

1.1 moves to amend H.F. No. 1423, the second engrossment, as follows:

1.2 Page 1, after line 5, insert:

1.3 **"ARTICLE 1**

1.4 **ADOPTION ASSISTANCE"**

1.5 Page 23, after line 11, insert:

1.6 **"ARTICLE 2**

1.7 **CHILD PROTECTION**

1.8 Section 1. Minnesota Statutes 2010, section 260.012, is amended to read:

1.9 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**
1.10 **REUNIFICATION; REASONABLE EFFORTS.**

1.11 (a) Once a child alleged to be in need of protection or services is under the court's
1.12 jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate
1.13 services, by the social services agency are made to prevent placement or to eliminate the
1.14 need for removal and to reunite the child with the child's family at the earliest possible
1.15 time, and the court must ensure that the responsible social services agency makes
1.16 reasonable efforts to finalize an alternative permanent plan for the child as provided in
1.17 paragraph (e). In determining reasonable efforts to be made with respect to a child and in
1.18 making those reasonable efforts, the child's best interests, health, and safety must be of
1.19 paramount concern. Reasonable efforts to prevent placement and for rehabilitation and
1.20 reunification are always required except upon a determination by the court that a petition
1.21 has been filed stating a prima facie case that:

1.22 (1) the parent has subjected a child to egregious harm as defined in section
1.23 260C.007, subdivision 14;

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

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

(4) the parent's custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction; ~~or~~

(5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2, 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

~~(5)~~ (7) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

(b) When the court makes one of the prima facie determinations under paragraph (a), either permanency pleadings under section 260C.201, subdivision 11, or a termination of parental rights petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under section 260C.201, subdivision 11, must be held within 30 days of this determination.

(c) In the case of an Indian child, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social services agency must provide active efforts as required under United States Code, title 25, section 1911(d).

(d) "Reasonable efforts to prevent placement" means:

(1) the agency has made reasonable efforts to prevent the placement of the child in foster care by working with the family to develop and implement a safety plan; or

(2) given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available which could allow the child to safely remain in the home.

(e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence by the responsible social services agency to:

(1) reunify the child with the parent or guardian from whom the child was removed;

(2) assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by section 260C.212, subdivision 4;

(3) conduct a relative search to identify and provide notice to adult relatives as required under section 260C.212, subdivision 5;

(4) place siblings removed from their home in the same home for foster care or adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with section 260C.212, subdivision 2; and

(5) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and considers permanent alternative homes for the child inside or outside of the state, preferably through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) it has made reasonable efforts to prevent placement of the child in foster care;

(2) it has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) it has made reasonable efforts to finalize an alternative permanent home for the child, and considers permanent alternative homes for the child inside or outside of the state; or

(4) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the court may only require reasonable efforts for reunification after a hearing according to section 260C.163, where the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case when there

is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a ~~surviving~~ child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the ~~surviving~~ child; ~~or~~

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

(4) committing sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent; or

(5) an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b).

(h) The juvenile court, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

Sec. 2. Minnesota Statutes 2010, section 260C.001, is amended to read:

260C.001 TITLE, INTENT, AND CONSTRUCTION.

Subdivision 1. **Citation; scope.** (a) Sections 260C.001 to ~~260C.451~~ 260C.521 may be cited as the ~~child~~ 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.521 and 260C.607; 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. ~~Child in need of Juvenile protection services proceedings.~~ (a) The paramount consideration in all juvenile protection proceedings ~~concerning a child alleged or found to be in need of protection or services~~ 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 ~~courts~~ protection proceedings is:

(1) to secure for each child ~~alleged or adjudicated in need of protection or services~~
~~and~~ 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 ~~which~~ 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; ~~206C.178; or~~
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; ~~and~~

(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) ~~a foster home~~ 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 section
260.012 and 260C.219;

(iii) identifying, locating, and notifying relatives of both parents of the child according to section 260.221;

(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 ~~and~~ termination of parental rights, and adoption.** The purpose of the laws relating to permanency ~~and~~ termination of parental rights, and adoption of a child who comes 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; and

(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.201, subdivision 11~~ 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 ~~section 260C.201, subdivision 11~~ 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 ~~child protection provisions of~~
the juvenile courts protection proceedings shall be liberally construed to carry out these
purposes.

Sec. 3. Minnesota Statutes 2010, section 260C.007, subdivision 4, is amended to read:

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.

Sec. 4. Minnesota Statutes 2010, section 260C.007, is amended by adding a
subdivision to read:

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

Sec. 5. Minnesota Statutes 2010, section 260C.007, is amended by adding a
subdivision to read:

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.

Sec. 6. Minnesota Statutes 2010, section 260C.007, is amended by adding a
subdivision to read:

Subd. 31. **Sibling.** "Sibling" means one of two or more individuals who have one
or both parents in common through blood, marriage, or adoption including siblings as
defined by the child's tribal code or custom.

Sec. 7. Minnesota Statutes 2010, section 260C.101, subdivision 2, is amended to read:

Subd. 2. **Other matters relating to children.** ~~Except as provided in clause (4),~~ 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;

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

~~(4) the juvenile court in those counties in which the judge of the probate-juvenile court has been admitted to the practice of law in this state shall proceed under the laws relating to adoptions in all adoption matters. In those counties in which the judge of the probate-juvenile court has not been admitted to the practice of law in this state the district court shall proceed under the laws relating to adoptions in~~

(5) all adoption matters and review of the efforts to finalize the adoption of the child under section 260C.607;

~~(5) (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.212, subdivision 8 260C.227; or between the child, when the child is over age 18, and the agency under section 260C.229; and~~

~~(6) (7) the review of voluntary foster care placement of a child for treatment under chapter 260D according to the review requirements of that chapter.~~

Sec. 8. Minnesota Statutes 2010, section 260C.150, subdivision 1, is amended to read:

Subdivision 1. **Determining parentage.** (a) 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. The requirements of the Minnesota Parentage Act must be followed unless otherwise specified in this section.

(b) An action to commence a parent and child relationship under this chapter must be commenced by motion, which shall be personally served upon the alleged parent and served upon the required parties under the Minnesota Parentage Act as provided for service of motions in the Minnesota Rules of Juvenile Protection Procedure. The motion shall be brought in an existing juvenile protection proceeding and may be brought by any party, a putative father, or the county attorney representing the responsible social services agency.

(c) Notwithstanding any other provisions of law, a motion to establish parentage under this section, and any related documents or orders, are not confidential and are accessible to the public according to the provisions of the Minnesota Rules of Juvenile Protection Procedure. Any hearings related to establishment of paternity under this section are accessible to the public according to the Minnesota Rules of Juvenile Protection Procedure.

(d) The court may order genetic testing of any putative father or any man presumed to be father of a child who is the subject of a juvenile protection matter unless paternity has already been adjudicated under the Minnesota Parentage Act or a recognition of parentage has been fully executed and filed under section 257.75 when the recognition of

parentage has the force and effect of a judgment or order determining the existence of the parent and child relationship under section 257.66. If a genetic testing is ordered, a positive genetic test pursuant to section 257.62, subdivisions 5, is required to establish paternity for a child under this chapter.

(e) A copy of the order establishing the parent and child relationship shall be filed in family court. Any further proceedings for modification of the child support portion of the order that establishes the parent and child relationship shall be brought in the family court of the county where the original order was filed. The review shall be under chapters 518 and 518A. Notice of any family court proceedings shall be provided by the court administrator to the responsible social services agency, which shall be a party to the family court proceeding.

Sec. 9. Minnesota Statutes 2010, section 260C.157, subdivision 1, is amended to read:

Subdivision 1. **Investigation.** 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.

Adoption investigations shall be conducted in accordance with the laws relating to adoptions in chapter 259. ~~Any funds received under the provisions of this subdivision shall not cancel until the end of the fiscal year immediately following the fiscal year in which the funds were received. The funds are available for use by the commissioner of corrections during that period and are hereby appropriated annually to the commissioner of corrections as reimbursement of the costs of providing these services to the juvenile courts.~~

Sec. 10. Minnesota Statutes 2010, section 260C.157, subdivision 3, is amended to read:

Subd. 3. **Juvenile treatment screening team.** (a) The responsible social services agency shall establish a juvenile treatment screening team to conduct screenings and prepare case plans under ~~this subdivision~~ section 245.487, subdivision 3, and chapters 260C and 260D. Screenings shall be conducted within 15 days of a request for a screening. The team, which may be the team constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655, shall consist of social workers, juvenile justice professionals, and persons with expertise in the treatment of juveniles who are emotionally disabled, chemically dependent, or have a developmental disability. ~~The team shall involve parents or guardians in the screening process as appropriate, and the child's~~

11.1 parent, guardian, or permanent legal custodian under section 260C.201, subdivision 11.

