

Department of Human Services – Children and Family Services Administration
Child Safety and Permanency Housekeeping and Technical Bill
HF 1435 (Rep. Jessica Hanson)
SF 1333 (Sen. John Hoffman)

This bill makes a number of technical and housekeeping corrections to statutes governing adoptions from foster care and transfers of permanent legal and physical custody, Northstar Care for Children, permanency, and the definition of foster care. It also makes a correction in the statute authorizing co-location of a foster child with their parent in a specially licensed or approved co-location substance use disorder facility by referencing tribally approved facilities in addition to licensed facilities.

The technical and housekeeping provisions include:

Correction to Statute Allowing Co-Location of a Child in Foster Care with a Parent in a Substance Use Disorder Treatment Program. (§ 26)

The bill corrects statutory language drafted last year to assure legislators that when children in foster care are co-located in substance use disorder facilities with a parent that the facilities are licensed specifically for co-location services. Tribal facilities were inadvertently left out because they are not licensed by the department. Other changes are intended to ensure the statute is drafted in a more standard manner by referencing a chapter rather than individual sections.

Clarify Northstar Care for Children Statutes Regarding Voluntary Custodial Designations for Eligibility, Relative Custodians, Relinquishments, and Nonrecurring Adoption and Kinship Expense Reimbursement. (§§ 1, 3-5, 11-13, 17, 37)

The bill corrects a lack of clarity in current Northstar Care for Children statutes regarding voluntary custodial designations, relative custodians, relinquishments, and nonrecurring adoption and kinship expense reimbursement program requirements. The lack of clarity negatively impacts the ability of local social services agency staff and court staff to meet permanency timelines for some children in foster care, and could cause confusion over how the nonrecurring expense reimbursement programs are administered. With the proposed changes, the department will be able to provide better and clearer guidance to local social services agencies, the courts, and providers on Northstar Care for Children requirements.

The intended results of this proposal are: improved permanency timelines for children in foster care and improved clarity in Northstar Adoption and Kinship Assistance processes for local social services agency staff, the courts, and children's permanent caregivers.

These are the provisions:

- Clarifies the legal permanency requirement for children to be eligible for Northstar Kinship Assistance. There have been instances in which county staff and attorneys, and the courts, have applied a family law lens to permanency dispositions by allowing joint custody between parents and relative custodians. Under Northstar Kinship Assistance, this is not allowed. As a result, permanency is delayed until the courts can correct the disposition.
- Removes a contradiction and an error in Northstar Adoption Assistance eligibility, conforming Minnesota law to existing federal and state law, and reducing delays to permanency for children in the process of being adopted. Federal and state law allow relative custodians receiving Northstar Kinship Assistance to adopt the child for whom they are receiving assistance and be eligible to apply for, and receive, Northstar Adoption Assistance. However, state exclusion statutes pertaining to Northstar Adoption Assistance exclude relative custodians from receiving Northstar Adoption Assistance. Clears up this contradiction by providing an exception to this exclusion.

- Additionally, Northstar Adoption Assistance eligibility allows for voluntary relinquishments; however, the wrong statute is cited when describing the voluntary relinquishment. This legislation removes that statutory citation to clarify any confusion.
- Currently, nonrecurring adoption expense reimbursement program eligibility and administration requirements are still located under Chapter 259A, which is Minnesota’s former (legacy) adoption assistance program. This legislation moves these requirements to Minnesota’s current adoption assistance program, under Chapter 256N (Northstar Care for Children). Additionally, when Northstar Kinship Assistance was first enacted, there was an oversight in establishing program requirements for nonrecurring kinship expense reimbursement for eligible children. This legislation rectifies that oversight by establishing eligibility and program requirements, based on the commissioner’s current administration of the programs and federal requirements. Both programs are required under federal law and code of regulations.

Technical Corrections to Northstar Care for Children and Permanency Statutes (§§ 2, 6-10, 15, 31, 33-34, 36)

A number of sections correct inaccurate program names, terminology, and statutory cross-references that create confusion for staff in child welfare agencies, courts, and DHS, as well as the general public.

