

House Research Act Summary

CHAPTER: 159

SESSION: 2005 Regular Session

TOPIC: Children and Family Services

Date: June 3, 2005
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Article 1: Child Welfare: Alternative Response

Overview

This article provides changes in the child welfare response to allegations of abuse and neglect to include an alternative response.

- 1 Public policy.** Amends § 626.556, subd. 1. Sets out the alternative response to allegations of child maltreatment as one in which interventions engage the protective capacity of parents, assess the needs of the family, and provide family support and family preservation services.
- 2 Definitions.** Amends § 626.556, subd. 2.
 - Defines the new term “family assessment.”
 - Defines the new term “investigation.”
 - Defines the new term “substantial child endangerment.”
 - Adds a growth delay, which may be referred to as failure to thrive, to the definition of neglect.
 - Deletes the term “assessment.”
- 3 Persons mandated to report.** Amends § 626.556, subd 3. Adds probation and correction service employees to the list of mandated reporters. Provides that any mandated reporter shall receive a summary of the disposition of an investigation or family assessment.
- 4 Authority to interview.** Amends § 626.556 by adding subd. 3d. Allows the agency

responsible for assessing or investigating reports of child maltreatment to interview the child, the person or persons responsible for the child's care, the alleged perpetrator and any other person with knowledge of the abuse or neglect.

5 **Duties of local welfare agency and local law enforcement agency upon receipt of a report.** Amends § 626.556, subd. 10. Provides that the local welfare agency shall determine whether to conduct a family assessment or an investigation. Instructs the local agency that it:

- shall conduct an investigation on reports involving substantial child endangerment;
- shall begin an immediate investigation, at any time it is using a family assessment response, if it determines there is reason to believe there is a substantial risk to the child's safety;
- may conduct a family assessment for reports that do not allege substantial child endangerment; and
- may conduct a family assessment on a report that was initially screened and assigned for investigation.

Adds that information regarding domestic violence is to be gathered.

Provides that in family assessments, the parent should be asked for permission to interview the child, unless doing so would compromise the safety assessment.

Adds factors to consider when conducting a family assessment: child safety; risk of subsequent child maltreatment; and family strengths and needs.

Provides that face-to-face contact with the child and the child's primary caregiver shall be immediate if substantial endangerment is alleged and within five days for all other reports.

Provides that in investigations or assessments involving a school, face-to-face observation of the child and a face-to-face interview with the alleged offender is to occur in the initial stages of the investigation or assessment.

6 **Duties of commissioner; neglect or abuse in facility.** Amends § 626.556, subd. 10b. Makes a technical change.

7 **Determinations.** Amends § 626.556, subd. 10e. Provides that family assessments or investigations are to be completed within 45 days of receipt of the report. States that after a family assessment, the local welfare agency shall determine the need for services. This section also makes various technical and reference changes.

8 **Notice of determinations.** Amends § 626.556, subd. 10f. Adds that within ten days of completing a family assessment, the local welfare agency shall notify the family of the child of the need for services. The local agency and the family may jointly agree that services are needed.

9 **Administrative reconsideration of final determination of maltreatment and disqualification based on serious or recurring maltreatment; review panel.** Amends § 626.556, subd. 10i. Adds that administrative reconsideration is not applicable to family assessments since no determination concerning maltreatment is made.

10 **Documentation.** Amends § 626.556 by adding subd. 10l. States what documentation is needed when a case that has been open for services is closed.

- 11 **Provisions of child protective services.** Amends § 626.556 by adding subd. 10m. Adds that the local welfare agency shall create a written service plan, in collaboration with the family when possible, within 30 days of the determination that services are needed.
- 12 **Records.** Amends § 626.556, subd. 11. Makes a technical change.
- 13 **Welfare, court services agency and school records maintained.** Amends § 626.556, subd. 11c. Adds family assessments to the four-year retention requirement for records in which there is no determination of maltreatment or need for child protective services.
- 14 **Laws 2005, chapter 14; effective date.** Provides an effective date of August 1, 2006.
- 15 **Repealer.** Repeals section 626.551, subdivisions 1, 2, 3, 4, and 5. Repeals Minnesota Rules, parts 9560.0220, subpart 6, item B; and 9560.0230, subpart 2.

Article 2: Child Welfare: Permanency

Overview

This article changes provisions in permanency planning for children.