11.2 The team may be the same team as defined in section 260B.157, subdivision 3.

11.3 (b) The social services agency shall determine whether a child brought to its
11.4 attention for the purposes described in this section is an Indian child, as defined in section
11.5 260C.007, subdivision 21, and shall determine the identity of the Indian child's tribe, as
11.6 defined in section 260.755, subdivision 9. When a child to be evaluated is an Indian child,
11.7 the team provided in paragraph (a) shall include a designated representative of the Indian
11.8 child's tribe, unless the child's tribal authority declines to appoint a representative. The
11.9 Indian child's tribe may delegate its authority to represent the child to any other federally
11.10 recognized Indian tribe, as defined in section 260.755, subdivision 12.

11.11 (c) If the court, prior to, or as part of, a final disposition, proposes to place a child:

11.12 (1) for the primary purpose of treatment for an emotional disturbance, a
11.13 developmental disability, or chemical dependency in a residential treatment facility out
11.14 of state or in one which is within the state and licensed by the commissioner of human
11.15 services under chapter 245A; or

11.16 (2) in any out-of-home setting potentially exceeding 30 days in duration, including a
11.17 postdispositional placement in a facility licensed by the commissioner of corrections or
11.18 human services, the court shall ascertain whether the child is an Indian child and shall
11.19 notify the county welfare agency and, if the child is an Indian child, shall notify the Indian
11.20 child's tribe. The county's juvenile treatment screening team must either: (i) screen and
11.21 evaluate the child and file its recommendations with the court within 14 days of receipt
11.22 of the notice; or (ii) elect not to screen a given case and notify the court of that decision
11.23 within three working days.

11.24 ~~(d) If the screening team has elected to screen and evaluate the child,~~ The child
11.25 may not be placed for the primary purpose of treatment for an emotional disturbance, a
11.26 developmental disability, or chemical dependency, in a residential treatment facility out of
11.27 state nor in a residential treatment facility within the state that is licensed under chapter
11.28 245A, unless one of the following conditions applies:

11.29 (1) a treatment professional certifies that an emergency requires the placement
11.30 of the child in a facility within the state;

11.31 (2) the screening team has evaluated the child and recommended that a residential
11.32 placement is necessary to meet the child's treatment needs and the safety needs of the
11.33 community, that it is a cost-effective means of meeting the treatment needs, and that it
11.34 will be of therapeutic value to the child; or

11.35 (3) the court, having reviewed a screening team recommendation against placement,
11.36 determines to the contrary that a residential placement is necessary. The court shall state

the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter.

(e) When the county's juvenile treatment screening team has elected to screen and evaluate a child determined to be an Indian child, the team shall provide notice to the tribe or tribes that accept jurisdiction for the Indian child or that recognize the child as a member of the tribe or as a person eligible for membership in the tribe, and permit the tribe's representative to participate in the screening team.

(f) 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.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 11. Minnesota Statutes 2010, section 260C.163, subdivision 1, is amended to read:

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 ~~involving a child alleged to be in need of protection or services~~ 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 ~~petitions~~ 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,

13.1 the court may make any interim orders as it deems in the best interests of the minor in
13.2 accordance with ~~the provisions of sections 260C.001 to 260C.421~~ this chapter.

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

13.7 (d) Adoption hearings ~~shall be conducted in accordance with the provisions of laws~~
13.8 ~~relating to adoptions~~ are closed to the public and all records related to an adoption are
13.9 inaccessible except as provided in the Minnesota Rules of Adoption Procedure.

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

13.13 Sec. 12. Minnesota Statutes 2010, section 260C.163, subdivision 4, is amended to read:

13.14 Subd. 4. **County attorney.** ~~Except in adoption proceedings, the county attorney~~
13.15 ~~shall present the evidence upon request of the court.~~ In representing the responsible social
13.16 services agency, the county attorney shall also have the responsibility for advancing the
13.17 public interest in the welfare of the child.

13.18 Sec. 13. Minnesota Statutes 2010, section 260C.163, subdivision 8, is amended to read:

13.19 Subd. 8. **Rights of parties at hearing.** (a) Except in adoption proceedings or review
13.20 hearings after termination of parental rights, the minor child and the minor's child's parent,
13.21 guardian, or custodian are entitled to be heard, to present evidence material to the case,
13.22 and to cross-examine witnesses appearing at the hearing.

13.23 (c) A child who is under the guardianship of the commissioner of human services
13.24 has the right to be consulted in an age-appropriate manner regarding the adoption plan for
13.25 the child. A child age 16 or over must consent to the adoption as required under section
13.26 260C.629, subdivision 1, paragraph (b).

13.27 Sec. 14. Minnesota Statutes 2010, section 260C.178, subdivision 1, is amended to read:

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

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

14.7 (c) If the court determines there is reason to believe that the child would endanger
14.8 self or others or not return for a court hearing, or that the child's health or welfare would
14.9 be immediately endangered if returned to the care of the parent or guardian who has
14.10 custody and from whom the child was removed, the court shall order the child into
14.11 foster care under the legal responsibility of the responsible social services agency or
14.12 responsible probation or corrections agency for the purposes of protective care as that term
14.13 is used in the juvenile court rules or into the home of a noncustodial parent and order the
14.14 noncustodial parent to comply with any conditions the court determines to be appropriate
14.15 to the safety and care of the child, including cooperating with paternity establishment
14.16 proceedings in the case of a man who has not been adjudicated the child's father. The
14.17 court shall not give the responsible social services legal custody and order a trial home
14.18 visit at any time prior to adjudication and disposition under section 260C.201, subdivision
14.19 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or
14.20 guardian who has custody and from whom the child was removed and order the parent or
14.21 guardian to comply with any conditions the court determines to be appropriate to meet
14.22 the safety, health, and welfare of the child.

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

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

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

15.4 (2) that there are no services or other efforts that could be made at the time of the
15.5 hearing that could safely permit the child to remain home or to return home. When
15.6 reasonable efforts to prevent placement are required and there are services or other efforts
15.7 that could be ordered which would permit the child to safely return home, the court shall
15.8 order the child returned to the care of the parent or guardian and the services or efforts put
15.9 in place to ensure the child's safety. When the court makes a prima facie determination
15.10 that one of the circumstances under paragraph (g) exists, the court shall determine that
15.11 reasonable efforts to prevent placement and to return the child to the care of the parent or
15.12 guardian are not required.

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

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

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

15.24 (1) the parent has subjected a child to egregious harm as defined in section
15.25 260C.007, subdivision 14;

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

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

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

15.33 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision
15.34 2, against the child or another child of the parent;

15.35 (6) the parent has committed an offense that requires registration as a predatory
15.36 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 3 or 4, 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.201, subdivision 11~~ 260C.507, subdivision 4, 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.201, subdivision 3~~ 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 ~~the requirements of~~ sections 260C.151, 260C.212, and 260C.215.

(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 626.556, subdivision 10, and Minnesota Rules, part 9560.0228.

Sec. 15. Minnesota Statutes 2010, section 260C.178, subdivision 7, is amended to read:

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 alleging the child to be in need of protection or services 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 ~~attempts~~ efforts to engage ~~a parent~~ both parents of the child in case planning. ~~If the parent refuses to cooperate in the development of the out-of-home placement plan or disagrees with the services recommended by~~ The responsible social service agency, ~~the agency shall not~~ report the results of its efforts to engage the ~~such refusal or disagreement for the court~~ 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.

Sec. 16. Minnesota Statutes 2010, section 260C.193, subdivision 3, is amended to read:

18.1 Subd. 3. **Best interest of the child in foster care or residential care.** (a) The
18.2 policy of the state is to ensure that the best interests of children in foster or residential
18.3 care, who experience transfer of permanent legal and physical custody to a relative under
18.4 section 260C.515, subdivision 4, or adoption under chapter 259 are met by requiring
18.5 individualized determinations under section 260C.212, subdivision 2, paragraph (b), of
18.6 the needs of the child and of how the selected placement home will serve the needs of the
18.7 child in foster care placements.

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

18.11 (1) diligent efforts to identify and search for relatives as required under section
18.12 260C.212, subdivision 5, 260C.221; and made

18.13 (2) an individualized determination as required under section 260C.212, subdivision
18.14 2, to select a home that meets the needs of the child.

18.15 (c) If the court finds the agency has not made efforts as required under section
18.16 260C.212, subdivision 5, 260C.221 and there is a relative who qualifies to be licensed
18.17 to provide family foster care under chapter 245A, the court may order the child placed
18.18 with the relative consistent with the child's best interests.

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

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

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

18.31 ~~(g)~~ (g) Whenever possible, siblings should be placed together unless it is determined
18.32 not to be in the best interests of ~~a sibling~~ siblings. If siblings ~~are~~ were not placed together
18.33 according to section 260C.212, subdivision 2, paragraph (d), the responsible social
18.34 services agency shall report to the court the efforts made to place the siblings together
18.35 and why the efforts were not successful. If the court is not satisfied ~~with that~~ the agency's
18.36 agency has made reasonable efforts to place siblings together, the court ~~may~~ must order

19.1 the agency to make reasonable further efforts. If siblings are not placed together the court
19.2 shall ~~review~~ order the responsible social services ~~agency's~~ agency to implement the plan
19.3 for visitation among siblings required as part of the out-of-home placement plan under
19.4 section 260C.212.

