reunify the child with the parent or guardian where reasonable efforts are required;

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

(4) that the conditions which led to the out-of-home placement have not been corrected so that the child can safely return home.

(b) The court shall issue an order required under section 260C.515 and this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

History: *2012 c 216 art 4 s 32*

260C.519 FURTHER COURT HEARINGS.

Once a permanency disposition order has been made, further court hearings are necessary if:

(1) the child is ordered on a trial home visit or under the protective supervision of the responsible social services agency;

(2) the child continues in foster care;

(3) the court orders further hearings in a transfer of permanent legal and physical custody matter including if a party seeks to modify an order under section 260C.521, subdivision 2;

(4) an adoption has not yet been finalized; or

(5) the child returns to foster care after the court has entered an order for a permanency disposition under this section.

History: *2012 c 216 art 4 s 33*

260C.521 COURT REVIEWS AFTER PERMANENCY DISPOSITION ORDER.

Subdivision 1. **Child in permanent custody of responsible social services agency.** (a) Court reviews of an order for permanent custody to the responsible social services agency for placement of the child in foster care must be conducted at least yearly at an in-court appearance hearing.

(b) The purpose of the review hearing is to ensure:

(1) the responsible social services agency made intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts to return the child home or secure a placement for the child with a fit and willing relative, custodian, or adoptive parent, and an order for permanent custody to the responsible social services agency for placement of the child in foster care continues to be in the best interests of the child;

(2) that the responsible social services agency is assisting the child to build connections to the child's family and community;

(3) that the responsible social services agency is appropriately planning with the child for development of independent living skills for the child and, as appropriate, for the orderly and successful transition to adulthood that may occur if the child continues in foster care without another permanency disposition order;

(4) the child's foster family home or child care institution is following the reasonable and prudent parenting standards; and

(5) the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities by consulting with the child in an age-appropriate manner about the opportunities.

(c) The court must review the child's out-of-home placement plan and the reasonable efforts of the responsible social services agency to finalize an alternative permanent plan for the child including the responsible social services agency's efforts to:

(1) ensure that permanent custody to the responsible social services agency with placement of the child in foster care continues to be the most appropriate legal arrangement for meeting the child's need for permanency and stability by reviewing the compelling reasons it continues not to be in the best interest of the child to:

(i) return home;

(ii) be placed for adoption; or

(iii) be placed with a fit and willing relative through an order for permanent legal and physical custody under section 260C.515, subdivision 4;

(2) identify a specific foster home for the child, if one has not already been identified;

(3) support continued placement of the child in the identified home, if one has been identified;

(4) ensure appropriate services are provided to address the physical health, mental health, and educational needs of the child during the period of foster care and also ensure appropriate services or assistance to maintain relationships with appropriate family members and the child's community; and

(5) plan for the child's independence upon the child's leaving foster care living as required under section 260C.212, subdivision 1.

(d) The court may find that the responsible social services agency has made reasonable efforts to finalize the permanent plan for the child when:

(1) the responsible social services agency has made reasonable efforts to identify a more legally permanent home for the child than is provided by an order for permanent custody to the agency for placement in foster care;

(2) the child has been asked about the child's desired permanency outcome; and

(3) the responsible social services agency's engagement of the child in planning for a successful transition to adulthood is reasonable and appropriate.

Subd. 2. **Modifying order for permanent legal and physical custody to a relative.** (a) An order for a relative to have permanent legal and physical custody of a child may be modified using standards under sections 518.18 and 518.185.

(b) When a child is receiving Northstar kinship assistance under chapter 256N, if a relative named as permanent legal and physical custodian in an order made under this chapter becomes incapacitated or dies, a successor custodian named in the Northstar Care for Children kinship assistance benefit agreement under section 256N.25 may file a request to modify the order for permanent legal and physical custody to name the successor custodian as the permanent legal and physical custodian of the child. The court may modify

the order to name the successor custodian as the permanent legal and physical custodian upon reviewing the background study required under section 245C.33 if the court finds the modification is in the child's best interests.

(c) The social services agency is a party to the proceeding and must receive notice.

Subd. 3. **Modifying order for permanent custody to agency for placement in foster care.** (a) A parent may seek modification of an order for permanent custody of the child to the responsible social services agency for placement in foster care 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 permanent custody of the agency and the return to the parent's care would be in the best interests of the child.

(b) The responsible social services agency may ask the court to vacate an order for permanent custody to the agency upon a petition and hearing pursuant to section 260C.163 establishing the basis for the court to order another permanency disposition under this chapter, including termination of parental rights based on abandonment if the parent has not visited the child, maintained contact with the child, or participated in planning for the child as required under section 260C.515, subdivision 5. The responsible social services agency must establish that the proposed permanency disposition order is in the child's best interests. Upon a hearing where the court determines the petition is proved, the court may vacate the order for permanent custody and enter a different order for a permanent disposition that is in the child's best interests. The court shall not require further reasonable efforts to reunify the child with the parent or guardian as a basis for vacating the order for permanent custody to the agency and ordering a different permanency disposition in the child's best interests. The county attorney must file the petition and give notice as required under the Minnesota Rules of Juvenile Protection Procedure in order to modify an order for permanent custody under this subdivision.

Subd. 4. **Change in placement.** If a child is removed from a permanent placement disposition authorized under section 260C.515, subdivision 4, 5, or 6, within one year after the placement was made:

(1) the child must be returned to the residential facility where the child was placed immediately preceding the permanent placement; or

(2) the court shall hold a hearing within ten days after the child is removed from the permanent placement to determine where the child is to be placed. A guardian ad litem must be appointed for the child for this hearing.

History: *1999 c 245 art 8 s 23; 2005 c 56 s 1; 2012 c 216 art 4 s 34; art 6 s 13; 2015 c 71 art 1 s 66,67; 2016 c 189 art 15 s 14*

ADOPTION OF CHILDREN UNDER GUARDIANSHIP OF COMMISSIONER

260C.601 ADOPTION OF CHILDREN UNDER GUARDIANSHIP OF COMMISSIONER.

Subdivision 1. **Review and finalization requirements; adoption procedures.** (a) Sections 260C.601 to 260C.635 establish:

(1) the requirements for court review of children under the guardianship of the commissioner; and

(2) procedures for timely finalizing adoptions in the best interests of children under the guardianship of the commissioner.

(b) Adoption proceedings for children not under the guardianship of the commissioner are governed by chapter 259.

Subd. 2. **Duty of responsible agency.** The responsible social services agency has the duty to act as the commissioner's agent in making reasonable efforts to finalize the adoption of all children under the guardianship of the commissioner pursuant to section 260C.325. In implementing these duties, the agency shall ensure that:

(1) the best interests of the child are met in the planning and granting of adoptions;

(2) a child under the guardianship of the commissioner is appropriately involved in planning for adoption;

(3) the diversity of Minnesota's population and diverse needs including culture, religion, and language of persons affected by adoption are recognized and respected; and

(4) the court has the timely information it needs to make a decision that is in the best interests of the child in reviewing the agency's planning for adoption and when ordering the adoption of the child.

Subd. 3. **Background study.** Consistent with section 245C.33 and United States Code, title 42, section 671, a completed background study is required before the adoptive placement of the child in a related or an unrelated home.

History: *2012 c 216 art 1 s 26*

260C.603 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 260C.601 to 260C.635, the terms defined in this section have the meanings given them.

Subd. 2. **Adopting parent.** "Adopting parent" means an adult who has signed an adoption placement agreement regarding the child and has the same meaning as preadoptive parent under section 259A.01, subdivision 23.

