

House Research Act Summary

CHAPTER: 163

SESSION: 2009 Regular Session

TOPIC: Child Welfare Policy

Date: May 26, 2009

Analyst: Lynn F. Aves

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Section

Article 1: Child Welfare Technical

Overview

This article makes technical changes to the Interstate Compact for the Placement of Children, corrects cross-references, strikes redundant language, and makes technical amendments to sections on voluntarily foster care for treatment and on child placement.

- 1 Interstate compact for the placement of children.** Amends § 260.93. Makes technical changes to the updated Interstate Compact language that was adopted in 2008. The Interstate Compact on the Placement of Children is a uniform act that has been statutorily enacted in all 50 states. It was implemented in 1974 to protect and ensure the provision of services to children who were placed across state lines. The updated language will be effective when the compact is ratified in at least 35 states.
- 2 Domestic child abuse.** Amends § 260C.201, subd. 3. Corrects a cross-reference to the definition of “domestic child abuse.”
- 3 Review of court-ordered placements; permanent placement determination.** Amends § 260C.201, subd. 11. Makes technical changes related to children who are voluntarily in foster care for treatment under chapter 260D.
- 4 Multistate information.** Amends § 260C.209, subd. 3. In the case of emergency relative placements, requires the social service agency or county attorney to submit the relative’s fingerprints to the Bureau of Criminal Apprehension for submission to the FBI. Language

stricken in this section required the social service agency to submit the fingerprints to the commissioner who would then forward them to BCI.

- 5 **Agency responsibilities for parents and children in placement.** Amends § 260C.212, subd. 4. Relieves the commissioner of responsibilities related to a county agency's determination regarding placement of a child with a parent.
- 6 **Administrative or court review of placements.** Amends § 260C.212, subd. 7. Corrects an incorrect cross-reference.
- 7 **Required permanency review hearing.** Amends § 260CD.07. Strikes redundant language.
- 8 **Revisor's instructions.** Instructs the revisor to make changes to cross-references in statute and rule related to the Interstate Compact for Placement of Children. Provides that the effective date for the ICPC is upon enactment by at least 35 states.
- 9 **Repealer.** Repeals § 260C.209, subd. 4. (Notice upon receipt.)

Article 2: Child Welfare Policy

Overview

This article expands the authority for the tribes in the American Indian Child Welfare Initiative that is currently in place with the Leech Lake and White Earth bands of Ojibwe. It amends adoption, assistance, child placement, relative search, establishment of paternity, visitation, and removal statutes to comply with federal law (The Fostering Connections to Success and Increasing Adoptions Act of 2008), and with federal requirements.

- 1 **General.** Amends §13.46, subd. 2. Permits child support data on parents and their children, which is private data on individuals, to be disclosed to child welfare agencies in order to establish parentage and locate parents related to permanency planning for the child.
- 2 **American Indian child welfare projects.** Amends § 256.01, subd. 14b. Gives tribes the authority to conduct children's mental health screenings for children involved in the child welfare system, and to establish a local child mortality review panel.
- 3 **Requirement to search registry before adoption petition can be granted; proof of search.** Amends § 259.52, subd. 2. Clarifies that a search of the father's adoption registry does not need to be completed when a petition is filed under the provisions of section 260C.217, Safe Place for Newborns.
- 4 **Who may register.** Amends § 259.52, subd. 6. Imposes a limitation on a putative father's right to assert an interest in a child subject to a termination of parental rights proceeding.
- 5 **Adoption assistance.** Amends §259.67, subd. 1. Sets out the federal requirements for a child to be eligible for IV-E adoption assistance. Adds that a child must meet the federal restrictions on citizenship or eligibility for federal benefits in order to be eligible for IV-E adoption assistance. Adds that a child must meet citizenship or qualified alien requirements in order to be eligible for state funded adoption assistance. Prohibits adoption assistance

payments for specified categories of adoptions.