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

19.8 Sec. 17. Minnesota Statutes 2010, section 260C.193, subdivision 6, is amended to read:

19.9 Subd. 6. **Jurisdiction to review foster care to age 21, termination of jurisdiction,**
19.10 **jurisdiction to age 18.** (a) Jurisdiction over a child in foster care pursuant to section
19.11 260C.451 ~~may~~ shall continue to age 21 for the purpose of conducting the reviews
19.12 required under section ~~260C.201, subdivision 11, paragraph (d), 260C.212, subdivision~~
19.13 ~~7, or 260C.317, subdivision 3, 260C.203, 260C.515, subdivision 5 or 6, or 260C.607,~~
19.14 subdivision 4. Jurisdiction over a child in foster care pursuant to section 260C.451 shall
19.15 not be terminated without giving the child notice of any motion or proposed order to
19.16 dismiss jurisdiction and an opportunity to be heard on the appropriateness of the dismissal.
19.17 When a child in foster care pursuant to section 260C.451 asks to leave foster care or
19.18 actually leaves foster care, the court may terminate its jurisdiction.

19.19 (b) ~~Except when a court order is necessary for a child to be in foster care or when~~
19.20 ~~continued review under (1) section 260C.212, subdivision 7, paragraph (d), or 260C.201,~~
19.21 ~~subdivision 11, paragraph (d), and (2) section 260C.317, subdivision 3, is required for a~~
19.22 ~~child in foster care under section 260C.451,~~ The court may terminate jurisdiction on its
19.23 own motion or the motion of any interested party upon a determination that jurisdiction is
19.24 no longer necessary to protect the child's best interests except when:

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

19.26 (2) continued review under section 260C.203, 260C.515, subdivision 5 or 6, or
19.27 260C.607, subdivision 4, is required for a child in foster care under section 260C.451.

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

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

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

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

20.3 Sec. 18. Minnesota Statutes 2010, section 260C.201, subdivision 2, is amended to read:

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

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

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

20.11 (3) when legal custody of the child is transferred, the appropriateness of the
20.12 particular placement made or to be made by the placing agency using the factors in section
20.13 260C.212, subdivision 2, paragraph (b);

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

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

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

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

20.33 (iv) to identify and make a foster care placement in the home of an unlicensed
20.34 relative according to the requirements of section 245A.035, a licensed relative, or other
20.35 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 ~~recruit, identify, and make a placement in a home where the foster parent or relative that has committed to being the legally permanent home for the child in the event reunification efforts are not successful~~ 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.

Sec. 19. Minnesota Statutes 2010, section 260C.201, subdivision 10, is amended to read:

Subd. 10. **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 subdivision 11, 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 ~~and legal custody~~ of the commissioner, shall be governed by ~~subdivision 11 or~~ section 260C.317, subdivision 3, ~~whichever is applicable~~ or 260C.521.

(b) No later than ~~six~~ three months after the child's placement in foster care, the court shall review agency efforts pursuant to section ~~260C.212, subdivision 2,~~ 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 evaluate relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to evaluate 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 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 ~~subdivisions 11 and subdivision 11a~~ and sections 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 ~~subdivision 11, paragraph (d), or sections 260C.212, subdivision 7, and 260C.317, subdivision 3~~ section 260C.203.

Sec. 20. Minnesota Statutes 2010, section 260C.212, subdivision 5, is amended to read:

Subd. 5. **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 subdivision 2 without delay and whenever the child must move from or be returned to foster care. The relative search required by this section shall be ~~reasonable and comprehensive in scope and may last up to six months or until a fit and willing relative is identified.~~ 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 paragraph (a), in planning for the child and to continue to consider relatives according to the requirements of section 260C.212, subdivisions 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. The relative search required by this section shall include both maternal relatives of the child and paternal relatives of the child; ~~if paternity is adjudicated.~~ 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 State Codes, 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 informed of their current address in order to receive notice in the event that a permanent placement is sought for the child. A relative who fails to provide a current address to the responsible social services agency forfeits the right to notice of the possibility of permanent placement. A decision by a relative not to be identified as a permanent placement resource or participate in planning for the child at the beginning of the case ~~shall not~~ may 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; ~~and~~ . "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.

(b) A responsible social services agency may disclose private ~~or confidential~~ data, as defined in ~~section~~ sections 13.02 and 626.556, 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 ~~only~~ 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 relatives or a specific relative not be contacted or considered for placement, 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 relatives or a specific relative unless authorized to do so by the juvenile court.

(c) 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, 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.

(d) 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.

(e) 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.

(f) When the placing agency determines that a permanent placement ~~hearing is~~ proceedings are necessary because there is a likelihood that the child will not return to a parent's care, the agency ~~may~~ must send the notice provided in paragraph ~~(d)~~ (g), may ask

the court to modify the ~~requirements~~ duty of the agency ~~under this paragraph~~ to send the notice required in paragraph (g), or may ask the court to completely relieve the agency of the requirements of ~~this paragraph~~ (g). The relative notification requirements of ~~this paragraph~~ (g) do not apply when the child is placed with an appropriate relative or a foster home that has committed to ~~being the~~ adopting the child or taking permanent legal placement for 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.

~~(d)~~ (g) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph ~~(e)~~ (e), when the agency determines that it is necessary to prepare for ~~the~~ permanent placement determination ~~hearing 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.

~~(e) The Department of Human Services shall develop a best practices guide and specialized staff training to assist the responsible social services agency in performing and complying with the relative search requirements under this subdivision.~~

Sec. 21. Minnesota Statutes 2010, section 260C.212, subdivision 7, is amended to read:

Subd. 7. **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 or 11; 260C.141, subdivision 2; 260C.317 260C.202; 260C.204; 260C.607; 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 ~~which~~ 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 16 or older, in addition to any administrative review conducted by the agency, at the in-court review required under section ~~260C.201, subdivision 11~~ 260C.515, subdivision 5 or 6, or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under section 260C.201, subdivision 1, paragraph (c), clause (11), 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.

~~(+)~~ (e) At the court review required under paragraph (d) for a child age 16 or older the following procedures apply:

- (1) six months before the child is expected to be discharged from foster care, the responsible social services agency shall ~~establish that it has given~~ give the written notice required under section ~~260C.456 or Minnesota Rules, part 9560.0660~~ 260C.451,

27.1 subdivision 1, regarding the right to continued access to services for certain children in
27.2 foster care past age 18 and of the right to appeal a denial of social services under section
27.3 256.045. If The agency is unable to establish that shall file a copy of the notice, including
27.4 the right to appeal a denial of social services, has been given, with the court. If the agency
27.5 does not file the notice by the time the child is age 17-1/2, the court shall require the
27.6 agency to give it;

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

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

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

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

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

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

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

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

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

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

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

27.26 (xi) the child has a permanent connection to a caring adult; and

27.27 (3) the court shall ensure that the responsible agency in conjunction with the
27.28 placement provider assists the child in obtaining the following documents prior to the
27.29 child's leaving foster care: a Social Security card; the child's birth certificate; a state
27.30 identification card or driver's license, green card, or school visa; the child's school,
27.31 medical, and dental records; a contact list of the child's medical, dental, and mental health
27.32 providers; and contact information for the child's siblings, if the siblings are in foster care.

27.33 ~~(c) When a child is age 17 or older, during the 90-day period immediately prior to~~
27.34 ~~the date the child is expected to be discharged from foster care, the responsible social~~
27.35 ~~services agency is required to provide the child with assistance and support in developing~~
27.36 ~~a transition plan that is personalized at the direction of the child. (f) For a child who~~

28.1 will be discharged from foster care at age 18 or older, the responsible social services
28.2 agency is required to develop a personalized transition plan as directed by the youth. The
28.3 transition plan must be developed during the 90-day period immediately prior to the
28.4 expected date of discharge. The transition plan must be as detailed as the child may elect
28.5 and include specific options on housing, health insurance, education, local opportunities
28.6 for mentors and continuing support services, and work force supports and employment
28.7 services. The plan must include information on the importance of designating another
28.8 individual to make health care treatment decisions on behalf of the child if the child
28.9 becomes unable to participate in these decisions and the child does not have, or does not
28.10 want, a relative who would otherwise be authorized to make these decisions. The plan
28.11 must provide the child with the option to execute a health care directive as provided
28.12 under chapter 145C. The county shall also provide the individual with appropriate contact
28.13 information if the individual needs more information or needs help dealing with a crisis
28.14 situation through age 21.