Subd. 3. **Adoption placement agreement.** "Adoption placement agreement" means the written agreement between the responsible social services agency, the commissioner, and the adopting parent which reflects the intent of all the signatories to the agreement that the adopting parent establish a parent and child relationship by adoption with the child who is under the guardianship of the commissioner. The adoptive placement agreement must be in the commissioner's designated format.

Subd. 4. **Adoptive parent.** "Adoptive parent" has the meaning given in section 259A.01, subdivision 3.

Subd. 5. **Adoptive placement.** "Adoptive placement" means a placement made by the responsible social services agency upon a fully executed adoption placement agreement including the signatures of the adopting parent, the responsible social services agency, and the commissioner of human services according to section 260C.613, subdivision 1.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of human services or any employee of the Department of Human Services to whom the commissioner has delegated authority regarding children under the commissioner's guardianship.

Subd. 7. **Guardianship.** "Guardianship" has the meaning given in section 259A.01, subdivision 17; 260C.325; or 260C.515, subdivision 3.

Subd. 8. **Prospective adoptive parent.** "Prospective adoptive parent" means an individual who may become an adopting parent regardless of whether the individual has an adoption study approving the individual for adoption, but who has not signed an adoption placement agreement.

History: *2012 c 216 art 1 s 27*

260C.605 REASONABLE EFFORTS TO FINALIZE AN ADOPTION.

Subdivision 1. **Requirements.** (a) Reasonable efforts to finalize the adoption of a child under the guardianship of the commissioner shall be made by the responsible social services agency responsible for permanency planning for the child.

(b) Reasonable efforts to make a placement in a home according to the placement considerations under section 260C.212, subdivision 2, with a relative or foster parent who will commit to being the permanent resource for the child in the event the child cannot be reunified with a parent are required under section 260.012 and may be made concurrently with reasonable, or if the child is an Indian child, active efforts to reunify the child with the parent.

(c) Reasonable efforts under paragraph (b) must begin as soon as possible when the child is in foster care under this chapter, but not later than the hearing required under section 260C.204.

(d) Reasonable efforts to finalize the adoption of the child include:

(1) using age-appropriate engagement strategies to plan for adoption with the child;

(2) identifying an appropriate prospective adoptive parent for the child by updating the child's identified needs using the factors in section 260C.212, subdivision 2;

(3) making an adoptive placement that meets the child's needs by:

(i) completing or updating the relative search required under section 260C.221 and giving notice of the need for an adoptive home for the child to:

(A) relatives who have kept the agency or the court apprised of their whereabouts and who have indicated an interest in adopting the child; or

(B) relatives of the child who are located in an updated search;

(ii) an updated search is required whenever:

(A) there is no identified prospective adoptive placement for the child notwithstanding a finding by the court that the agency made diligent efforts under section 260C.221, in a hearing required under section 260C.202;

(B) the child is removed from the home of an adopting parent; or

(C) the court determines a relative search by the agency is in the best interests of the child;

(iii) engaging the child's foster parent and the child's relatives identified as an adoptive resource during the search conducted under section 260C.221, to commit to being the prospective adoptive parent of the child; or

(iv) when there is no identified prospective adoptive parent:

(A) registering the child on the state adoption exchange as required in section 259.75 unless the agency documents to the court an exception to placing the child on the state adoption exchange reported to the commissioner;

(B) reviewing all families with approved adoption home studies associated with the responsible social services agency;

(C) presenting the child to adoption agencies and adoption personnel who may assist with finding an adoptive home for the child;

(D) using newspapers and other media to promote the particular child;

(E) using a private agency under grant contract with the commissioner to provide adoption services for intensive child-specific recruitment efforts; and

(F) making any other efforts or using any other resources reasonably calculated to identify a prospective adoption parent for the child;

(4) updating and completing the social and medical history required under sections 260C.212, subdivision 15, and 260C.609;

(5) making, and keeping updated, appropriate referrals required by section 260.851, the Interstate Compact on the Placement of Children;

(6) giving notice regarding the responsibilities of an adoptive parent to any prospective adoptive parent as required under section 259.35;

(7) offering the adopting parent the opportunity to apply for or decline adoption assistance under chapter 256N;

(8) certifying the child for adoption assistance, assessing the amount of adoption assistance, and ascertaining the status of the commissioner's decision on the level of payment if the adopting parent has applied for adoption assistance;

(9) placing the child with siblings. If the child is not placed with siblings, the agency must document reasonable efforts to place the siblings together, as well as the reason for separation. The agency may not cease reasonable efforts to place siblings together for final adoption until the court finds further reasonable efforts would be futile or that placement together for purposes of adoption is not in the best interests of one of the siblings; and

(10) working with the adopting parent to file a petition to adopt the child and with the court administrator to obtain a timely hearing to finalize the adoption.

Subd. 2. **No waiver.** (a) The responsible social services agency shall make reasonable efforts to recruit, assess, and match an adoptive home for any child under the guardianship of the commissioner and reasonable efforts shall continue until an adoptive placement is made and adoption finalized or until the child is no longer under the guardianship of the commissioner.

(b) A child of any age who is under the guardianship of the commissioner and is legally available for adoption may not refuse or waive the responsible social services agency's reasonable efforts to recruit, identify, and place the child in an adoptive home required under this section. The agency has an ongoing

responsibility to work with the child to explore the child's opportunities for adoption, and what adoption means for the child, and may not accept a child's refusal to consider adoption as an option.

(c) The court may not relieve or otherwise order the responsible social services agency to cease fulfilling the responsible social services agency's duty regarding reasonable efforts to recruit, identify, and place the child in an adoptive home.

History: *2012 c 216 art 1 s 28; 2021 c 30 art 10 s 39*

260C.607 REVIEW OF PROGRESS TOWARD ADOPTION.

Subdivision 1. **Review hearings.** (a) The court shall conduct a review of the responsible social services agency's reasonable efforts to finalize adoption for any child under the guardianship of the commissioner and of the progress of the case toward adoption at least every 90 days after the court issues an order that the commissioner is the guardian of the child.

(b) The review of progress toward adoption shall continue notwithstanding that an appeal is made of the order for guardianship.

(c) The agency's reasonable efforts to finalize the adoption must continue during the pendency of the appeal and all progress toward adoption shall continue except that the court may not finalize an adoption while the appeal is pending.

Subd. 2. **Notice.** Notice of review hearings shall be given by the court to:

(1) the responsible social services agency;

(2) the child, if the child is age ten and older;

(3) the child's guardian ad litem;

(4) counsel appointed for the child pursuant to section 260C.163, subdivision 3;

(5) relatives of the child who have kept the court informed of their whereabouts as required in section 260C.221 and who have responded to the agency's notice under section 260C.221, indicating a willingness to provide an adoptive home for the child unless the relative has been previously ruled out by the court as a suitable foster parent or permanency resource for the child;

(6) the current foster or adopting parent of the child;

(7) any foster or adopting parents of siblings of the child; and

(8) the Indian child's tribe.

Subd. 3. **Right to participate.** Any individual or entity listed in subdivision 2 may participate in the continuing reviews conducted under this section. No other individual or entity is required to be given notice or to participate in the reviews unless the court specifically orders that notice be given or participation in the reviews be required.

Subd. 4. **Content of review.** (a) The court shall review:

(1) the agency's reasonable efforts under section 260C.605 to finalize an adoption for the child as appropriate to the stage of the case; and

(2) the child's current out-of-home placement plan required under section 260C.212, subdivision 1, to ensure the child is receiving all services and supports required to meet the child's needs as they relate to the child's:

(i) placement;

(ii) visitation and contact with siblings;

(iii) visitation and contact with relatives;

(iv) medical, mental, and dental health; and

(v) education.

(b) When the child is age 14 and older, and as long as the child continues in foster care, the court shall also review the agency's planning for the child's independent living after leaving foster care including how the agency is meeting the requirements of section 260C.212, subdivision 1, paragraph (c), clause (12). The court shall use the review requirements of section 260C.203 in any review conducted under this paragraph.

