

1.1 moves to amend H.F. No. 3391 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2008, section 260C.007, subdivision 6, is amended to
1.4 read:

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

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

1.8 (2)(i) has been a victim of physical or sexual abuse as defined in section 626.556,
1.9 subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in
1.10 subdivision 5 or domestic child abuse as defined in subdivision 13, (iii) resides with or
1.11 would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or
1.12 child abuse as defined in subdivision 5 or 13, or (iv) is a victim of emotional maltreatment
1.13 as defined in subdivision 15;

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

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

1.20 (5) is medically neglected, which includes, but is not limited to, the withholding of
1.21 medically indicated treatment from a disabled infant with a life-threatening condition. The
1.22 term "withholding of medically indicated treatment" means the failure to respond to the
1.23 infant's life-threatening conditions by providing treatment, including appropriate nutrition,
1.24 hydration, and medication which, in the treating physician's or physicians' reasonable
1.25 medical judgment, will be most likely to be effective in ameliorating or correcting all
1.26 conditions, except that the term does not include the failure to provide treatment other

2.1 than appropriate nutrition, hydration, or medication to an infant when, in the treating
2.2 physician's or physicians' reasonable medical judgment:

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

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

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

2.9 (6) is one whose parent, guardian, or other custodian for good cause desires to be
2.10 relieved of the child's care and custody, including a child who entered foster care under a
2.11 voluntary placement agreement between the parent and the responsible social services
2.12 agency under section 260C.212, subdivision 8;

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

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

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

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

2.21 (11) has engaged in prostitution as defined in section 609.321, subdivision 9;

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

2.24 (13) is a runaway;

2.25 (14) is a habitual truant;~~or~~

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

2.30 (16) has a parent whose parental rights to one or more other children were
2.31 involuntarily terminated or whose custodial rights to another child have been involuntarily
2.32 transferred to a relative and there is a case plan prepared by the responsible social services
2.33 agency documenting a compelling reason why filing the termination of parental rights
2.34 petition under section 260C.301, subdivision 3, is not in the best interests of the child.

2.35 Sec. 2. Minnesota Statutes 2008, section 260C.163, subdivision 2, is amended to read:

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

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

3.13 If, in a permanency proceeding involving a child in need of protection or services,
3.14 ~~the responsible social services agency recommends~~ any party files a petition for transfer
3.15 of permanent legal and physical custody to a named relative, the relative has a right to
3.16 participate in the permanency proceeding as a party solely on the issue of the relative's
3.17 suitability to be a legal and physical custodian for the child and whether the transfer
3.18 is in the child's best interests, and thereafter shall receive notice of any hearing in the
3.19 proceedings.

3.20 Sec. 3. Minnesota Statutes 2009 Supplement, section 260C.175, subdivision 1, is
3.21 amended to read:

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

3.24 (1) with an order issued by the court in accordance with the provisions of section
3.25 260C.151, subdivision 6, or Laws 1997, chapter 239, article 10, section 10, paragraph
3.26 (a), clause (3), or 12, paragraph (a), clause (3), or by a warrant issued in accordance
3.27 with the provisions of section 260C.154;

3.28 (2) by a peace officer:

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

3.33 (ii) when a child is found in surroundings or conditions which endanger the child's
3.34 health or welfare or which such peace officer reasonably believes will endanger the child's
3.35 health or welfare. If an Indian child is a resident of a reservation or is domiciled on a

4.1 reservation but temporarily located off the reservation, the taking of the child into custody
4.2 under this clause shall be consistent with the Indian Child Welfare Act of 1978, United
4.3 States Code, title 25, section 1922;

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

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

4.7 Sec. 4. Minnesota Statutes 2008, section 260C.201, is amended by adding a
4.8 subdivision to read:

4.9 Subd. 13. **Stay of adjudication.** (a) The court may stay an adjudication that the
4.10 child is in need of protection or services under the following circumstances:

4.11 (1) the allegations in the petition have been admitted, or when a hearing has been
4.12 held as provided in section 260C.163 and the allegations contained in the petition have
4.13 been duly proven;

4.14 (2) the parent is engaging in a case plan, approved by the local social services agency
4.15 and the court, which is anticipated to correct the conditions that led to the child in need of
4.16 protection petition and can be completed within 90 days; and

4.17 (3) the court makes a specific finding as to how it is in the best interests of the
4.18 child that adjudication is stayed.

4.19 (b) The court may stay an adjudication for a period not to exceed 90 days from the
4.20 date on which the findings in paragraph (a) were made, unless the court finds that it is in
4.21 the child's best interests to extend the period no more than one additional 90-day period.

4.22 (c) If the parent and child have complied with the terms of the stay, the case must
4.23 be dismissed without an adjudication that the child is in need of protection or services
4.24 within the time periods set in paragraph (b).

4.25 (d) If the parent or child has not complied with the terms of the stay within the time
4.26 periods set in paragraph (b), the court shall adjudicate the child in need of protection or
4.27 services.