28.15 Sec. 22. Minnesota Statutes 2010, section 260C.215, subdivision 4, is amended to read:

28.16 Subd. 4. ~~Consultation with representatives~~ Duties of commissioner.

28.17 The commissioner of human services, ~~after seeking and considering advice from~~
28.18 ~~representatives reflecting diverse populations from the councils established under sections~~
28.19 ~~3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations~~
28.20 shall:

28.21 (1) ~~review and, where necessary, revise the Department of Human Services Social~~
28.22 ~~Service Manual and Practice Guide~~ provide practice guidance to responsible social
28.23 services agencies and child-placing agencies that reflect federal and state laws and policy
28.24 direction on placement of children;

28.25 (2) develop criteria for determining whether a prospective adoptive or foster family
28.26 has the ability to understand and validate the child's cultural background;

28.27 (3) ~~develop~~ provide a standardized training curriculum for adoption and foster care
28.28 workers, ~~family-based providers,~~ and administrators who work with children. Training
28.29 must address the following objectives:

28.30 ~~(a)~~ (i) developing and maintaining sensitivity to all cultures;

28.31 ~~(b)~~ (ii) assessing values and their cultural implications; ~~and~~

28.32 ~~(c)~~ (iii) making individualized placement decisions that advance the best interests of
28.33 a particular child under section 260C.212, subdivision 2; and

28.34 (iv) issues related to cross-cultural placement;

(4) ~~develop~~ provide a training curriculum for ~~family and extended family members~~ all prospective adoptive and foster families that prepares them to care for the needs of adoptive and foster children. The curriculum must address issues relating to cross-cultural placements as well as issues that arise after a foster or adoptive placement is made; ~~and~~

(5) develop and provide to agencies ~~an assessment tool to be used in combination with group interviews and other preplacement activities~~ a home study format to evaluate assess the capacities and needs of prospective adoptive and foster families. The tool format must assess address problem-solving skills; identify parenting skills; and 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. If a prospective adoptive parent has also been a foster parent, any update necessary to a home study for the purpose of adoption must 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 must be made with the same agency which provided the adoptive home study; and

(6) consult as needed with representatives reflecting diverse populations from the councils established under sections 3.922, 3.9223, 3.9225, and 3.9226, and other state, local, and community organizations.

Sec. 23. Minnesota Statutes 2010, section 260C.215, subdivision 6, is amended to read:

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.193, subdivision 3~~ 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 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; and

(6) develop and implement procedures for implementing the requirements of the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act.

(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.

Sec. 24. **[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 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 interest 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.

Sec. 25. Minnesota Statutes 2010, section 260C.301, subdivision 8, is amended to read:

Subd. 8. **Findings regarding reasonable efforts.** In any proceeding under this section, the court shall make specific findings:

(1) that reasonable efforts to ~~prevent the placement and~~ 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 ~~at~~ for reunification are not required as provided under section 260.012.

Sec. 26. Minnesota Statutes 2010, section 260C.328, is amended to read:

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 ~~the provisions of~~ section 260C.325, subdivision 1, clause (a), (b), or (c). Upon a showing that the child is emancipated, the court may discharge the guardianship. Any child 14 years of age or older who is not adopted but who is placed in a satisfactory foster home, may, with the consent of the foster parents, join with the guardian appointed by the juvenile court in a petition to the court having jurisdiction of the child to discharge the existing guardian and appoint the foster parents as guardians of the child.

(b) The authority of a guardian appointed by the juvenile court terminates when the individual under guardianship ~~is no longer a minor or when guardianship is otherwise discharged~~ 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.

Sec. 27. Minnesota Statutes 2010, section 260C.451, is amended to read:

260C.451 FOSTER CARE BENEFITS ~~TO AGE 21~~ PAST AGE 18.

Subdivision 1. **Notification of benefits.** ~~Within the~~ Six months prior to the child's 18th birthday, the ~~local~~ responsible social services agency shall ~~advise~~ 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, and the child's guardian ad litem, and the child's foster parents of the availability of benefits of the foster care program 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 receiving in foster care ~~benefits~~ immediately prior to the child's 18th birthday and who is in foster care at

the time of the request, the ~~local~~ 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 (11), 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 ~~already~~ 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 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 ~~which~~ 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. ~~Permanent decision~~ **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. ~~Individual plan to age 21~~ **Reentering foster care and accessing services after age 18.** (a) Upon request of an individual between the ages of 18 and 21 who, ~~within six months of the individual's 18th birthday,~~ 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 ~~related to the individual's vocational, educational, social, or maturational needs~~ to increase the individual's ability to live safely and independently using the plan requirements of section 260C.212, subdivision 1, paragraph (b), clause (11), 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 agency shall provide foster care ~~with maintenance and counseling benefits~~ as required to implement the plan. The 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 age 18 and are between the ages of 18 and 21 may ask to reenter foster care after age 18 and, to the extent funds are available, the responsible social services agency that had responsibility for planning for the individual before discharge from foster care may 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 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, to the extent funds are available, provide foster care as required to implement the plan. The agency shall enter into a voluntary placement agreement with the individual if the plan includes foster care.

(d) Youth who left foster care while under guardianship of the commissioner of human services retain eligibility for foster care for placement at any time between the ages of 18 and 21.

34.1 Subd. 7. **Jurisdiction.** ~~Notwithstanding that the court retains jurisdiction pursuant~~
34.2 ~~to this section,~~ Individuals in foster care pursuant to this section are adults for all purposes
34.3 except the continued provision of foster care. Any order establishing guardianship under
34.4 section 260C.325, any legal custody order under section 260C.201, subdivision 1, and
34.5 any order for legal custody associated with an order for ~~long-term foster care~~ permanent
34.6 custody under section ~~260C.201, subdivision 1~~ 260C.515, subdivision 5, terminates on
34.7 the child's 18th birthday. The responsible social services agency has legal responsibility
34.8 for the individual's placement and care when the matter continues under court jurisdiction
34.9 pursuant to section 260C.193 or when the individual and the responsible agency execute a
34.10 voluntary placement agreement pursuant to section 260C.229.

34.11 Subd. 8. **Notice of termination of foster care.** When a child in foster care between
34.12 the ages of 18 and 21 ceases to meet one of the eligibility criteria of subdivision 3a, the
34.13 responsible social services agency shall give the child written notice that foster care will
34.14 terminate 30 days from the date the notice is sent. The child or the child's guardian ad
34.15 litem may file a motion asking the court to review the agency's determination within 15
34.16 days of receiving the notice. The child shall not be discharged from foster care until the
34.17 motion is heard. The agency shall work with the child to transition out of foster care as
34.18 required under section 260C.203, paragraph (e). The written notice of termination of
34.19 benefits shall be on a form prescribed by the commissioner and shall also give notice of
34.20 the right to have the agency's determination reviewed by the court in the proceeding where
34.21 the court conducts the reviews required under section 260C.203, 260C.515, subdivisions
34.22 5 or 6, or 260C.317. A copy of the termination notice shall be sent to the child and the
34.23 child's attorney, if any, the foster care provider, the child's guardian ad litem, and the
34.24 court. The agency is not responsible for paying foster care benefits for any period of time
34.25 after the child actually leaves foster care.

34.26 Sec. 28. **[260C.503] PERMANENCY PROCEEDINGS.**

34.27 Subdivision 1. **Required permanency proceedings.** Except for children in foster
34.28 care pursuant to chapter 260D, where the child is in foster care or in the care of a
34.29 noncustodial or nonresident parent, the court shall commence proceedings to determine
34.30 the permanent status of a child by holding the admit-deny hearing required under section
34.31 260C.507 not later than 12 months after the child is placed in foster care or in the care of a
34.32 noncustodial or nonresident parent. Permanency proceedings for children in foster care
34.33 pursuant to chapter 260D shall be according to section 260D.07.

35.1 Subd. 2. **Termination of parental rights.** (a) The responsible social services
35.2 agency must ask the county attorney to immediately file a termination of parental rights
35.3 petition when:

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

35.6 (2) the child is determined to be the sibling of a child who was subjected to
35.7 egregious harm;

35.8 (3) the child is an abandoned infant as defined in section 260C.301, subdivision 3,
35.9 paragraph (b), clause (2);

35.10 (4) the child's parent has lost parental rights to another child through an order
35.11 involuntarily terminating the parent's rights;

35.12 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision
35.13 2, against the child or another child of the parent;

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

35.16 (7) another child of the parent is the subject of an order involuntarily transferring
35.17 permanent legal and physical custody of the child to a relative under this chapter or a
35.18 similar law of another jurisdiction;

35.19 The county attorney shall file a termination of parental rights petition unless the conditions
35.20 of paragraph (d) are met.

35.21 (b) When the termination of parental rights petition is filed under this subdivision,
35.22 the responsible social services agency shall identify, recruit, and approve an adoptive
35.23 family for the child. If a termination of parental rights petition has been filed by another
35.24 party, the responsible social services agency shall be joined as a party to the petition.

35.25 (c) If criminal charges have been filed against a parent arising out of the conduct
35.26 alleged to constitute egregious harm, the county attorney shall determine which matter
35.27 should proceed to trial first, consistent with the best interests of the child and subject
35.28 to the defendant's right to a speedy trial.