- 1 **Scope.** Amends § 257.85, subd. 2. Adds that the provisions in this section, which govern situations in which the child’s custody is established with a relative or an important friend, apply when an order is entered by a tribal court on or after July 1, 2005.
- 2 **Definitions.** Amends § 257.85, subd. 3. Adds tribal social services agencies to the definition of “local agency.”
- 3 **Venue.** Amends § 259.23, subd. 1. Provides that venue for adoptions of children committed to the guardianship of the commissioner of human services shall be the county with jurisdiction of the matter under section 260C.317, subdivision 3. Provides that this venue may be transferred to the petitioner’s county of residence if the petition for adoption is uncontested.
- 4 **Contents of petition.** Amends § 259.23, subd. 2. Makes a technical change.
- 5 **Background check; affidavit of history.** Amends § 259.41, subd. 3. Changes the requirement of providing all past residential addresses from ten years to five years. Changes the requirement of providing fingerprints to circumstances in which the agency has reasonable cause to believe that additional information may exist that may relate to the health, safety, or welfare of the child. Provides a non-exclusive list of circumstances that may provide the agency with reasonable cause.
- 6 **Adoption assistance agreement.** Amends § 259.67, subd. 2. Provides that for children who are under the jurisdiction of the sending agency and placed in Minnesota through the Interstate Compact on the Placement of Children the placing agency shall not certify the children for state-funded adoption assistance. States that the placing agency must fully complete the written agreement form.
- 7 **Eligibility conditions.** Amends § 259.67, subd. 4. Provides that for children who are under the jurisdiction of the sending agency and placed in Minnesota through the Interstate Compact on the Placement of Children, the placing agency shall not certify the children for state-funded adoption assistance.
- 8 **Establishment; contents; availability.** Amends § 259.75, subd. 1. Deletes reference to the adoption exchange book.
- 9 **Content.** Amends § 259.79, subd. 1. Adds that the commissioner shall maintain a permanent record of all adoptions granted in district court. Lists the information that must be contained in each record.
- 10 **Purpose.** Amends § 259.85, subd. 1. Clarifies that only adoptive parents who are not receiving adoption assistance under section 259.67 can receive financial assistance through the post-adoption service grants program established by the commissioner.

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Duty to ensure placement prevention and family reunification; reasonable efforts.

Amends § 260.012. Paragraph (a). Provides that the social service agency use reasonable efforts to develop a permanency plan, including reunification or placement in a legally permanent home, for each child.

Paragraph (b). Directs that if a parent has subjected a child to egregious abuse, abandoned a child or has had rights to another child involuntarily terminated, then either permanency pleadings or a termination of parental rights petition must be filed.

Paragraph (c). Provides no substantive changes.

Paragraph (d). Defines the phrase “reasonable efforts to prevent placement” as the agency’s reasonable efforts to prevent placement, or given the circumstances, no services or efforts could allow the child to remain safely in the home.

Paragraph (e). Defines the phrase “reasonable efforts to finalize a permanent plan for the child” as those efforts to reunify the child with the parent; assess a noncustodial parent’s ability to provide for the child, or finalize a safe and permanent home for the child.

Paragraph (f). States that reasonable efforts are made upon the responsible social service agency’s due diligence to meet the needs of the child and the child’s family. The burden is on the agency to prove due diligence.

Paragraph (g). Provides the reasons for which reasonable efforts for reunification are not required.

Paragraph (h). Provides no substantive changes.

Paragraph (i). Provides no substantive changes.

Paragraph (j). Emphasizes that permanency plans must be made in a timely manner.

Paragraph (k). States that concurrent plans may be made to reunify the child and to place the child for adoption or in another permanent home.

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Permanency and termination of parental rights. Amends § 260C.001, subd. 3. Provides that reasonable efforts to prevent placement or reunify are not required when a child has been subjected to egregious abuse, when the child is an abandoned infant, when there has been an involuntary termination of parental rights related to another child, or when the court determines efforts at reunification would be futile. Emphasizes that permanency is the paramount consideration.

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Compelling reasons. Amends § 260C.007, subd. 8. Makes technical changes.

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Immediate custody. Amends § 260C.151, subd. 6. Provides that the responsible social services agency, not the court, shall assume immediate care and custody of a child when it is contrary to the interest of the child to remain in the care of a parent or guardian. States that the court will order emergency protective care.

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Emergency removal hearing. Amends § 260C.178. Changes the name of the proceeding from detention hearing to emergency removal hearing.

Subd. 1. Hearing and release requirements. Paragraph (a). Makes no changes.

Paragraph (b). Provides the circumstances under which the court shall order a child into foster care under the care of the responsible social services agency for the purposes of protective care.

Paragraph (c). Makes a technical change in wording from “custody” to “foster care under the protective care of the responsible agency.” Provides that the court shall make findings that the responsible social services agency has made reasonable efforts to prevent removal.

Paragraph (d). Makes no changes.

Paragraph (e). Adds two grounds that may be the basis for filing a petition to terminate parental rights: the parents’ rights to another child have been involuntarily transferred to a relative; or the provision of services would be futile and therefore unreasonable.