Subd. 5. **Required placement by responsible social services agency.** (a) No petition for adoption shall be filed for a child under the guardianship of the commissioner unless the child sought to be adopted has been placed for adoption with the adopting parent by the responsible social services agency. The court may order the agency to make an adoptive placement using standards and procedures under subdivision 6.

(b) Any relative or the child's foster parent who believes the responsible agency has not reasonably considered the relative's or foster parent's request to be considered for adoptive placement as required under section 260C.212, subdivision 2, and who wants to be considered for adoptive placement of the child shall bring a request for consideration to the attention of the court during a review required under this section. The child's guardian ad litem and the child may also bring a request for a relative or the child's foster parent to be considered for adoptive placement. After hearing from the agency, the court may order the agency to take appropriate action regarding the relative's or foster parent's request for consideration under section 260C.212, subdivision 2, paragraph (b).

Subd. 6. **Motion and hearing to order adoptive placement.** (a) At any time after the district court orders the child under the guardianship of the commissioner of human services, but not later than 30 days after receiving notice required under section 260C.613, subdivision 1, paragraph (c), that the agency has made an adoptive placement, a relative or the child's foster parent may file a motion for an order for adoptive placement of a child who is under the guardianship of the commissioner if the relative or the child's foster parent:

(1) has an adoption home study under section 259.41 approving the relative or foster parent for adoption and has been a resident of Minnesota for at least six months before filing the motion; the court may waive the residency requirement for the moving party if there is a reasonable basis to do so; or

(2) is not a resident of Minnesota, but has an approved adoption home study by an agency licensed or approved to complete an adoption home study in the state of the individual's residence and the study is filed with the motion for adoptive placement.

(b) The motion shall be filed with the court conducting reviews of the child's progress toward adoption under this section. The motion and supporting documents must make a prima facie showing that the agency has been unreasonable in failing to make the requested adoptive placement. The motion must be served

according to the requirements for motions under the Minnesota Rules of Juvenile Protection Procedure and shall be made on all individuals and entities listed in subdivision 2.

(c) If the motion and supporting documents do not make a prima facie showing for the court to determine whether the agency has been unreasonable in failing to make the requested adoptive placement, the court shall dismiss the motion. If the court determines a prima facie basis is made, the court shall set the matter for evidentiary hearing.

(d) At the evidentiary hearing, the responsible social services agency shall proceed first with evidence about the reason for not making the adoptive placement proposed by the moving party. The moving party then has the burden of proving by a preponderance of the evidence that the agency has been unreasonable in failing to make the adoptive placement.

(e) At the conclusion of the evidentiary hearing, if the court finds that the agency has been unreasonable in failing to make the adoptive placement and that the relative or the child's foster parent is the most suitable adoptive home to meet the child's needs using the factors in section 260C.212, subdivision 2, paragraph (b), the court may order the responsible social services agency to make an adoptive placement in the home of the relative or the child's foster parent.

(f) If, in order to ensure that a timely adoption may occur, the court orders the responsible social services agency to make an adoptive placement under this subdivision, the agency shall:

(1) make reasonable efforts to obtain a fully executed adoption placement agreement;

(2) work with the moving party regarding eligibility for adoption assistance as required under chapter 256N; and

(3) if the moving party is not a resident of Minnesota, timely refer the matter for approval of the adoptive placement through the Interstate Compact on the Placement of Children.

(g) Denial or granting of a motion for an order for adoptive placement after an evidentiary hearing is an order which may be appealed by the responsible social services agency, the moving party, the child, when age ten or over, the child's guardian ad litem, and any individual who had a fully executed adoption placement agreement regarding the child at the time the motion was filed if the court's order has the effect of terminating the adoption placement agreement. An appeal shall be conducted according to the requirements of the Rules of Juvenile Protection Procedure.

Subd. 7. **Changing adoptive plan when parent has consented to adoption.** When the child's parent has consented to adoption under section 260C.515, subdivision 3, only the person identified by the parent and agreed to by the agency as the prospective adoptive parent qualifies for adoptive placement of the child until the responsible social services agency has reported to the court and the court has found in a hearing under this section that it is not possible to finalize an adoption by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under section 260C.515, subdivision 3, unless the responsible social services agency certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent.

Subd. 8. **Timing modified.** (a) The court may review the responsible social services agency's reasonable efforts to finalize an adoption more frequently than every 90 days whenever a more frequent review would assist in finalizing the adoption.

(b) In appropriate cases, the court may review the responsible social services agency's reasonable efforts to finalize an adoption less frequently than every 90 days. The court shall not find it appropriate to review progress toward adoption less frequently than every 90 days except when:

(1) the court has approved the agency's reasonable efforts to recruit, identify, and place the child in an adoptive home on a continuing basis for at least 24 months after the court has issued the order for guardianship;

(2) the child is at least 16 years old; and

(3) the child's guardian ad litem agrees that review less frequently than every 90 days is in the child's best interests.

(c) In no event shall the court's review be less frequent than every six months.

History: *2012 c 216 art 1 s 29; 2015 c 71 art 1 s 68; 2017 c 60 s 3; 2021 c 30 art 10 s 40*

260C.609 SOCIAL AND MEDICAL HISTORY.

(a) The responsible social services agency shall thoroughly discuss the child's history with the prospective adoptive parent of the child and shall give a redacted copy of the child's social and medical history as described in section 260C.212, subdivision 15, including redacted attachments, to the prospective adoptive parent. If the prospective adoptive parent does not pursue adoption of the child, the prospective adoptive parent must return the child's social and medical history and redacted attachments to the agency. The responsible social services agency may give a redacted copy of the child's social and medical history to the child according to section 260C.212, subdivision 1.

(b) The report shall not include information that identifies birth relatives. Redacted copies of all of the child's relevant evaluations, assessments, and records must be attached to the social and medical history.

(c) The agency must submit the child's social and medical history to the Department of Human Services at the time that the agency submits the child's adoption placement agreement. Pursuant to section 260C.623, subdivision 4, the child's social and medical history must be submitted to the court at the time the adoption petition is filed with the court.

History: *2012 c 216 art 1 s 30; 2021 c 30 art 10 s 41*

260C.611 ADOPTION STUDY REQUIRED.

(a) An adoption study under section 259.41 approving placement of the child in the home of the prospective adoptive parent shall be completed before placing any child under the guardianship of the commissioner in a home for adoption. If a prospective adoptive parent has a current child foster care license under chapter 245A and is seeking to adopt a foster child who is placed in the prospective adoptive parent's home and is under the guardianship of the commissioner according to section 260C.325, subdivision 1, the child foster care home study meets the requirements of this section for an approved adoption home study if:

(1) the written home study on which the foster care license was based is completed in the commissioner's designated format, consistent with the requirements in sections 259.41, subdivision 2; and 260C.215, subdivision 4, clause (5); and Minnesota Rules, part 2960.3060, subpart 4;

(2) the background studies on each prospective adoptive parent and all required household members were completed according to section 245C.33;

(3) the commissioner has not issued, within the last three years, a sanction on the license under section 245A.07 or an order of a conditional license under section 245A.06; and

(4) the legally responsible agency determines that the individual needs of the child are being met by the prospective adoptive parent through an assessment under section 256N.24, subdivision 2, or a documented placement decision consistent with section 260C.212, subdivision 2.

(b) If a prospective adoptive parent has previously held a foster care license or adoptive home study, any update necessary to the foster care license, or updated or new adoptive home study, if not completed by the licensing authority responsible for the previous license or home study, shall include collateral information from the previous licensing or approving agency, if available.