35.29 (d) The requirement of paragraph (a) does not apply if the responsible social services
35.30 agency and the county attorney determine and file with the court:

35.31 (1) a petition for transfer of permanent legal and physical custody to a relative under
35.32 sections 260C.505 and 260C.515, subdivision 3, including a determination that adoption
35.33 is not in the child's best interests and that transfer of permanent legal and physical custody
35.34 is in the child's best interests; or

35.35 (2) a petition under section 260C.141 alleging the child, and where appropriate,
35.36 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;

(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

37.1 permanency proceedings under sections 260C.503 to 260C.521 terminates, the court shall
37.2 commence or recommence permanency proceedings under this chapter no later than 30
37.3 days after the child is returned to foster care or to the care of a noncustodial parent.

37.4 Sec. 29. **[260C.505] PETITION.**

37.5 (a) A permanency or termination of parental rights petition must be filed at or prior
37.6 to the time the child has been in foster care or in the care of a noncustodial or nonresident
37.7 parent for 11 months or in the expedited manner required in section 260C.503, subdivision
37.8 2, paragraph (a). The court administrator shall serve the petition as required in the
37.9 Minnesota Rules of Juvenile Protection Procedure and section 260C.152 in time for the
37.10 admit-deny hearing on the petition required in section 260C.507.

37.11 (b) A petition under this section is not required if the responsible social services
37.12 agency intends to recommend that the child return to the care of the parent from whom
37.13 the child was removed at or prior to the time the court is required to hold the admit-deny
37.14 hearing required under section 260C.507.

37.15 Sec. 30. **[260C.507] ADMIT-DENY HEARING.**

37.16 (a) An admit-deny hearing on the permanency or termination of parental rights
37.17 petition shall be held not later than 12 months from the child's placement in foster care or
37.18 an order for the child to be in the care of a noncustodial or nonresident parent.

37.19 (b) An admit-deny hearing on the termination of parental rights or transfer of
37.20 permanent legal and physical custody petition required to be immediately filed under
37.21 section 260C.503, subdivision 2, paragraph (a), shall be within ten days of the filing
37.22 of the petition.

37.23 (c) At the admit-deny hearing, the court shall determine whether there is a prima
37.24 facie basis for finding that the agency made reasonable efforts, or in the case of an Indian
37.25 child active efforts, for reunification as required or that reasonable efforts for reunification
37.26 are not required under section 260.012 and proceed according to the Minnesota Rules of
37.27 Juvenile Protection Procedure.

37.28 Sec. 31. **[260C.509] TRIAL.**

37.29 The permanency proceedings shall be conducted in a timely fashion including
37.30 that any trial required under section 260C.163 shall be commenced within 60 days of
37.31 the admit-deny hearing required under section 260C.507. At the conclusion of the
37.32 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.

Sec. 32. **[260C.511] BEST INTERESTS OF THE CHILD.**

(a) The "best interests of the child" means all relevant factors to be considered and evaluated.

(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.

Sec. 33. **[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.

Sec. 34. **[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.

39.1 Subd. 3. **Guardianship; commissioner.** The court may order guardianship to the
39.2 commissioner of human services under the following procedures and conditions:

39.3 (1) there is an identified prospective adoptive parent agreed to by the responsible
39.4 social services agency having legal custody of the child pursuant to court order under this
39.5 chapter and that prospective adoptive parent has agreed to adopt the child;

39.6 (2) the court accepts the parent's voluntary consent to adopt in writing on a form
39.7 prescribed by the commissioner, executed before two competent witnesses and confirmed
39.8 by the consenting parent before the court or executed before court. The consent shall
39.9 contain notice that consent given under this chapter:

39.10 (i) is irrevocable upon acceptance by the court unless fraud is established and an
39.11 order issues permitting revocation as stated in clause (9) unless the matter is governed by
39.12 the Indian Child Welfare Act, United States Code, title 25, section 1913(c); and

39.13 (ii) will result in an order that the child is under the guardianship of the commissioner
39.14 of human services;

39.15 (3) a consent executed and acknowledged outside of this state, either in accordance
39.16 with the law of this state or in accordance with the law of the place where executed, is
39.17 valid;

39.18 (4) the court must review the matter at least every 90 days under section 260C.607;

39.19 (5) a consent to adopt under this subdivision vests guardianship of the child with
39.20 the commissioner of human services and makes the child a ward of the commissioner of
39.21 human services under section 260C.325;

39.22 (6) the court must forward to the commissioner a copy of the consent to adopt,
39.23 together with a certified copy of the order transferring guardianship to the commissioner;

39.24 (7) if an adoption is not finalized by the identified prospective adoptive parent within
39.25 six months of the execution of the consent to adopt under this clause, the responsible
39.26 social services agency shall pursue adoptive placement in another home unless the court
39.27 finds in a hearing under section 260C.607 that the failure to finalize is not due to either an
39.28 action or a failure to act by the prospective adoptive parent;

39.29 (8) notwithstanding clause (7), the responsible social services agency must pursue
39.30 adoptive placement in another home as soon as the agency determines that finalization
39.31 of the adoption with the identified prospective adoptive parent is not possible, that the
39.32 identified prospective adoptive parent is not willing to adopt the child, or that the identified
39.33 prospective adoptive parent is not cooperative in completing the steps necessary to finalize
39.34 the adoption;

39.35 (9) unless otherwise required by the Indian Child Welfare Act, United States Code,
39.36 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 relative in the best interests of the child according to the following conditions:

(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 who returns 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 is placing the child in violation of the court's order and may be subject to sanctions for contempt of court and, if the return places the child's health or welfare in danger, may be subject to other criminal or civil action;

(5) the social services agency may file a petition naming a fit and willing relative as a 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, but the petition may not name as custodian a relative who the parent did not disclose to the agency or who was not discovered by the agency in its search for relatives when the court has found that the agency made diligent efforts to conduct the relative search and provide the notice required under section 260C.221; and

(7) 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 12;

(2) the child is a sibling of a child described in clause (1) and the siblings have a significant positive relationship and are ordered into the same long-term foster care home;

(3) 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

(4) 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.

Sec. 35. [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

42.1 an additional 15 days when necessary in the interests of justice and the best interests of
42.2 the child.

42.3 Sec. 36. **[260C.519] FURTHER COURT HEARINGS.**

42.4 Once a permanency disposition order has been made, further court hearings are
42.5 necessary if:

42.6 (1) the child is ordered on a trial home visit or under the protective supervision
42.7 of the responsible social services agency;

42.8 (2) the child continues in foster care;

42.9 (3) the court orders further hearings in a transfer of permanent legal and physical
42.10 custody matter including if a party seeks to modify an order under section 260C.521,
42.11 subdivision 2;

42.12 (4) an adoption has not yet been finalized; or

42.13 (5) the child returns to foster care after the court has entered an order for a
42.14 permanency disposition under this section.

42.15 Sec. 37. **[260C.521] COURT REVIEWS AFTER PERMANENCY DISPOSITION**
42.16 **ORDER.**

42.17 Subdivision 1. **Child in permanent custody of responsible social services agency.**

42.18 (a) Court reviews of an order for permanent custody to the responsible social services
42.19 agency for placement of the child in foster care must be conducted at least yearly at an
42.20 in-court appearance hearing.

42.21 (b) The purpose of the review hearing is to ensure:

42.22 (1) the order for permanent custody to the responsible social services agency for
42.23 placement of the child in foster care continues to be in the best interests of the child and
42.24 that no other permanency disposition order is in the best interests of the child;

42.25 (2) that the agency is assisting the child to build connections to the child's family
42.26 and community; and

42.27 (3) that the agency is appropriately planning with the child for development of
42.28 independent living skills for the child, and as appropriate, for the orderly and successful
42.29 transition to independent living that may occur if the child continues in foster care without
42.30 another permanency disposition order.

42.31 (c) The court must review the child's out-of-home placement plan and the reasonable
42.32 efforts of the agency to finalize an alternative permanent plan for the child including the
42.33 agency's efforts to:

(1) ensure that permanent custody to the 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 or, if not, to identify and attempt to finalize another permanency disposition order under this chapter that would better serve the child's needs and best interests;

(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 agency has made reasonable efforts to finalize the permanent plan for the child when:

(1) the 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; and

(2) the agency's engagement of the child in planning for independent living is reasonable and appropriate.

Subd. 2. Modifying an order for permanent legal and physical custody to a relative. 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. 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.

ARTICLE 3

TECHNICAL AND CONFORMING AMENDMENTS

Section 1. Minnesota Statutes 2010, section 256.01, subdivision 14b, is amended to read:

Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of human services may authorize projects to test tribal delivery of child welfare services to American Indian children and their parents and custodians living on the reservation. The commissioner has authority to solicit and determine which tribes may participate in a project. Grants may be issued to Minnesota Indian tribes to support the projects. The commissioner may waive existing state rules as needed to accomplish the projects. Notwithstanding section 626.556, the commissioner may authorize projects to use alternative methods of investigating and assessing reports of child maltreatment, provided that the projects comply with the provisions of section 626.556 dealing with the rights of individuals who are subjects of reports or investigations, including notice and appeal rights and data practices requirements. The commissioner may seek any federal approvals necessary to carry out the projects as well as seek and use any funds available to the commissioner, including use of federal funds, foundation funds, existing grant funds, and other funds. The commissioner is authorized to advance state funds as necessary to operate the projects. Federal reimbursement applicable to the projects is appropriated to the commissioner for the purposes of the projects. The projects must be required to address responsibility for safety, permanency, and well-being of children.