Paragraph (f). Provides that if the county attorney has filed a petition to transfer permanent custody of a child to a relative, rather than file a termination of parental rights petition, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

Paragraph (g). Makes no changes.

Paragraph (h). Changes the reference to “out of home placement” to “foster care.”

Paragraph (i). Substitutes “foster care” for “out of home placement.”

Subd. 2. Deletes the subdivision addressing duration of detention.

Subd. 3. Parental visitation. Substitutes “foster care” for “detention” and “shelter care.”

Subd. 4. Mental health treatment. Paragraph (a). Substitutes “prima facie basis” for “probable cause.”

Subd. 5. Copies of order. Deletes the requirement that the notice shall inform each party of the right to submit to the court any new evidence regarding whether the child should be continued in detention and to request a hearing to present the evidence.

Subd. 6. Review. Provides that placement shall be periodically reviewed as required under the juvenile court rules. Makes technical changes.

Subd. 7. Out-of-home placement plan. Adds that these plans are to be developed jointly with the parent and in consultation with others. Provides that if the parent refuses to participate or disagrees with the plan, the agency shall so note in the plan filed with the court. The court may approve the plan, and the agency will

provide services, even if the parents refuse to participate or disagree with the plan. Provides that the court may not order a parent to comply with the plan until the court finds the child in need of protection or services and orders disposition.

16 Dispositions. Amends § 260C.201, subd. 1. Adds trial home visit to disposition options available to the court. States that a trial home visit means the child is returned to the care of the parent from whom the child was removed for a period not to exceed six months. The responsible social services agency will continue to have legal custody of the child and will continue to have access to the child. The agency shall continue to provide services during the trial home visit.

17 Court review of foster care. Amends § 260C.201, subd. 10. Provides that when a child is placed in foster care, the court shall review the placement at least every 90 days. Adds that a review under this section is not required if the child has been returned home, permanently placed away for the parent, or if parental rights have been terminated.

18 Review of court-ordered placements; permanent placement determination. Amends § 260C.201, subd. 11. Paragraph (a). Provides that the court shall determine if there is a prima facie finding that the agency has used reasonable efforts, or in the case of an Indian child, active efforts, to reunify the child with the family. Provides that time spent on a trial home visit does not count toward the requirements of a permanency hearing.

Paragraph (b). Makes technical changes.

Paragraph (c). Provides timeframes for permanency hearings and dispositional options available to the court.

Paragraph (d). Provides the conditions under which long-term foster care may be an appropriate permanent placement decision. Directs that there is to be an annual review of the placement. Clarifies situations in which the commissioner can remove a child from a preadoptive placement and pursue placement in another home. Provides that a consent to adopt is irrevocable unless proven the consent was obtained by fraud.

Paragraph (e). Makes no changes.

Paragraph (f). Makes no changes.

Paragraph (g). Provides for reviews of the placement of children in long-term foster care.

Paragraph (h). Provides for reviews of the placement of children who have been ordered into foster care for a specified period longer than one year.

Paragraph (i). Makes technical changes.

Paragraph (j). Provides that the court may vacate its order for long-term foster care when another permanency option is in the best interests of the child.

Paragraph (k). Makes no changes.

19 Disposition; parental rights not terminated. Amends § 260C.312. Adds trial home visit to the court's dispositional alternatives.

- 20 **Order; retention of jurisdiction.** Amends § 260C.317, subd. 3. Provides the criteria that must be met before the court can order placement in long-term foster care. Directs the court to review the placement every 12 months. Provides that the court shall retain jurisdiction through the child’s minority.

Article 3: Child Care

Overview

Article 3 makes changes to the child care assistance programs.

- 1 **Factors which must be verified.** Amends § 119B.025, subd. 1. Allows counties to have families fill out a streamlined “change report form” rather than requiring a full redetermination if a family reports a change. Requires eligibility to be redetermined at least every six months. Changes terminology from “recertification” to “redetermination.” Requires the commissioner to develop a change report form to report changes.
- 2 **Allocation formula.** Amends 119B.03, subd. 6. Expands the types of families who are included in the reallocation formula used to distribute Basic Sliding Fee child care funds among counties. The previous formula includes families who are on the waiting list but does not include families whose cases have been closed due to a reduction in the county allocation. The new formula includes families whose cases have been closed due to a reduction in the county allocation.
- 3 **Eligibility; annual income; calculation.** Amends § 119B.09, subd. 4. Modifies terminology removing “redetermined” and replacing it with “recalculated” within a child care assistance provision.
- 4 **Licensed and legal nonlicensed family child care providers; assistance.** Amends § 119B.09, subd. 9. Allows child care providers to be eligible for child care assistance for their own children during certain authorized activities. Under the prior law, family child care providers were prohibited from receiving child care assistance subsidies for their own children or children in their custody.