History: *2012 c 216 art 1 s 31; 2014 c 312 art 25 s 31*

260C.613 SOCIAL SERVICES AGENCY AS COMMISSIONER'S AGENT.

Subdivision 1. **Adoptive placement decisions.** (a) The responsible social services agency has exclusive authority to make an adoptive placement of a child under the guardianship of the commissioner. The child shall be considered placed for adoption when the adopting parent, the agency, and the commissioner have fully executed an adoption placement agreement on the form prescribed by the commissioner.

(b) The responsible social services agency shall use an individualized determination of the child's current needs pursuant to section 260C.212, subdivision 2, paragraph (b), to determine the most suitable adopting parent for the child in the child's best interests.

(c) The responsible social services agency shall notify the court and parties entitled to notice under section 260C.607, subdivision 2, when there is a fully executed adoption placement agreement for the child.

(d) In the event an adoption placement agreement terminates, the responsible social services agency shall notify the court, the parties entitled to notice under section 260C.607, subdivision 2, and the commissioner that the agreement and the adoptive placement have terminated.

Subd. 2. **Disclosure of data permitted to identify adoptive parent.** The responsible social services agency may disclose private data, as defined in section 13.02, to prospective adoptive parents for the purpose of identifying an adoptive parent willing and able to meet the child's needs as outlined in section 260C.212, subdivision 2, paragraph (b).

Subd. 3. **Siblings placed together.** The responsible social services agency shall place siblings together for adoption according to section 260.012, paragraph (e), clause (4), unless:

(1) the court makes findings required under section 260C.617; and

(2) the court orders that the adoption or progress toward adoption of the child under the court's jurisdiction may proceed notwithstanding that the adoption will result in siblings being separated.

Subd. 4. **Other considerations.** Placement of a child cannot be delayed or denied based on the race, color, or national origin of the prospective parent or the child.

Subd. 5. **Required record keeping.** The responsible social services agency shall document, in the records required to be kept under section 259.79, the reasons for the adoptive placement decision regarding the child, including the individualized determination of the child's needs based on the factors in section 260C.212, subdivision 2, paragraph (b), and the assessment of how the selected adoptive placement meets the identified needs of the child. The responsible social services agency shall retain in the records required

to be kept under section 259.79, copies of all out-of-home placement plans made since the child was ordered under guardianship of the commissioner and all court orders from reviews conducted pursuant to section 260C.607.

Subd. 6. **Death notification.** (a) The agency shall inform the adoptive parents that the adoptive parents of an adopted child under age 19 or an adopted person age 19 or older may maintain a current address on file with the agency and indicate a desire to be notified if the agency receives information of the death of a birth parent. The agency shall notify birth parents of the child's death and the cause of death, if known, provided that the birth parents desire notice and maintain current addresses on file with the agency. The agency shall inform birth parents entitled to notice under section 259.27 that they may designate individuals to notify the agency if a birth parent dies and that the agency receiving information of the birth parent's death will share the information with adoptive parents, if the adopted person is under age 19, or an adopted person age 19 or older who has indicated a desire to be notified of the death of a birth parent and who maintains a current address on file with the agency.

(b) Notice to a birth parent that a child has died or to the adoptive parents or an adopted person age 19 or older that a birth parent has died shall be provided by an employee of the agency through personal and confidential contact, but not by mail.

Subd. 7. **Terminal illness notification.** If a birth parent or the child is terminally ill, the responsible social services agency shall inform the adoptive parents and birth parents of a child who is adopted that the birth parents, the adoptive parents of an adopted person under age 19, or an adopted person age 19 or older may request to be notified of the terminal illness. The agency shall notify the other parties if a request is received under this subdivision and upon a party's request the agency shall share information regarding a terminal illness with the adoptive or birth parents or an adopted person age 19 or older.

Subd. 8. **Postadoption search services.** The responsible social services agency shall respond to requests from adopted persons age 19 years and over, adoptive parents of a minor child, and birth parents for social and medical history and genetic health conditions of the adopted person's birth family and genetic sibling information according to section 259.83.

History: *2012 c 216 art 1 s 32*

260C.615 DUTIES OF COMMISSIONER.

Subdivision 1. **Duties.** (a) For any child who is under the guardianship of the commissioner, the commissioner has the exclusive rights to consent to:

(1) the medical care plan for the treatment of a child who is at imminent risk of death or who has a chronic disease that, in a physician's judgment, will result in the child's death in the near future including a physician's order not to resuscitate or intubate the child; and

(2) the child donating a part of the child's body to another person while the child is living; the decision to donate a body part under this clause shall take into consideration the child's wishes and the child's culture.

(b) In addition to the exclusive rights under paragraph (a), the commissioner has a duty to:

(1) process any complete and accurate request for home study and placement through the Interstate Compact on the Placement of Children under section 260.851;

(2) process any complete and accurate application for adoption assistance forwarded by the responsible social services agency according to chapter 256N;

(3) review and process an adoption placement agreement forwarded to the commissioner by the responsible social services agency and return it to the agency in a timely fashion; and

(4) maintain records as required in chapter 259.

Subd. 2. **Duties not reserved.** All duties, obligations, and consents not specifically reserved to the commissioner in this section are delegated to the responsible social services agency, subject to supervision by the commissioner under section 393.07.

History: *2012 c 216 art 1 s 33; 2021 c 30 art 10 s 42*

260C.617 SIBLING PLACEMENT.

(a) The responsible social services agency shall make every effort to place siblings together for adoption.

(b) The court shall review any proposal by the responsible social services agency to separate siblings for purposes of adoption.

(c) If there is venue in more than one county for matters regarding siblings who are under the guardianship of the commissioner, the judges conducting reviews regarding the siblings shall communicate with each other about the siblings' needs and, where appropriate, shall conduct review hearings in a manner that ensures coordinated planning by agencies involved in decision making for the siblings.

(d) After notice to the individuals and entities listed in section 260C.627, the foster or prospective adoptive parent of the child, and any foster, adopting, or adoptive parents of the child's siblings, or relatives with permanent legal and physical custody of the child's sibling, and upon hearing, the court may determine that a child under the court's jurisdiction may be separated from the child's sibling for adoption when:

(1) the responsible social services agency has made reasonable efforts to place the siblings together, and after finding reasonable efforts have been made, the court finds further efforts would significantly delay the adoption of one or more of the siblings and are therefore not in the best interests of one or more of the siblings; or

(2) the court determines it is not in the best interests of one or more of the siblings to be placed together after reasonable efforts by the responsible social services agency to place the siblings together.

History: *2012 c 216 art 1 s 34*

260C.619 COMMUNICATION AND CONTACT AGREEMENTS.

(a) An adopting parent and a relative or foster parent of the child may enter into an agreement regarding communication with or contact between the adopted child, adopting parent, and the relative or foster parent. An agreement may be entered between:

(1) an adopting parent and a birth parent;

(2) an adopting parent and any relative or foster parent with whom the child resided before being adopted; and

(3) an adopting parent and the parent or legal custodian of a sibling of the child, if the sibling is a minor, or any adult sibling of the child.

(b) An agreement regarding communication with or contact between the child, adoptive parents, and a relative or foster parent, is enforceable when the terms of the agreement are contained in a written court

order. The order must be issued before or at the time of the granting of the decree of adoption. The order granting the communication, contact, or visitation shall be filed in the adoption file.

(c) The court shall mail a certified copy of the order to the parties to the agreement or their representatives at the addresses provided by the parties to the agreement. Service shall be completed in a manner that maintains the confidentiality of confidential information.

(d) The court shall not enter a proposed order unless the terms of the order have been approved in writing by the prospective adoptive parents, the birth relative, the foster parent, or the birth parent or legal custodian of the child's sibling who desires to be a party to the agreement, and the responsible social services agency.