- 6 Adoption assistance agreement.** Amends §259.67, subd. 2. Specifies the items that must be included in an adoption assistance agreement as required by federal law. Clarifies that the amount of monthly adoption assistance for state funded cases is subject to the availability of state funds.
- 7 Benefits and payments.** Amends §259.67, by adding subdivision 2a. Moves the adoption assistance payment schedule from rule to statute, and makes a correction to an inaccurate payment schedule. According to DHS this correction is in response to an OLA report issued March 26, 2009.
- 8 Modification, termination, or extension of adoption assistance agreement.** Amends §259.67, subd. 3. Clarifies the process for modification, termination, or extension of an adoption assistance agreement. Specifies that a reassessment of the child must be conducted prior to modification of the agreement. According to DHS, these changes are being made to comply with federal regulations.
- 9 Special needs determination.** Amends §259.67, subd. 4. Specifies criteria for determining whether a child has special needs when establishing eligibility for IV-E adoption assistance. Requires documentation to verify the child meets criteria. These changes are being made to comply with federal regulations.
- 10 Determination of residency.** Amends §259.67, subd. 5. Clarifies that a child from another state who is placed in Minnesota is ineligible for state funded adoption assistance, but may be eligible for IV-E adoption assistance.
- 11 Reimbursement of costs.** Amends §259.67, subd. 7. Corrects cross references. Narrows and specifies what adoption services are eligible for reimbursement by adoption assistance administrative funds. These changes are in response to the findings in an OLA report published March 26, 2009.
- 12 Promotion of programs.** Amends §259.67, by adding subdivision 11. Requires notification to adoptive parents on the availability adoption assistance and the adoption tax credit. This change is in response to federal requirements.
- 13 Duty to ensure placement prevention and family reunification; reasonable efforts.** Amends § 260.012. Under the definition of “reasonable efforts to prevent placement” a requirement is added that the agency must work with the family to develop and implement a safety plan to prevent removal of a child.
- Adds that in making a permanency plan for a child, the agency must search for relatives to identify and provide notice to them that the child is in need of a permanent placement. Also requires the agency to make diligent efforts to place siblings together, but, if this is not possible, then to make sure they have frequent visits with each other.
- Clarifies that this section on preventing out-of-home placement does not apply when it is medically necessary for a child to be placed outside the home due to the intensity of needed supervision and treatment.
- 14 Foster care.** Amends § 260B.007, subd. 7. Strikes the existing definition of “foster care” in the juvenile delinquency chapter and replaces it with the “foster care” definition in the

child protection statute. It also adds the caution that foster care cannot be used as a punishment or consequence.

- 15 Juvenile treatment screening team.** Amends § 260B.157, subd. 3. Requires the juvenile treatment screening team under the juvenile delinquency statutes to consider community based interventions as an alternative to out-of-home placement.
- 16 Court order, findings, remedies, treatment.** Amends § 260B.198, subd. 1. Provides that if the court in a delinquency disposition determines that a child is a danger to self or others, then the child may be placed in foster care.
- 17 Foster care.** Amends § 260C.007, subd. 18. Adds that foster care is for a child’s safety or access to treatment, not for punishment or as a consequence of behavior.
- 18 Parent.** Amends § 260C.007, subd. 25. Specifies that “parent” means a legal mother and child or a legal father and child relationship. Adds that under the Indian Child Welfare Act, “parent” does not include an unwed father if paternity has not been acknowledged or established. Provides that a putative father does not meet the definition of “parent” unless the father falls under one of the paternity presumptions in §257.55, or is entitled to notice under §259.49.
- 19 Diligent efforts to identify parents of a child; procedures for review; reasonable efforts.** Adds § 260C.150. Provides and describes the diligent efforts required to identify the parents of a child who is the subject of a child in need of protection or supervision judicial proceeding:
- Subd. 1. Determining parentage.** Provides that the parent and child relationship may be determined under § 257.54.
 - Subd. 2. Genetic testing; duty to cooperate.** States that by positive genetic test, a man will be presumed to be the father of the child. He will have the right to notice of the proceedings and to be considered for the day-to-day care of his child. Requires cooperation with paternity establishment.
 - Subd. 3. Identifying parents of child; data.** Requires the social service agency to make diligent efforts to identify and locate the parents of the child. Specifies what is included in making a diligent effort.
 - Subd. 4. Court inquiry regarding identities of both parents.** Requires the courts to inquire of the parties whether the identities and whereabouts of both parents are known.
 - Subd. 5. Sworn testimony for known parent.** Permits the county attorney to request the court to place the known parent under oath to answer questions about the identity and location of the absent parent. If disclosure of this information would cause the known parent or child to be endangered, the court can enter a protective order.
 - Subd. 6. Court review of diligent efforts and service.** Requires the social service agency to document its diligent efforts to identify and locate the parents of the child and provide this report to the court. Requires the court to make specific findings. If the court finds the agency has not made diligent efforts the court shall

order the agency to take further steps to locate the parents.

Subd. 7. Reasonable efforts findings. Provides that when the court finds the agency has made diligent efforts to locate the parents, but been unsuccessful, the court may find the agency has made reasonable efforts regarding any parent who remains unknown or cannot be located.

Subd. 8. Safe place for newborns. Makes explicit that this section does not apply to proceedings under § 260C.217, Safe Place for Newborns.