Article 4: Child Support

Overview

This article amends provisions of various child support statutes, including access to information, child care support, interest payment on arrears, and deductions from total monthly income in calculating current child support.

- 1 **Access to information.** Amends § 256.978, subd. 2. Allows the public authority to request or obtain location and asset information about program participants from third-party contractors of employers, utility companies, insurance companies, labor organizations, and financial institutions.
- 2 **Notice to public authority; guidelines.** Amends § 518.551, subd. 5. Changes the requirement that only support or maintenance obligations currently being paid are deductible from total monthly income. Allows, as a deduction from monthly income, the amount ordered for support or maintenance. Does not allow orders for arrears to be deducted from total monthly income. Changes the administrative process for suspending and reinstating the collection of child care support.
- 3 **Contents.** Amends § 518.68, subd. 2. Adds to the required notice a statement that the

public authority may suspend or resume collection of child care expenses if the conditions of Minnesota Statutes, section 518.551, subdivision 5, paragraph (b), are met.

- 4 **Child support judgment by operation of law.** Amends § 548.091, subd. 1a. Provides that upon 12 consecutive months of complete and timely payment of current support and court ordered arrears, an obligor may bring a motion to stop interest payments on the overdue support. Currently the requirement is 36 months of complete and timely payment.

Article 5: Family Supports

Overview

Article 5 makes changes to the transitional housing, supportive housing, general assistance, group residential housing and MFIP programs.

- 1 **Establishment and administration.** Amends § 119A.43, subd. 2. Allows the commissioner to use up to 10 percent of the transitional housing appropriation for persons needing assistance for more than 24 months.
- 2 **Optional registration.** Amends § 144D.025. Allows supportive housing establishments developed and funded with funds provided specifically as part of the governor’s plan to end long-term homelessness to voluntarily register with the Department of Health as a housing with services establishment.
- 3 **Professional certification.** Amends § 256D.02, subd. 17. Modifies the definition of “professional certification” within the general assistance program. Makes it consistent with the definition under the MFIP program.
- 4 **Program funding.** Amends § 256D.051, subd. 6c. Removes the June 30, 2005, sunset date for a provision allowing flexibility in the amount used per participant under the Food Stamp Employment and Training Program.
- 5 **License required.** Amends § 256I.04, subd. 2a. Modifies the list of establishments that may enter into an agreement with a county to provide group residential housing. Allows supportive housing establishments registered with the Department of Health as housing with services establishments to provide group residential housing. Prohibits other housing with services establishments from providing group residential housing.
- 6 **Supplementary service rate for certain facilities.** Amends § 256I.05, by adding subd. 1g. Allows county agencies to negotiate a supplementary service rate, not to exceed \$456.75, for certain recipients of group residential housing services who relocate from a specified homeless shelter to a supportive housing establishment developed and funded with funds provided specifically as part of the governor’s plan to end long-term homelessness.
- 7 **Base allocation to counties and tribes; definitions.** Amends § 256J.626, subd. 6. (a) Makes technical changes. Adds definitions for “adjusted caseload factor” and “caseload difficulty factor.”

(b) Removes obsolete language. Requires the commissioner to determine the initial allocation of MFIP consolidated funds to counties and tribes for calendar years 2006, 2007, and 2008, based on their share of the statewide 2002 historic spending base and on the proportion of their share of the adjusted caseload factor.

Paragraphs (c) and (d) make technical changes.

- 8 **Performance base funds.** Amends § 256J.626, subd. 7. (a) Modifies the performance factors used to determine the allocation to counties and tribes of 5 percent of the MFIP

consolidated fund.

(b) Specifies the way in which performance-based funds will be allocated to a federally approved tribal TANF program that has a contract with the state addressing consolidated funding.

Paragraphs (c) and (d) make technical changes.

- 9** **Reporting requirement and reimbursement.** Amends § 256J.626, subd. 8. Specifies the way in which unencumbered or unexpended MFIP consolidated funds may be reallocated by the commissioner to county and tribal agencies that can demonstrate a need for additional money.
- 10** **Quarterly comparison report.** Amends § 256J.751, subd. 2. Modifies the performance measures on which counties are required to report. Requires the commissioner to report quarterly an expected range of performance for each county, county grouping, and tribe on the self-support index. Previously, this report was required twice annually.
- 11** **Failure to meet federal performance standards.** Amends § 256J.751, subd. 5. Modifies the performance measures that define low-performing counties.
- 12** **Repealer.** Repeals the definitions of “medical certification,” “qualified professional,” and “qualified provider” under Minnesota Rules related to Department of Human Services assistance payments programs.