(b) For the purposes of this section, "American Indian child" means a person under ~~18 years of age~~ 21 years old and who is a tribal member or eligible for membership in

one of the tribes chosen for a project under this subdivision and who is residing on the reservation of that tribe.

(c) In order to qualify for an American Indian child welfare project, a tribe must:

(1) be one of the existing tribes with reservation land in Minnesota;

(2) have a tribal court with jurisdiction over child custody proceedings;

(3) have a substantial number of children for whom determinations of maltreatment have occurred;

(4) have capacity to respond to reports of abuse and neglect under section 626.556;

(5) provide a wide range of services to families in need of child welfare services; and

(6) have a tribal-state title IV-E agreement in effect.

(d) Grants awarded under this section may be used for the nonfederal costs of providing child welfare services to American Indian children on the tribe's reservation, including costs associated with:

(1) assessment and prevention of child abuse and neglect;

(2) family preservation;

(3) facilitative, supportive, and reunification services;

(4) out-of-home placement for children removed from the home for child protective purposes; and

(5) other activities and services approved by the commissioner that further the goals of providing safety, permanency, and well-being of American Indian children.

(e) When a tribe has initiated a project and has been approved by the commissioner to assume child welfare responsibilities for American Indian children of that tribe under this section, the affected county social service agency is relieved of responsibility for responding to reports of abuse and neglect under section 626.556 for those children during the time within which the tribal project is in effect and funded. The commissioner shall work with tribes and affected counties to develop procedures for data collection, evaluation, and clarification of ongoing role and financial responsibilities of the county and tribe for child welfare services prior to initiation of the project. Children who have not been identified by the tribe as participating in the project shall remain the responsibility of the county. Nothing in this section shall alter responsibilities of the county for law enforcement or court services.

(f) Participating tribes may conduct children's mental health screenings under section 245.4874, subdivision 1, paragraph (a), clause (14), for children who are eligible for the initiative and living on the reservation and who meet one of the following criteria:

(1) the child must be receiving child protective services;

(2) the child must be in foster care; or

(3) the child's parents must have had parental rights suspended or terminated. Tribes may access reimbursement from available state funds for conducting the screenings. Nothing in this section shall alter responsibilities of the county for providing services under section 245.487.

(g) Participating tribes may establish a local child mortality review panel. In establishing a local child mortality review panel, the tribe agrees to conduct local child mortality reviews for child deaths or near-fatalities occurring on the reservation under subdivision 12. Tribes with established child mortality review panels shall have access to nonpublic data and shall protect nonpublic data under subdivision 12, paragraphs (c) to (e). The tribe shall provide written notice to the commissioner and affected counties when a local child mortality review panel has been established and shall provide data upon request of the commissioner for purposes of sharing nonpublic data with members of the state child mortality review panel in connection to an individual case.

(h) The commissioner shall collect information on outcomes relating to child safety, permanency, and well-being of American Indian children who are served in the projects. Participating tribes must provide information to the state in a format and completeness deemed acceptable by the state to meet state and federal reporting requirements.

Sec. 2. Minnesota Statutes 2010, section 257.01, is amended to read:

257.01 RECORDS REQUIRED.

Each person or authorized child-placing agency permitted by law to receive children, secure homes for children, or care for children, shall keep a record containing the name, age, former residence, legal status, health records, sex, race, and accumulated length of time in foster care, if applicable, of each child received; the name, former residence, occupation, health history, and character, of each birth parent; the date of reception, placing out, and adoption of each child, and the name, race, occupation, and residence of the person with whom a child is placed; the date of the removal of any child to another home and the reason for removal; the date of termination of the guardianship; the history of each child until the child reaches the age of ~~18~~ 21 years, is legally adopted, or is discharged according to law; and further demographic and other information as is required by the commissioner of human services.

Sec. 3. Minnesota Statutes 2010, section 259.73, is amended to read:

259.73 REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.

~~The commissioner of human services shall provide reimbursement of up to \$2,000 to the adoptive parent or parents for costs incurred in adopting a child with special~~

~~needs. The commissioner shall determine the child's eligibility for adoption expense reimbursement under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676. To be reimbursed, costs must be reasonable, necessary, and directly related to the legal adoption of the child. An individual may apply for reimbursement for costs incurred in an adoption of a child with special needs under section 259A.70.~~

Sec. 4. Minnesota Statutes 2010, section 260C.301, subdivision 1, is amended to read:

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 section 260C.201, subdivision 11, paragraph (e), clause (1), 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 ~~(3)~~ (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.

Sec. 5. Minnesota Statutes 2010, section 260D.08, is amended to read:

260D.08 ANNUAL REVIEW.

(a) After the court conducts a permanency review hearing under section 260D.07, the matter must be returned to the court for further review of the responsible social services reasonable efforts to finalize the permanent plan for the child and the child's foster care placement at least every 12 months while the child is in foster care. The court shall give notice to the parent and child, age 12 or older, and the foster parents of the continued review requirements under this section at the permanency review hearing.

(b) Every 12 months, the court shall determine whether the agency made reasonable efforts to finalize the permanency plan for the child, which means the exercise of due diligence by the agency to:

(1) ensure that the agreement for voluntary foster care is the most appropriate legal arrangement to meet the child's safety, health, and best interests and to conduct a genuine examination of whether there is another permanency disposition order under chapter 260C, including returning the child home, that would better serve the child's need for a stable and permanent home;

(2) engage and support the parent in continued involvement in planning and decision making for the needs of the child;

(3) strengthen the child's ties to the parent, relatives, and community;

(4) implement the out-of-home placement plan required under section 260C.212, subdivision 1, and ensure that the plan requires the provision of appropriate services to address the physical health, mental health, and educational needs of the child; and

(5) ensure appropriate planning for the child's safe, permanent, and independent living arrangement after the child's 18th birthday.

50.1 Sec. 6. **[611.012] DISPOSITION OF CHILD OF PARENT ARRESTED.**

50.2 A peace officer who arrests a person accompanied by a child of the person may
50.3 release the child to any person designated by the parent unless it is necessary to remove
50.4 the child under section 260C.175 because the child is found in surroundings or conditions
50.5 which endanger the child's health or welfare or which the peace officer reasonably believes
50.6 will endanger the child's health or welfare. An officer releasing a child under this section
50.7 to a person designated by the parent has no civil or criminal liability for the child's release.

50.8 Sec. 7. Minnesota Statutes 2010, section 626.556, subdivision 2, is amended to read:

50.9 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings
50.10 given them unless the specific content indicates otherwise:

50.11 (a) "Family assessment" means a comprehensive assessment of child safety, risk
50.12 of subsequent child maltreatment, and family strengths and needs that is applied to a
50.13 child maltreatment report that does not allege substantial child endangerment. Family
50.14 assessment does not include a determination as to whether child maltreatment occurred
50.15 but does determine the need for services to address the safety of family members and the
50.16 risk of subsequent maltreatment.

50.17 (b) "Investigation" means fact gathering related to the current safety of a child
50.18 and the risk of subsequent maltreatment that determines whether child maltreatment
50.19 occurred and whether child protective services are needed. An investigation must be used
50.20 when reports involve substantial child endangerment, and for reports of maltreatment in
50.21 facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to
50.22 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and
50.23 13, and 124D.10; or in a nonlicensed personal care provider association as defined in
50.24 sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

50.25 (c) "Substantial child endangerment" means a person responsible for a child's care,
50.26 and in the case of sexual abuse includes a person who has a significant relationship to the
50.27 child as defined in section 609.341, or a person in a position of authority as defined in
50.28 section 609.341, who by act or omission commits or attempts to commit an act against a
50.29 child under their care that constitutes any of the following:

- 50.30 (1) egregious harm as defined in section 260C.007, subdivision 14;
- 50.31 (2) sexual abuse as defined in paragraph (d);
- 50.32 (3) abandonment under section 260C.301, subdivision 2;
- 50.33 (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the
50.34 child's physical or mental health, including a growth delay, which may be referred to as
50.35 failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

51.1 (5) murder in the first, second, or third degree under section 609.185, 609.19, or
51.2 609.195;

51.3 (6) manslaughter in the first or second degree under section 609.20 or 609.205;

51.4 (7) assault in the first, second, or third degree under section 609.221, 609.222, or
51.5 609.223;

51.6 (8) solicitation, inducement, and promotion of prostitution under section 609.322;

51.7 (9) criminal sexual conduct under sections 609.342 to 609.3451;

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

51.9 (11) malicious punishment or neglect or endangerment of a child under section
51.10 609.377 or 609.378;

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

51.12 (13) parental behavior, status, or condition which mandates that the county attorney
51.13 file a termination of parental rights petition under section 260C.301, subdivision 3,
51.14 paragraph (a).