(e) An agreement under this section need not disclose the identity of the parties to be legally enforceable and when the identity of the parties to the agreement is not disclosed, data about the identities in the adoption file shall remain confidential.

(f) 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 the relative, foster parents, or siblings as agreed upon and contained in the proposed order, would be in the child's best interests.

(g) Failure to comply with the terms of an 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.

(h) An order regarding communication or contact entered under this section may be enforced by filing a motion in the existing adoption file with the court that entered the contact agreement. Any party to the communication or contact order or the child who is the subject of the order has standing to file the motion to enforce the order. The prevailing party may be awarded reasonable attorney fees and costs.

(i) The court shall not modify an order under this section unless it finds that the modification is necessary to serve the best interests of the child, and:

(1) the modification is agreed to by the parties to the agreement; or

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

History: *2012 c 216 art 1 s 35*

260C.621 JURISDICTION AND VENUE.

Subdivision 1. **Jurisdiction.** (a) The juvenile court has original jurisdiction for all adoption proceedings involving the adoption of a child under the guardianship of the commissioner, including when the commissioner approves the placement of the child through the Interstate Compact on the Placement of Children under section 260.851 for adoption outside the state of Minnesota and an adoption petition is filed in Minnesota.

(b) The receiving state also has jurisdiction to conduct an adoption proceeding for a child under the guardianship of the commissioner when the adopting home was approved by the receiving state through the interstate compact.

Subd. 2. **Venue.** (a) Venue for the adoption of a child committed to the guardianship of the commissioner of human services shall be the court conducting reviews in the matter according to section 260C.607.

(b) Upon request of the responsible social services agency, the court conducting reviews under section 260C.607 may order that filing an adoption petition involving a child under the guardianship of the commissioner be permitted in the county where the adopting parent resides upon determining that:

(1) there is no motion for an order for adoptive placement of the child that has been filed or is reasonably anticipated by the responsible social services agency to be filed; and

(2) filing the petition in the adopting parent's county of residence will expedite the proceedings and serve the best interests of the child.

(c) When the court issues an order under paragraph (b), a copy of the court order shall be filed together with the adoption petition in the court of the adopting parent's county of residence.

(d) The court shall notify the court conducting reviews under section 260C.607 when the adoption is finalized so that the court conducting reviews under section 260C.607 may close its jurisdiction and the court record, including the court's electronic case record, in the county conducting the reviews shall reflect that adoption of the child was finalized.

History: *2012 c 216 art 1 s 36*

260C.623 ADOPTION PETITION.

Subdivision 1. **Who may petition.** (a) The responsible social services agency may petition for the adopting parent to adopt a child who is under the guardianship of the commissioner. The petition shall contain or have attached a statement certified by the adopting parent that the adopting parent desires that the relationship of parent and child be established between the adopting parent and the child and that adoption is in the best interests of the child.

(b) The adopting parent may petition the court for adoption of the child.

(c) An adopting parent must be at least 21 years of age at the time the adoption petition is filed unless the adopting parent is an individual related to the child, as defined by section 245A.02, subdivision 13.

(d) The petition may be filed in Minnesota by an adopting parent who resides within or outside the state.

Subd. 2. **Time for filing petition.** (a) An adoption petition shall be filed not later than nine months after the date of the fully executed adoption placement agreement unless the court finds that:

(1) the time for filing a petition be extended because of the child's special needs as defined under title IV-E of the federal Social Security Act, United States Code, title 42, section 672; or

(2) based on a written plan for completing filing of the petition, including a specific timeline, to which the adopting parent has agreed, the time for filing a petition be extended long enough to complete the plan because an extension is in the best interests of the child and additional time is needed for the child to adjust to the adoptive home.

(b) If an adoption petition is not filed within nine months of the execution of the adoption placement agreement as required under section 260C.613, subdivision 1, and after giving the adopting parent written notice of its request together with the date and time of the hearing set to consider its report, the responsible social services agency shall file a report requesting an order for one of the following:

(1) that the time for filing a petition be extended because of the child's special needs as defined under title IV-E of the federal Social Security Act, United States Code, title 42, section 673;

(2) that, based on a written plan for completing filing of the petition, including a specific timeline, to which the adopting parent has agreed, the time for filing a petition can be extended long enough to complete the plan because an extension is in the best interests of the child and additional time is needed for the child to adjust to the adoptive home; or

(3) that the child can be removed from the adopting home.

(c) At the conclusion of the review, the court shall issue findings, appropriate orders for the parties to take action or steps required to advance the case toward a finalized adoption, and set the date and time for the next review hearing.

Subd. 3. **Requirements of petition.** (a) The petition shall be captioned in the legal name of the child as that name is reflected on the child's birth record prior to adoption and shall be entitled "Petition to Adopt Child under the Guardianship of the Commissioner of Human Services." The actual name of the child shall be supplied to the court by the responsible social services agency if unknown to the individual with whom the agency has made the adoptive placement.

(b) The adoption petition shall be verified as required in section 260C.141, subdivision 4, and, if filed by the responsible social services agency, signed and approved by the county attorney.

(c) The petition shall state:

(1) the full name, age, and place of residence of the adopting parent;

(2) if the adopting parents are married, the date and place of marriage;

(3) the date the adopting parent acquired physical custody of the child;

(4) the date of the adoptive placement by the responsible social services agency;

(5) the date of the birth of the child, if known, and the county, state, and country where born;

(6) the name to be given the child, if a change of name is desired;

(7) the description and value of any real or personal property owned by the child;

(8) the relationship of the adopting parent to the child prior to adoptive placement, if any;

(9) whether the Indian Child Welfare Act does or does not apply; and

(10) the name and address of:

(i) the child's guardian ad litem;

(ii) the adoptee, if age ten or older;

(iii) the child's Indian tribe, if the child is an Indian child; and

(iv) the responsible social services agency.

(d) A petition may ask for the adoption of two or more children.

(e) If a petition is for adoption by a married person, both spouses must sign the petition indicating willingness to adopt the child and the petition must ask for adoption by both spouses unless the court approves adoption by only one spouse when spouses do not reside together or for other good cause shown.

(f) If the petition is for adoption by a person residing outside the state, the adoptive placement must have been approved by the state where the person is a resident through the Interstate Compact on the Placement of Children, sections 260.851 to 260.92.

Subd. 4. **Attachments to the petition.** The following must be filed with the petition:

(1) the adoption study report required under section 259.41;

(2) the social and medical history required under sections 259.43 and 260C.609; and

(3) a document prepared by the petitioner that establishes who must be given notice under section 260C.627, subdivision 1, that includes the names and mailing addresses of those to be served by the court administrator.

History: *2012 c 216 art 1 s 37*

260C.625 DOCUMENTS FILED BY SOCIAL SERVICES AGENCY.

(a) The following shall be filed by the responsible social services agency prior to finalization of the adoption:

(1) a certified copy of the child's birth record;

(2) a certified copy of the findings and order terminating parental rights or order accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for guardianship to the commissioner;

(3) a copy of any communication or contact agreement under section 260C.619;

(4) certification that the Minnesota Fathers' Adoption Registry has been searched which requirement may be met according to the requirements of the Minnesota Rules of Adoption Procedure, Rule 32.01, subdivision 2;

(5) the original of each consent to adoption required, if any, unless the original was filed in the permanency proceeding conducted under section 260C.515, subdivision 3, and the order filed under clause (2) has a copy of the consent attached; and

(6) the postplacement assessment report required under section 259.53, subdivision 2.

(b) The responsible social services agency shall provide any known aliases of the child to the court.

History: *2012 c 216 art 1 s 38*

260C.627 NOTICE OF ADOPTION PROCEEDINGS.