4.28 Sec. 5. Minnesota Statutes 2008, section 260C.301, subdivision 1, is amended to read:

4.29 Subdivision 1. **Voluntary and involuntary.** The juvenile court may upon petition,
4.30 terminate all rights of a parent to a child:

4.31 (a) with the written consent of a parent who for good cause desires to terminate
4.32 parental rights; or

4.33 (b) if it finds that one or more of the following conditions exist:

4.34 (1) that the parent has abandoned the child;

5.1 (2) that the parent has substantially, continuously, or repeatedly refused or neglected
5.2 to comply with the duties imposed upon that parent by the parent and child relationship,
5.3 including but not limited to providing the child with necessary food, clothing, shelter,
5.4 education, and other care and control necessary for the child's physical, mental, or
5.5 emotional health and development, if the parent is physically and financially able, and
5.6 either reasonable efforts by the social services agency have failed to correct the conditions
5.7 that formed the basis of the petition or reasonable efforts would be futile and therefore
5.8 unreasonable;

5.9 (3) that a parent has been ordered to contribute to the support of the child or
5.10 financially aid in the child's birth and has continuously failed to do so without good cause.
5.11 This clause shall not be construed to state a grounds for termination of parental rights of a
5.12 noncustodial parent if that parent has not been ordered to or cannot financially contribute
5.13 to the support of the child or aid in the child's birth;

5.14 (4) that a parent is palpably unfit to be a party to the parent and child relationship
5.15 because of a consistent pattern of specific conduct before the child or of specific conditions
5.16 directly relating to the parent and child relationship either of which are determined by
5.17 the court to be of a duration or nature that renders the parent unable, for the reasonably
5.18 foreseeable future, to care appropriately for the ongoing physical, mental, or emotional
5.19 needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent
5.20 and child relationship upon a showing that the parent's parental rights to one or more other
5.21 children were involuntarily terminated or that the parent's custodial rights to another child
5.22 have been involuntarily transferred to a relative under section 260C.201, subdivision 11,
5.23 paragraph (e), clause (1), or a similar law of another jurisdiction;

5.24 (5) that following the child's placement out of the home, reasonable efforts, under the
5.25 direction of the court, have failed to correct the conditions leading to the child's placement.
5.26 It is presumed that reasonable efforts under this clause have failed upon a showing that:

5.27 (i) a child has resided out of the parental home under court order for a cumulative
5.28 period of 12 months within the preceding 22 months. In the case of a child under age eight
5.29 at the time the petition was filed alleging the child to be in need of protection or services,
5.30 the presumption arises when the child has resided out of the parental home under court
5.31 order for six months unless the parent has maintained regular contact with the child and
5.32 the parent is complying with the out-of-home placement plan;

5.33 (ii) the court has approved the out-of-home placement plan required under section
5.34 260C.212 and filed with the court under section 260C.178;

5.35 (iii) conditions leading to the out-of-home placement have not been corrected. It
5.36 is presumed that conditions leading to a child's out-of-home placement have not been

6.1 corrected upon a showing that the parent or parents have not substantially complied with
6.2 the court's orders and a reasonable case plan; and

6.3 (iv) reasonable efforts have been made by the social services agency to rehabilitate
6.4 the parent and reunite the family.

6.5 This clause does not prohibit the termination of parental rights prior to one year, or
6.6 in the case of a child under age eight, prior to six months after a child has been placed
6.7 out of the home.

6.8 It is also presumed that reasonable efforts have failed under this clause upon a
6.9 showing that:

6.10 (A) the parent has been diagnosed as chemically dependent by a professional
6.11 certified to make the diagnosis;

6.12 (B) the parent has been required by a case plan to participate in a chemical
6.13 dependency treatment program;

6.14 (C) the treatment programs offered to the parent were culturally, linguistically,
6.15 and clinically appropriate;

6.16 (D) the parent has either failed two or more times to successfully complete a
6.17 treatment program or has refused at two or more separate meetings with a caseworker
6.18 to participate in a treatment program; and

6.19 (E) the parent continues to abuse chemicals.

6.20 (6) that a child has experienced egregious harm in the parent's care which is of a
6.21 nature, duration, or chronicity that indicates a lack of regard for the child's well-being,
6.22 such that a reasonable person would believe it contrary to the best interest of the child
6.23 or of any child to be in the parent's care;

6.24 (7) that in the case of a child born to a mother who was not married to the child's
6.25 father when the child was conceived nor when the child was born the person is not entitled
6.26 to notice of an adoption hearing under section 259.49 and the person has not registered
6.27 with the fathers' adoption registry under section 259.52;

6.28 (8) that the child is neglected and in foster care; ~~or~~

6.29 (9) that the parent has been convicted of a crime listed in section 260.012, paragraph
6.30 (b), clauses (1) to (3); or

6.31 (10) that the parent has engaged in conduct toward the child's other parent that
6.32 constitutes a violation of sections 609.185 to 609.20, except if such conduct was
6.33 committed in self defense or in the defense of others, or there is substantial evidence of
6.34 other justification.

7.1 In an action involving an American Indian child, sections 260.751 to 260.835 and
7.2 the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control
7.3 to the extent that the provisions of this section are inconsistent with those laws. "

7.4 Renumber the sections in sequence and correct the internal references

7.5 Amend the title accordingly