51.15 (d) "Sexual abuse" means the subjection of a child by a person responsible for the
51.16 child's care, by a person who has a significant relationship to the child, as defined in
51.17 section 609.341, or by a person in a position of authority, as defined in section 609.341,
51.18 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual
51.19 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
51.20 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct
51.21 in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual
51.22 abuse also includes any act which involves a minor which constitutes a violation of
51.23 prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes
51.24 threatened sexual abuse which includes the status of a parent or household member
51.25 who has committed a violation which requires registration as an offender under section
51.26 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section
51.27 243.166, subdivision 1b, paragraph (a) or (b).

51.28 (e) "Person responsible for the child's care" means (1) an individual functioning
51.29 within the family unit and having responsibilities for the care of the child such as a
51.30 parent, guardian, or other person having similar care responsibilities, or (2) an individual
51.31 functioning outside the family unit and having responsibilities for the care of the child
51.32 such as a teacher, school administrator, other school employees or agents, or other lawful
51.33 custodian of a child having either full-time or short-term care responsibilities including,
51.34 but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching,
51.35 and coaching.

(f) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, ~~or~~ medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance, or the presence of a Fetal Alcohol Spectrum Disorder;

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and

observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(g) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

- (1) throwing, kicking, burning, biting, or cutting a child;
- (2) striking a child with a closed fist;
- (3) shaking a child under age three;
- (4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;
- (5) unreasonable interference with a child's breathing;
- (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- (7) striking a child under age one on the face or head;
- (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
- (9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or
- (10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(h) "Report" means any report received by the local welfare agency, police department, county sheriff, or agency responsible for assessing or investigating maltreatment pursuant to this section.

(i) "Facility" means:

54.1 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
54.2 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
54.3 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

54.4 (2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and
54.5 124D.10; or

54.6 (3) a nonlicensed personal care provider organization as defined in sections 256B.04,
54.7 subdivision 16, and 256B.0625, subdivision 19a.

54.8 (j) "Operator" means an operator or agency as defined in section 245A.02.

54.9 (k) "Commissioner" means the commissioner of human services.

54.10 (l) "Practice of social services," for the purposes of subdivision 3, includes but is
54.11 not limited to employee assistance counseling and the provision of guardian ad litem and
54.12 parenting time expeditor services.

54.13 (m) "Mental injury" means an injury to the psychological capacity or emotional
54.14 stability of a child as evidenced by an observable or substantial impairment in the child's
54.15 ability to function within a normal range of performance and behavior with due regard to
54.16 the child's culture.

54.17 (n) "Threatened injury" means a statement, overt act, condition, or status that
54.18 represents a substantial risk of physical or sexual abuse or mental injury. Threatened
54.19 injury includes, but is not limited to, exposing a child to a person responsible for the
54.20 child's care, as defined in paragraph (e), clause (1), who has:

54.21 (1) subjected a child to, or failed to protect a child from, an overt act or condition
54.22 that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a
54.23 similar law of another jurisdiction;

54.24 (2) been found to be palpably unfit under section 260C.301, paragraph (b), clause
54.25 (4), or a similar law of another jurisdiction;

54.26 (3) committed an act that has resulted in an involuntary termination of parental rights
54.27 under section 260C.301, or a similar law of another jurisdiction; or

54.28 (4) committed an act that has resulted in the involuntary transfer of permanent legal
54.29 and physical custody of a child to a relative under section 260C.201, subdivision 11,
54.30 paragraph (d), clause (1), or a similar law of another jurisdiction.

54.31 (o) Persons who conduct assessments or investigations under this section shall take
54.32 into account accepted child-rearing practices of the culture in which a child participates
54.33 and accepted teacher discipline practices, which are not injurious to the child's health,
54.34 welfare, and safety.

54.35 (p) "Accidental" means a sudden, not reasonably foreseeable, and unexpected
54.36 occurrence or event which:

(1) is not likely to occur and could not have been prevented by exercise of due care; and

(2) if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

(q) "Nonmaltreatment mistake" means:

(1) at the time of the incident, the individual was performing duties identified in the center's child care program plan required under Minnesota Rules, part 9503.0045;

(2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years;

(3) the individual has not been determined to have committed a similar nonmaltreatment mistake under this paragraph for at least four years;

(4) any injury to a child resulting from the incident, if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and

(5) except for the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident.

This definition only applies to child care centers licensed under Minnesota Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated maltreatment by the individual, the commissioner of human services shall determine that a nonmaltreatment mistake was made by the individual.

Sec. 8. Minnesota Statutes 2010, section 626.556, subdivision 10, is amended to read:

Subd. 10. **Duties of local welfare agency and local law enforcement agency upon receipt of report.** (a) Upon receipt of a report, the local welfare agency shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child maltreatment. The local welfare agency:

(1) shall conduct an investigation on reports involving substantial child endangerment;

(2) shall begin an immediate investigation if, at any time when it is using a family assessment response, it determines that there is reason to believe that substantial child endangerment or a serious threat to the child's safety exists;

(3) may conduct a family assessment for reports that do not allege substantial child endangerment. In determining that a family assessment is appropriate, the local welfare

56.1 agency may consider issues of child safety, parental cooperation, and the need for an
56.2 immediate response; and

56.3 (4) may conduct a family assessment on a report that was initially screened and
56.4 assigned for an investigation. In determining that a complete investigation is not required,
56.5 the local welfare agency must document the reason for terminating the investigation and
56.6 notify the local law enforcement agency if the local law enforcement agency is conducting
56.7 a joint investigation.

56.8 If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian,
56.9 or individual functioning within the family unit as a person responsible for the child's
56.10 care, or sexual abuse by a person with a significant relationship to the child when that
56.11 person resides in the child's household or by a sibling, the local welfare agency shall
56.12 immediately conduct a family assessment or investigation as identified in clauses (1) to
56.13 (4). In conducting a family assessment or investigation, the local welfare agency shall
56.14 gather information on the existence of substance abuse and domestic violence and offer
56.15 services for purposes of preventing future child maltreatment, safeguarding and enhancing
56.16 the welfare of the abused or neglected minor, and supporting and preserving family
56.17 life whenever possible. If the report alleges a violation of a criminal statute involving
56.18 sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the
56.19 local law enforcement agency and local welfare agency shall coordinate the planning and
56.20 execution of their respective investigation and assessment efforts to avoid a duplication of
56.21 fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of
56.22 the results of its investigation. In cases of alleged child maltreatment resulting in death,
56.23 the local agency may rely on the fact-finding efforts of a law enforcement investigation
56.24 to make a determination of whether or not maltreatment occurred. When necessary the
56.25 local welfare agency shall seek authority to remove the child from the custody of a parent,
56.26 guardian, or adult with whom the child is living. In performing any of these duties, the
56.27 local welfare agency shall maintain appropriate records.

56.28 If the family assessment or investigation indicates there is a potential for abuse of
56.29 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,
56.30 the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota
56.31 Rules, part 9530.6615.

56.32 (b) When a local agency receives a report or otherwise has information indicating
56.33 that a child who is a client, as defined in section 245.91, has been the subject of physical
56.34 abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section
56.35 245.91, it shall, in addition to its other duties under this section, immediately inform the
56.36 ombudsman established under sections 245.91 to 245.97. The commissioner of education

shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

(c) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be

private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,

including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent child maltreatment, and family strengths and needs and share not public information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for ~~assessing or~~ investigating the report may make a determination of no maltreatment early in an ~~assessment~~ investigation, and close the case and retain immunity, if the collected information shows no basis for a full ~~assessment or~~ investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the

child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

(4) information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect investigative reports and data that are relevant to a report of maltreatment and are from local law enforcement and the school facility.

(i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact with the child and primary caregiver shall occur immediately if substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(k) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (i), (k), and subdivision 3d, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the assessment or investigation provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (i) and (k), and subdivision 3d.

Sec. 9. Minnesota Statutes 2010, section 626.556, subdivision 10e, is amended to read:

Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family assessment or the investigation within 45 days of the receipt of a report. The conclusion of the assessment or investigation may be extended to permit the completion of a criminal investigation or the receipt of expert information requested within 45 days of the receipt of the report.

(b) After conducting a family assessment, the local welfare agency shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment.

(c) After conducting an investigation, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed. No determination of maltreatment shall be made when the alleged perpetrator is a child under the age of ten.

(d) If the commissioner of education conducts an assessment or investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases,

the commissioner shall inform the school board or employer that a report was received, the subject of the report, the date of the initial report, the category of maltreatment alleged as defined in paragraph (f), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

(e) When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in paragraph (i). Determinations under this subdivision must be made based on a preponderance of the evidence and are private data on individuals or nonpublic data as maintained by the commissioner of education.

(f) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions:

- (1) physical abuse as defined in subdivision 2, paragraph (g);
- (2) neglect as defined in subdivision 2, paragraph (f);
- (3) sexual abuse as defined in subdivision 2, paragraph (d);
- (4) mental injury as defined in subdivision 2, paragraph (m); or
- (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

(g) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(h) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(i) When determining whether the facility or individual is the responsible party, or whether both the facility and the individual are responsible for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

- (1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was

responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

The evaluation of the facility's responsibility under clause (2) must not be based on the completeness of the risk assessment or risk reduction plan required under section 245A.66, but must be based on the facility's compliance with the regulatory standards for policies and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota Rules.