Subdivision 1. **To whom given.** (a) Notice of the adoption proceedings shall not be given to any parent whose rights have been terminated or who has consented to the adoption of the child under this chapter.

(b) Notice of the adoption proceedings shall be given to the following:

(1) the child's tribe if the child is an Indian child;

(2) the responsible social services agency;

(3) the child's guardian ad litem;

(4) the child, if the child is age ten or over;

(5) the child's attorney; and

(6) the adopting parent.

(c) Notice of a hearing regarding the adoption petition shall have a copy of the petition attached unless service of the petition has already been accomplished.

Subd. 2. **Method of service.** Notice of adoption proceedings for a child under the guardianship of the commissioner may be served by United States mail or any other method approved by the Minnesota Rules of Adoption Procedure.

History: *2012 c 216 art 1 s 39*

260C.629 FINALIZATION HEARING.

Subdivision 1. **Consent.** (a) A parent whose rights to the child have not been terminated must consent to the adoption of the child. A parent may consent to the adoption of the child under section 260C.515, subdivision 3, and that consent shall be irrevocable upon acceptance by the court except as otherwise provided in section 260C.515, subdivision 3, clause (2)(i). A parent of an Indian child may consent to the adoption of the child according to United States Code, title 25, section 1913, and that consent may be withdrawn for any reason at any time before the entry of a final decree of adoption.

(b) When the child to be adopted is age 14 years or older, the child's written consent to adoption by the adopting parent is required.

(c) Consent by the responsible social services agency or the commissioner is not required because the adoptive placement has been made by the responsible social services agency.

Subd. 2. **Required documents.** In order to issue a decree for adoption and enter judgment accordingly, the court must have the following documents in the record:

(1) the original birth record of the child;

(2) an adoption study report including a background study required under section 259.41;

(3) a certified copy of the findings and order terminating parental rights or order accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for guardianship to the commissioner;

(4) any consents required under subdivision 1;

(5) the child's social and medical history under section 260C.609;

(6) the postplacement assessment report required under section 259.53, subdivision 2, unless waived by the court on the record at a hearing under section 260C.607; and

(7) a report from the child's guardian ad litem.

History: *2012 c 216 art 1 s 40*

260C.631 JUDGMENT AND DECREE.

(a) After taking testimony from the responsible social services agency, which may be by telephone or affidavit if the court has transferred venue of the matter to a county not conducting the posttermination of parental rights reviews under section 260C.607, and the adopting parent, if the court finds that it is in the best interests of the child that the petition be granted, a decree of adoption shall be issued ordering that the child to be adopted shall be the child of the adopting parent. In the decree, the court may change the name of the adopted child, if a name change is requested.

(b) After the decree is granted, the court administrator shall mail a copy of the decree to the commissioner of human services.

History: *2012 c 216 art 1 s 41*

260C.633 ADOPTION DENIED.

(a) If the court is not satisfied that the proposed adoption is in the best interests of the child to be adopted, the court shall deny the petition and order the responsible social services agency to take appropriate action for the protection and safety of the child. If venue has been transferred under section 260C.621, subdivision 2, the court denying the petition shall notify the court originally conducting the guardianship reviews under section 260C.607.

(b) The court responsible for conducting reviews under section 260C.607 shall set a hearing within 30 days of receiving notice of denial of the petition.

(c) Any appeal of the denial of an adoption petition under this section shall be made according to the requirements of the Minnesota Rules of Adoption Procedure.

History: *2012 c 216 art 1 s 42*

260C.635 EFFECT OF ADOPTION.

Subdivision 1. **Legal effect.** (a) Upon adoption, the adopted child becomes the legal child of the adopting parent and the adopting parent becomes the legal parent of the child with all the rights and duties between them of a birth parent and child.

(b) The child shall inherit from the adoptive parent and the adoptive parent's relatives the same as though the child were the birth child of the parent, and in case of the child's death intestate, the adoptive parent and the adoptive parent's relatives shall inherit the child's estate as if the child had been the adoptive parent's birth child.

(c) After a decree of adoption is entered, the birth parents or previous legal parents of the child shall be relieved of all parental responsibilities for the child except child support that has accrued to the date of the order for guardianship to the commissioner which continues to be due and owing. The child's birth or previous legal parent shall not exercise or have any rights over the adopted child or the adopted child's property, person, privacy, or reputation.

(d) The adopted child shall not owe the birth parents or the birth parent's relatives any legal duty nor shall the adopted child inherit from the birth parents or kindred unless otherwise provided for in a will of the birth parent or kindred.

(e) Upon adoption, the court shall complete a certificate of adoption form and mail the form to the Office of Vital Records at the Minnesota Department of Health. Upon receiving the certificate of adoption, the

state registrar shall register a replacement vital record in the new name of the adopted child as required under section 144.218.

Subd. 2. **Enrollment in American Indian tribe.** Notwithstanding the provisions of subdivision 1, the adoption of a child whose birth parent or parents are enrolled in an American Indian tribe shall not change the child's enrollment in that tribe.

Subd. 3. **Communication or contact agreements.** This section does not prohibit birth parents, relatives, birth or legal siblings, and adoptive parents from entering a communication or contact agreement under section 260C.619.

History: *2012 c 216 art 1 s 43; 2013 c 108 art 12 s 98*

260C.637 ACCESS TO ORIGINAL BIRTH RECORD INFORMATION.

An adopted person may ask the commissioner of health to disclose the information on the adopted person's original birth record according to section 259.89.

History: *2012 c 216 art 1 s 44*

PLACEMENT OF CHILDREN IN QUALIFIED RESIDENTIAL TREATMENT

260C.70 CITATION.

Sections 260C.70 to 260C.714 may be cited as "Placements in Qualified Residential Treatment Programs." Sections 260C.70 to 260C.714 implement the requirements of the Family First Prevention Services Act of 2018, Public Law 115-123, and apply to children for whom the juvenile treatment screening team under section 260C.157, subdivision 3, recommends placement in a qualified residential treatment program.

History: *1Sp2020 c 2 art 5 s 84*

260C.702 REQUIREMENTS FOR PLACEMENTS IN QUALIFIED RESIDENTIAL TREATMENT PROGRAMS.

For the responsible social services agency to place a child in a qualified residential treatment program, there must be:

(1) an assessment by a qualified individual of whether it is necessary and appropriate to place the child at a qualified residential treatment program under section 260C.704;

(2) a family and permanency team under section 260C.706;

(3) an out-of-home placement plan under section 260C.708;

(4) court approval of a child's placement in a qualified residential treatment program under section 260C.71;

(5) ongoing reviews and permanency hearings under section 260C.712; and

(6) a court review of any extended placement of the child in a qualified residential treatment program under section 260C.714.

History: *1Sp2020 c 2 art 5 s 85*

260C.704 REQUIREMENTS FOR THE QUALIFIED INDIVIDUAL'S ASSESSMENT OF THE CHILD FOR PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM.

(a) A qualified individual must complete an assessment of the child prior to the child's placement in a qualified residential treatment program in a format approved by the commissioner of human services unless, due to a crisis, the child must immediately be placed in a qualified residential treatment program. When a child must immediately be placed in a qualified residential treatment program without an assessment, the qualified individual must complete the child's assessment within 30 days of the child's placement. The qualified individual must:

(1) assess the child's needs and strengths, using an age-appropriate, evidence-based, validated, functional assessment approved by the commissioner of human services;

(2) determine whether the child's needs can be met by the child's family members or through placement in a family foster home; or, if not, determine which residential setting would provide the child with the most effective and appropriate level of care to the child in the least restrictive environment;

(3) develop a list of short- and long-term mental and behavioral health goals for the child; and

(4) work with the child's family and permanency team using culturally competent practices.

If a level of care determination was conducted under section 245.4885, that information must be shared with the qualified individual and the juvenile treatment screening team.