- 20 Issuance of summons.** Amends § 260C.151, subd. 1. Clarifies that a summons is to be issued requiring the child's parents or legal guardian or any person who has legal custody of the child to appear before the court.
- 21 Notice; child in need of protection or services.** Amends § 260C.151, subd. 2. Requires a notice to be issued to a grandparent if the child has lived with the grandparent within the two years prior to the time the petition was filed, and to a putative father, including one who has timely registered with the father's adoption registry.
- 22 Notice of termination of parental rights or permanency planning.** Amends § 260C.151, by adding subd. 2a. In addition to the summons requiring the parents to appear before the court, the court shall issue a notice to a putative father who has timely registered with the father's adoption registry, and to grandparents if the child has lived with the grandparents within the two years prior to the time the petition was filed. If a putative father falls under one of the paternity presumptions in § 257.55 or is entitled to notice under § 259.49, then he is to receive notice.
- If the putative father has not timely registered, and has not received notice, an order terminating his parental rights does not give rise to a presumption of parental unfitness.
- 23 Notice of pendency of case.** Amends § 260C.151, subd. 3. States that written notice has the meaning given in the Rules of Juvenile Protection Procedure.
- 24 Alternative dispute resolution authorized; family group decision making, parallel protection process and mediation.** Amends § 260C.163, by adding subd. 12. Permits the court to authorize parties, participants, and if appropriate, the child, to participate in alternative dispute resolution to resolve part or all of the matter before the court. Any resolution is subject to approval by the court and a finding that it is in the best interest of the child.
- 25 Immediate custody.** Amends § 260C.175, subd. 1. Permits a law enforcement officer to take immediate custody of a runaway only for the purpose of transporting the child home, to the home of a relative, or to another safe place.
- 26 Notice; release.** Amends § 260C.176, subd. 1. Eliminates running away as a reason to take a child into custody. Adds the provision that a social service agency can authorize a child to be released to a parent after an assessment and when the family has developed and implemented a safety plan.
- 27 Hearing and release requirements.** Amends § 260C.178, subd. 1. Eliminates running away as a reason to take a child into custody. Requires the agency to make reasonable efforts to place siblings together, and if such placement is not possible, then to arrange

visitation or ongoing contact between them unless the contact is contrary to the safety or well-being of any of the siblings.

- 28 Parental visitation.** Amends § 260C.178, subd. 3. Paragraph (a) requires the agency to develop and implement a visitation plan for the parent and child.

Paragraph (b) requires the agency to develop the plan as soon as possible after the court orders the child to remain in foster care, unless visitation would endanger the child or the child has had infrequent or no contact with the parent.

Paragraph (c) instructs the agency to conduct an assessment of the parent's ability to provide day-to-day care for the child if that parent has had no or limited contact with the child before a visitation plan can be established.

Paragraph (d) permits the agency to ask the court to allow the agency to defer a visitation plan between a child and a putative father until there is a positive paternity test.

Paragraph (d) states that this visitation plan is the same as the visitation plan as the one that is to be developed under the out-of-home placement plan

- 29 Dispositions.** Amends § 260C.201, subd. 1. Prohibits foster home placement as punishment for runaway or habitually truant behavior.

- 30 Visitation.** Amends § 260C.201, subd. 5. Requires court review of the visitation plan. The court may deny visitation if it finds that visitation is not in the child's best interest, if the child has had no or infrequent contact with the parent, or in the case of a putative father, paternity has not been established.

- 31 Out-of-home placement; plan.** Amends § 260C.212, subd. 1. Requires that an out-of-home placement plan address efforts to ensure the child's educational stability while in foster care, efforts to ensure the oversight and continuity of health care services for the child while in foster care, and how the child's health records will be maintained.

- 32 Placement decisions based on best interest of the child.** Amends § 260C.212, subd. 2. Requires the agency to document the reasons joint placement of siblings would be contrary to the safety or well-being of any of the siblings. Requires frequent visitation and ongoing interaction between the siblings unless contrary to the best interest of a sibling.

- 33 Monthly caseworker visits.** Amends § 260C.212, subd. 4a. Requires the caseworker to address whether the child is enrolled and attending school as required by law.

- 34 Relative search.** Amends § 260C.212, subd. 5. Instructs the agency to exercise due diligence to identify and notify relatives within 30 days of a child's out-of-home placement. Requires the agency to notify the relative of the relative's option to become a placement resource for the child, of the relative's responsibility to keep the agency informed of their address if a permanent placement is needed for the child, that the relative can participate in the care and planning for the child, and of the requirements for family foster care licensing.

- 35 Administrative or court review of placements.** Amends § 260C.212, subd. 7. Requires the agency to help a foster child develop a transition plan during the 90 days prior to the date the child is expected to be discharged from foster care.

- 36** **Child in voluntary foster care for treatment.** Amends § 260D.02, subd. 5. Requires a determination that voluntary foster care placement for treatment is medically necessary.
- 37** **Voluntary foster care.** Amends § 260D.03, subd. 1. Clarifies that voluntary foster care placement for treatment must be medically necessary.
- 38** **Scope.** Amends § 484.76, subd. 2. Permits alternative dispute resolution to be used in juvenile court proceedings.
- 39** **Repealer.** Repeals Minnesota Rules parts 9560.0081 (criteria for adoption subsidy); 9560.0083, subparts 1, 5, and 6 (related to adoption subsidy basic and supplemental maintenance rates); and 9560.0091, subpart 4, item C (requirement for adoptive parents to submit an annual affidavit to the commissioner).