Update Adoption and TPLPC Statutes (§§ 11-14, 16-25, 27-30, 32-33, 35-37)

The bill corrects some sections of Minnesota Statutes related to foster care adoptions and transfers of permanent legal and physical custody (TPLPC) to reflect updated departmental procedures and current Minnesota and federal laws and regulations. They correct unclear and conflicting terms and procedures. They also enable the department to provide better and clearer guidance to local social services agencies and the court on adoption and foster care policy and requirements. Currently, the issues cited above negatively impact permanency timelines for children in foster care, as well as relative and sibling placement.

This is done by:

The intended results are: improved permanency timelines for children in foster care throughout Minnesota, a more efficient adoption process, and improved and more-timely service from the department and local agencies for children and families involved in Minnesota’s foster care system.

➤ ***Providing Consistency in Definitions and Processes. (§§ 18-20, 28)***

- Provides consistency between definitions and processes and aligns practice and statute.
- Updates the relative foster care placement preference order to reflect the statutory definition of relative under Chapter 260C. The current inconsistency has caused confusion at the local agency level, as well as within the judicial branch, leading to delayed permanency and contested adoptive placements.
- Clarifies requirements for registering children on the State Adoption Exchange for recruitment services; current statutory requirements are inconsistent with best practice.
- Provides explicit permission for the commissioner to contract with an agency to manage the Exchange. Currently, an outside agency manages the Exchange under contract with DHS, based on other areas of Minnesota Statutes that allow DHS to contract with an agency to provide this service.

➤ ***Clarifying Process Related to Development and Dissemination of Children’s Social and Medical Histories (§§ 21, 27, 29-30, 33, 35)***

- Correcting statutes addressing the requirements for writing a child’s social and medical history. In current statute they are incorrectly located in the adoption section of Minnesota Statutes while agencies are required to begin writing these histories when a child is in foster care. This can delay permanency.
- Moves this requirement from the adoption section into the foster care section of Minnesota Statutes to clarify existing law and promote timely permanency.
- Clarifies who should be receiving copies of a child’s social and medical history, based on existing law, best practice, and DHS policy.

➤ ***Clarifying Court Processes and Timelines for Adoption and Transfer of Permanent Legal and Physical Custody (§§ 14, 16, 32)***

- Allows youth ages 18 up to 21 in extended foster care to consent to their own adoptions. It also removes the automatic termination of an adult’s sibling relationships upon adoption of the adult. Current adoption statutes do not terminate siblings’ relationships in this way.
- Clarifies that the requirement that a child live in a pre-adoptive home for at least three months prior to adoption is only applicable for private adoptions, not public adoptions. Currently, courts have applied a private adoption requirement to foster care adoptions, when that requirement does not exist.
- Gives courts the authority to terminate a parent’s rights of a child under guardianship of the commissioner, when a parent has executed a consent to adoption, and the identified prospective adoptive parent does not adopt for any reason. This is in alignment with private adoption statutes, and clarifies a child’s legal status when a consent to adopt does not result in an adoption by the identified prospective adoptive parent.

➤ ***Clarifying the Role of the Commissioner in Adoptive Placements of Children under Guardianship of the Commissioner (§ 36)***

- Clarifying that the role of the commissioner in executing Adoption Placement Agreements for children under guardianship of the commissioner is to review these agreements to ensure proper compliance with state and federal law, including sibling placement requirements, relative search and consideration requirements, federal Title IV-E requirements, and the Indian Child Welfare Act and Minnesota Indian Family Preservation Act requirements. There has been confusion at the local agency level regarding the commissioner’s role.

➤ ***Providing Tribal Access to Adoption Services and Clarifying Requirements (§§ 22-25)***

- Seeks to allow tribal access to existing state funds for adoption placement services.
- Clarifies that children under guardianship of the commissioner do not already need to be in an adoptive placement to be eligible to receive adoption services.