(b) The child and the child's parents, when appropriate, may request that a specific culturally competent qualified individual complete the child's assessment. The agency shall make efforts to refer the child to the identified qualified individual to complete the assessment. The assessment must not be delayed for a specific qualified individual to complete the assessment.

(c) The qualified individual must provide the assessment, when complete, to the responsible social services agency. If the assessment recommends placement of the child in a qualified residential treatment facility, the agency must distribute the assessment to the child's parent or legal guardian and file the assessment with the court report as required in section 260C.71, subdivision 2. If the assessment does not recommend placement in a qualified residential treatment facility, the agency must provide a copy of the assessment to the parents or legal guardians and the guardian ad litem and file the assessment determination with the court at the next required hearing as required in section 260C.71, subdivision 5. If court rules and chapter 13 permit disclosure of the results of the child's assessment, the agency may share the results of the child's assessment with the child's foster care provider, other members of the child's family, and the family and permanency team. The agency must not share the child's private medical data with the family and permanency team unless: (1) chapter 13 permits the agency to disclose the child's private medical data to the family and permanency team; or (2) the child's parent has authorized the agency to disclose the child's private medical data to the family and permanency team.

(d) For an Indian child, the assessment of the child must follow the order of placement preferences in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915.

(e) In the assessment determination, the qualified individual must specify in writing:

(1) the reasons why the child's needs cannot be met by the child's family or in a family foster home. A shortage of family foster homes is not an acceptable reason for determining that a family foster home cannot meet a child's needs;

(2) why the recommended placement in a qualified residential treatment program will provide the child with the most effective and appropriate level of care to meet the child's needs in the least restrictive environment possible and how placing the child at the treatment program is consistent with the short-term and long-term goals of the child's permanency plan; and

(3) if the qualified individual's placement recommendation is not the placement setting that the parent, family and permanency team, child, or tribe prefer, the qualified individual must identify the reasons why the qualified individual does not recommend the parent's, family and permanency team's, child's, or tribe's placement preferences. The out-of-home placement plan under section 260C.708 must also include reasons why the qualified individual did not recommend the preferences of the parents, family and permanency team, child, or tribe.

(f) If the qualified individual determines that the child's family or a family foster home or other less restrictive placement may meet the child's needs, the agency must move the child out of the qualified residential treatment program and transition the child to a less restrictive setting within 30 days of the determination. If the responsible social services agency has placement authority of the child, the agency must make a plan for the child's placement according to section 260C.212, subdivision 2. The agency must file the child's assessment determination with the court at the next required hearing.

(g) If the qualified individual recommends placing the child in a qualified residential treatment program and if the responsible social services agency has placement authority of the child, the agency shall make referrals to appropriate qualified residential treatment programs and, upon acceptance by an appropriate program, place the child in an approved or certified qualified residential treatment program.

History: *1Sp2020 c 2 art 5 s 86; 2021 c 30 art 10 s 43*

260C.706 FAMILY AND PERMANENCY TEAM REQUIREMENTS.

(a) When the responsible social services agency's juvenile treatment screening team, as defined in section 260C.157, recommends placing the child in a qualified residential treatment program, the agency must assemble a family and permanency team within ten days.

(1) The team must include all appropriate biological family members, the child's parents, legal guardians or custodians, foster care providers, and relatives as defined in section 260C.007, subdivisions 26b and 27, and professionals, as appropriate, who are a resource to the child's family, such as teachers, medical or mental health providers, or clergy.

(2) When a child is placed in foster care prior to the qualified residential treatment program, the agency shall include relatives responding to the relative search notice as required under section 260C.221 on this team, unless the juvenile court finds that contacting a specific relative would present a safety or health risk to the parent, guardian, child, sibling, or any other family member.

(3) When a qualified residential treatment program is the child's initial placement setting, the responsible social services agency must engage with the child and the child's parents to determine the appropriate family and permanency team members.

(4) When the permanency goal is to reunify the child with the child's parent or legal guardian, the purpose of the relative search and focus of the family and permanency team is to preserve family relationships and identify and develop supports for the child and parents.

(5) The responsible agency must make a good faith effort to identify and assemble all appropriate individuals to be part of the child's family and permanency team and request input from the parents regarding

relative search efforts consistent with section 260C.221. The out-of-home placement plan in section 260C.708 must include all contact information for the team members, as well as contact information for family members or relatives who are not a part of the family and permanency team.

(6) If the child is age 14 or older, the team must include members of the family and permanency team that the child selects in accordance with section 260C.212, subdivision 1, paragraph (b).

(7) Consistent with section 260C.221, a responsible social services agency may disclose relevant and appropriate private data about the child to relatives in order for the relatives to participate in caring and planning for the child's placement.

(8) If the child is an Indian child under section 260.751, the responsible social services agency must make active efforts to include the child's tribal representative on the family and permanency team.

(b) The family and permanency team shall meet regarding the assessment required under section 260C.704 to determine whether it is necessary and appropriate to place the child in a qualified residential treatment program and to participate in case planning under section 260C.708.

(c) When reunification of the child with the child's parent or legal guardian is the permanency plan, the family and permanency team shall support the parent-child relationship by recognizing the parent's legal authority, consulting with the parent regarding ongoing planning for the child, and assisting the parent with visiting and contacting the child.

(d) When the agency's permanency plan is to transfer the child's permanent legal and physical custody to a relative or for the child's adoption, the team shall:

(1) coordinate with the proposed guardian to provide the child with educational services, medical care, and dental care;

(2) coordinate with the proposed guardian, the agency, and the foster care facility to meet the child's treatment needs after the child is placed in a permanent placement with the proposed guardian;

(3) plan to meet the child's need for safety, stability, and connection with the child's family and community after the child is placed in a permanent placement with the proposed guardian; and

(4) in the case of an Indian child, communicate with the child's tribe to identify necessary and appropriate services for the child, transition planning for the child, the child's treatment needs, and how to maintain the child's connections to the child's community, family, and tribe.

(e) The agency shall invite the family and permanency team to participate in case planning and the agency shall give the team notice of court reviews under sections 260C.152 and 260C.221 until: (1) the child is reunited with the child's parents; or (2) the child's foster care placement ends and the child is in a permanent placement.

History: *1Sp2020 c 2 art 5 s 87; 2021 c 30 art 10 s 44*

260C.708 OUT-OF-HOME PLACEMENT PLAN FOR QUALIFIED RESIDENTIAL TREATMENT PROGRAM PLACEMENTS.

(a) When the responsible social services agency places a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, the out-of-home placement plan must include:

(1) the case plan requirements in section 260C.212;

(2) the reasonable and good faith efforts of the responsible social services agency to identify and include all of the individuals required to be on the child's family and permanency team under section 260C.007;

(3) all contact information for members of the child's family and permanency team and for other relatives who are not part of the family and permanency team;

(4) evidence that the agency scheduled meetings of the family and permanency team, including meetings relating to the assessment required under section 260C.704, at a time and place convenient for the family;

(5) evidence that the family and permanency team is involved in the assessment required under section 260C.704 to determine the appropriateness of the child's placement in a qualified residential treatment program;

(6) the family and permanency team's placement preferences for the child in the assessment required under section 260C.704. When making a decision about the child's placement preferences, the family and permanency team must recognize:

(i) that the agency should place a child with the child's siblings unless a court finds that placing a child with the child's siblings is not possible due to a child's specialized placement needs or is otherwise contrary to the child's best interests; and

(ii) that the agency should place an Indian child according to the requirements of the Indian Child Welfare Act, the Minnesota Family Preservation Act under sections 260.751 to 260.835, and section 260C.193, subdivision 3, paragraph (g);

(7) when reunification of the child with the child's parent or legal guardian is the agency's goal, evidence demonstrating that the parent or legal guardian provided input about the members of the family and permanency team under section 260C.706;

(8) when the agency's permanency goal is to reunify the child with the child's parent or legal guardian, the out-of-home placement plan must identify services and supports that maintain the parent-child relationship and the parent's legal authority, decision-making, and responsibility for ongoing planning for the child. In addition, the agency must assist the parent with visiting and contacting the child;

(9) when the agency's permanency goal is to transfer permanent legal and physical custody of the child to a proposed guardian or to finalize the child's adoption, the case plan must document the agency's steps to transfer permanent legal and physical custody of the child or finalize adoption, as required in section 260C.212, subdivision 1, paragraph (c), clauses (6) and (7); and

(10) the qualified individual's recommendation regarding the child's placement in a qualified residential treatment program and the court approval or disapproval of the placement as required in section 260C.71.