(j) Notwithstanding paragraph (i), when maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing actions under sections 245A.06 or 245A.07 apply.

(k) Individual counties may implement more detailed definitions or criteria that indicate which allegations to investigate, as long as a county's policies are consistent with the definitions in the statutes and rules and are approved by the county board. Each local welfare agency shall periodically inform mandated reporters under subdivision 3 who work in the county of the definitions of maltreatment in the statutes and rules and any additional definitions or criteria that have been approved by the county board.

Sec. 10. Minnesota Statutes 2010, section 626.556, subdivision 10f, is amended to read:

Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion of a family assessment, the local welfare agency shall notify the parent or guardian of the child of the need for services to address child safety concerns or significant risk of subsequent child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed. Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for ~~assessing or~~ investigating the report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the

64.1 director of the facility, of the determination and a summary of the specific reasons for
64.2 the determination. When the investigation involves a child foster care setting that is
64.3 monitored by a private licensing agency under section 245A.16, the local welfare agency
64.4 responsible for ~~assessing or~~ investigating the report shall notify the private licensing
64.5 agency of the determination and shall provide a summary of the specific reasons for
64.6 the determination. The notice to the private licensing agency must include identifying
64.7 private data, but not the identity of the reporter of maltreatment. The notice must also
64.8 include a certification that the information collection procedures under subdivision 10,
64.9 paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to
64.10 obtain access to other private data on the subject collected, created, or maintained under
64.11 this section. In addition, the notice shall include the length of time that the records will be
64.12 kept under subdivision 11c. The investigating agency shall notify the parent or guardian
64.13 of the child who is the subject of the report, and any person or facility determined to
64.14 have maltreated a child, of their appeal or review rights under this section or section
64.15 256.022. The notice must also state that a finding of maltreatment may result in denial of a
64.16 license application or background study disqualification under chapter 245C related to
64.17 employment or services that are licensed by the Department of Human Services under
64.18 chapter 245A, the Department of Health under chapter 144 or 144A, the Department of
64.19 Corrections under section 241.021, and from providing services related to an unlicensed
64.20 personal care provider organization under chapter 256B.

64.21 Sec. 11. Minnesota Statutes 2010, section 626.556, subdivision 10i, is amended to read:

64.22 Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative
64.23 reconsideration is not applicable in family assessments since no determination concerning
64.24 maltreatment is made. For investigations, except as provided under paragraph (e), an
64.25 individual or facility that the commissioner of human services, a local social service
64.26 agency, or the commissioner of education determines has maltreated a child, an interested
64.27 person acting on behalf of the child, regardless of the determination, who contests
64.28 the investigating agency's final determination regarding maltreatment, may request the
64.29 investigating agency to reconsider its final determination regarding maltreatment. The
64.30 request for reconsideration must be submitted in writing to the investigating agency within
64.31 15 calendar days after receipt of notice of the final determination regarding maltreatment
64.32 or, if the request is made by an interested person who is not entitled to notice, within
64.33 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the
64.34 request for reconsideration must be postmarked and sent to the investigating agency
64.35 within 15 calendar days of the individual's or facility's receipt of the final determination. If

the request for reconsideration is made by personal service, it must be received by the investigating agency within 15 calendar days after the individual's or facility's receipt of the final determination. Effective January 1, 2002, an individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the investigating agency within 30 calendar days of the individual's receipt of the maltreatment determination and notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services or the commissioner of education a written request for a hearing under that section. Section 256.045 also governs hearings requested to contest a final determination of the commissioner of education. ~~For reports involving maltreatment of a child in a facility, an interested person acting on behalf of the child may request a review by the Child Maltreatment Review Panel under section 256.022 if the investigating agency denies the request or fails to act upon the request or if the interested person contests a reconsidered determination. The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the investigating agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered determination. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied. The hearings specified under this section are the only administrative appeal of a decision issued under paragraph (a). Determinations under this section are not subject to accuracy and completeness challenges under section 13.04.~~

(c) If, as a result of a reconsideration or review, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) Except as provided under paragraph (f), if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration decision, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination and disqualification shall not be conducted under section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination as provided under this subdivision, and reconsideration of a disqualification as provided under section 245C.22, shall also not be conducted when:

(1) a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) For purposes of this subdivision, "interested person acting on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been determined to be the perpetrator of the maltreatment.

Sec. 12. Minnesota Statutes 2010, section 626.556, subdivision 10k, is amended to read:

Subd. 10k. **Release of certain assessment or investigative records to other counties.** Records maintained under subdivision 11c, paragraph (a), may be shared with another local welfare agency that requests the information because it is conducting an assessment or investigation under this section of the subject of the records.

Sec. 13. **REVISOR'S INSTRUCTION.**

(a) The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B.

<u>Column A</u>	<u>Column B</u>
<u>259.69</u>	<u>259A.05, subd. 5</u>
<u>260C.217</u>	<u>260C.139</u>
<u>260C.501</u>	<u>260C.177</u>
<u>260C.201, subd. 10</u>	<u>260C.202</u>
<u>260C.212, subd. 7</u>	<u>260C.203</u>
<u>260C.201, subd. 11a</u>	<u>260C.204</u>
<u>260C.212, subd. 4</u>	<u>260C.219</u>
<u>260C.212, subd. 5</u>	<u>260C.221</u>
<u>260C.213</u>	<u>260C.223</u>
<u>260C.206</u>	<u>260C.225</u>
<u>260C.212, subd. 8</u>	<u>260C.227</u>

68.1 260C.212, subd. 6 260C.521, subd. 4
68.2 260C.205 260D.11

68.3 (b) The revisor of statutes shall make necessary cross-reference changes in
68.4 Minnesota Statutes and Minnesota Rules consistent with the numbering in articles 1 and
68.5 2 and the renumbering in paragraph (a).

68.6 ARTICLE 4

68.7 CHILD SUPPORT

68.8 Section 1. Minnesota Statutes 2010, section 257.75, subdivision 7, is amended to read:

68.9 Subd. 7. **Hospital and Department of Health ~~distribution of educational~~**
68.10 **~~materials; recognition form.~~** Hospitals that provide obstetric services and the state
68.11 registrar of vital statistics shall distribute the educational materials and recognition
68.12 of parentage forms prepared by the commissioner of human services to new parents;
68.13 ~~and~~ shall assist parents in understanding the recognition of parentage form, including
68.14 following the provisions for notice under subdivision 5; shall aid new parents in properly
68.15 completing the recognition of parentage form, including providing notary services; and
68.16 shall timely file the completed recognition of parentage form with the office of the state
68.17 registrar of vital statistics. On and after January 1, 1994, hospitals may not distribute the
68.18 declaration of parentage forms.

68.19 Sec. 2. Minnesota Statutes 2010, section 518C.205, is amended to read:

68.20 **518C.205 CONTINUING, EXCLUSIVE JURISDICTION.**

68.21 (a) A tribunal of this state issuing a support order consistent with the law of this state
68.22 has continuing, exclusive jurisdiction over a child support order unless:

68.23 (1) ~~as long as~~ this state ~~remains~~ is no longer the residence of the obligor, the
68.24 individual obligee, ~~or~~ and the child for whose benefit the support order is issued; or

68.25 (2) ~~until~~ all of the parties who are individuals have filed written consents with
68.26 the tribunal of this state for a tribunal of another state to modify the order and assume
68.27 continuing, exclusive jurisdiction.

68.28 (b) A tribunal of this state issuing a child support order consistent with the law of
68.29 this state may not exercise its continuing jurisdiction to modify the order if the order has
68.30 been modified by a tribunal of another state pursuant to this chapter or a law substantially
68.31 similar to this chapter.

68.32 (c) If a child support order of this state is modified by a tribunal of another state
68.33 pursuant to this chapter or a law substantially similar to this chapter, a tribunal of this state

69.1 loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the
69.2 order issued in this state, and may only:

69.3 (1) enforce the order that was modified as to amounts accruing before the
69.4 modification;

69.5 (2) enforce nonmodifiable aspects of that order; and

69.6 (3) provide other appropriate relief for violations of that order which occurred before
69.7 the effective date of the modification.

69.8 (d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a
69.9 tribunal of another state which has issued a child support order pursuant to this chapter or
69.10 a law substantially similar to this chapter.

69.11 (e) A temporary support order issued ex parte or pending resolution of a jurisdictional
69.12 conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

69.13 (f) A tribunal of this state issuing a support order consistent with the law of this
69.14 state has continuing, exclusive jurisdiction over a spousal support order throughout the
69.15 existence of the support obligation. A tribunal of this state may not modify a spousal
69.16 support order issued by a tribunal of another state having continuing, exclusive jurisdiction
69.17 over that order under the law of that state."

69.18 Amend the title accordingly