(b) If the placement preferences of the family and permanency team, child, and tribe, if applicable, are not consistent with the placement setting that the qualified individual recommends, the case plan must include the reasons why the qualified individual did not recommend following the preferences of the family and permanency team, child, and the tribe.

(c) The agency must file the out-of-home placement plan with the court as part of the 60-day court order under section 260C.71.

History: *1Sp2020 c 2 art 5 s 88; 2021 c 30 art 10 s 45*

260C.71 COURT APPROVAL REQUIREMENTS.

Subdivision 1. **Judicial review.** When the responsible social services agency has legal authority to place a child at a qualified residential treatment facility under section 260C.007, subdivision 21a, and the child's assessment under section 260C.704 recommends placing the child in a qualified residential treatment facility, the agency shall place the child at a qualified residential facility. Within 60 days of placing the child at a qualified residential treatment facility, the agency must obtain a court order finding that the child's placement is appropriate and meets the child's individualized needs.

Subd. 2. **Qualified residential treatment program; agency report to court.** (a) The responsible social services agency shall file a written report with the court after receiving the qualified individual's assessment as specified in section 260C.704 prior to the child's placement or within 35 days of the date of the child's placement in a qualified residential treatment facility. The written report shall contain or have attached:

(1) the child's name, date of birth, race, gender, and current address;

(2) the names, races, dates of birth, residence, and post office address of the child's parents or legal custodian or guardian;

(3) the name and address of the qualified residential treatment program, including a chief administrator of the facility;

(4) a statement of the facts that necessitated the child's foster care placement;

(5) the child's out-of-home placement plan under section 260C.212, subdivision 1, including the requirements in section 260C.708;

(6) if the child is placed in an out-of-state qualified residential treatment program, the compelling reasons why the child's needs cannot be met by an in-state placement;

(7) the qualified individual's assessment of the child under section 260C.704, paragraph (c), in a format approved by the commissioner;

(8) if, at the time required for the report under this subdivision, the child's parent or legal guardian, a child who is ten years of age or older, the family and permanency team, or a tribe disagrees with the recommended qualified residential treatment program placement, information regarding the disagreement and to the extent possible, the basis for the disagreement in the report; and

(9) any other information that the responsible social services agency, child's parent, legal custodian or guardian, child, or, in the case of an Indian child, tribe would like the court to consider.

(b) The agency shall file the written report under paragraph (a) with the court and serve on the parties a request for a hearing or a court order without a hearing.

(c) The agency must inform the child's parent or legal guardian and a child who is ten years of age or older of the court review requirements of this section and the child and child's parent's or legal guardian's right to submit information to the court:

(1) the agency must inform the child's parent or legal guardian and a child who is ten years of age or older of the reporting date and the date by which the agency must receive information from the child and child's parent so that the agency is able to submit the report required by this subdivision to the court;

(2) the agency must inform the child's parent or legal guardian and a child who is ten years of age or older that the court will hold a hearing upon the request of the child or the child's parent; and

(3) the agency must inform the child's parent or legal guardian and a child who is ten years of age or older that they have the right to request a hearing and the right to present information to the court for the court's review under this subdivision.

Subd. 3. **Court hearing.** (a) The court shall hold a hearing when a party or a child who is ten years of age or older requests a hearing.

(b) In all other circumstances, the court has the discretion to hold a hearing or issue an order without a hearing.

Subd. 4. **Court findings and order.** (a) Within 60 days from the beginning of each placement in a qualified residential treatment program when the qualified individual's assessment of the child recommends placing the child in a qualified residential treatment program, the court must consider the qualified individual's assessment of the child under section 260C.704 and issue an order to:

(1) determine whether a family foster home can meet the child's needs, whether it is necessary and appropriate to place a child in a qualified residential treatment program that is the least restrictive environment possible, and whether the child's placement is consistent with the child's short and long term goals as specified in the permanency plan; and

(2) approve or disapprove of the child's placement.

(b) If the court disapproves of the child's placement in a qualified residential treatment program, the responsible social services agency shall: (1) remove the child from the qualified residential treatment program within 30 days of the court's order; and (2) make a plan for the child's placement that is consistent with the child's best interests under section 260C.212, subdivision 2.

Subd. 5. **Court review and approval not required.** When the responsible social services agency has legal authority to place a child under section 260C.007, subdivision 21a, and the qualified individual's assessment of the child does not recommend placing the child in a qualified residential treatment program, the court is not required to hold a hearing and the court is not required to issue an order. Pursuant to section 260C.704, paragraph (f), the responsible social services agency shall make a plan for the child's placement consistent with the child's best interests under section 260C.212, subdivision 2. The agency must file the agency's assessment determination for the child with the court at the next required hearing.

History: *1Sp2020 c 2 art 5 s 89; 2021 c 30 art 10 s 46*

260C.712 ONGOING REVIEWS AND PERMANENCY HEARING REQUIREMENTS.

As long as a child remains placed in a qualified residential treatment program, the responsible social services agency shall submit evidence at each administrative review under section 260C.203; each court review under sections 260C.202, 260C.203, 260C.204, 260D.06, 260D.07, and 260D.08; and each permanency hearing under section 260C.515, 260C.519, 260C.521, or 260D.07 that:

(1) demonstrates that an ongoing assessment of the strengths and needs of the child continues to support the determination that the child's needs cannot be met through placement in a family foster home;

(2) demonstrates that the placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment;

(3) demonstrates how the placement is consistent with the short-term and long-term goals for the child, as specified in the child's permanency plan;

(4) documents how the child's specific treatment or service needs will be met in the placement;

(5) documents the length of time that the agency expects the child to need treatment or services;

(6) documents the responsible social services agency's efforts to prepare the child to return home or to be placed with a fit and willing relative, legal guardian, adoptive parent, or foster family; and

(7) if the child is placed in a qualified residential treatment program out of state, documents the compelling reasons for placing the child out of state, and the reasons that the child's needs cannot be met by an in-state placement.

History: *1Sp2020 c 2 art 5 s 90; 2021 c 30 art 10 s 47*

260C.714 REVIEW OF EXTENDED QUALIFIED RESIDENTIAL TREATMENT PROGRAM PLACEMENTS.

(a) When a responsible social services agency places a child in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months or, in the case of a child who is under 13 years of age, for more than six consecutive or nonconsecutive months, the agency must submit: (1) the signed approval by the county social services director of the responsible social services agency; and (2) the evidence supporting the child's placement at the most recent court review or permanency hearing under section 260C.712.

(b) The commissioner shall specify the procedures and requirements for the agency's review and approval of a child's extended qualified residential treatment program placement. The commissioner may consult with counties, tribes, child-placing agencies, mental health providers, licensed facilities, the child, the child's parents, and the family and permanency team members to develop case plan requirements and engage in periodic reviews of the case plan.

History: *1Sp2020 c 2 art 5 s 91; 2021 c 30 art 10 s 48*