

**Subject** African American Family Preservation Act

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## Overview

This bill establishes the Minnesota African American Family Preservation Act, providing for child protection, out-of-home placement, and termination of parental rights processes specific to African American children and families. The bill also requires case reviews, creates the African American Child Welfare Oversight Council, requires the commissioner of human services to appoint child welfare disproportionality specialists, establishes child welfare disparities and disproportionality grants, modifies procedures for petition for reestablishment of the legal parent and child relationship, requires African American cultural competency training for child protection workers, and appropriates money to administer the act.

## Summary

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| 1 | <b>Citation.</b><br>Proposes coding for § 260.61. Specifies that sections 260.61 to 260.695 may be cited as the Minnesota African American Family Preservation Act.   |
| 2 | <b>Purposes.</b><br>Proposes coding for § 260.62. States the purposes of the Minnesota African American Family Preservation Act.  |
| 3 | <b>Definitions.</b><br>Proposes coding for § 260.63. Defines the following terms, for the purposes of sections 260.61 to 260.695.<br><br><b>Subd. 2. Active efforts.</b><br><br><b>Subd. 3. African American child.</b> |

<b>Section</b>	<b>Description</b>
	<p><b>Subd. 4. Best interests of the African American child.</b></p> <p><b>Subd. 5. Child placement proceeding.</b> Defines: (a) Child placement proceeding;</p> <p>(b) Adoptive placement;</p> <p>(c) Court-ordered foster care placement;</p> <p>(d) Preadoptive placement; and</p> <p>(e) Termination of parental rights.</p> <p>(f) Specifies that a child placement proceeding may include a placement based on a juvenile status offense, but does not include a placement based on an act that would be a crime if committed by an adult or an award of custody in a divorce proceeding.</p> <p><b>Subd. 6. Commissioner.</b></p> <p><b>Subd. 7. Disproportionality.</b></p> <p><b>Subd. 8. Family preservation services.</b></p> <p><b>Subd. 9. Local social services agency.</b></p> <p><b>Subd. 10. Parent.</b></p> <p><b>Subd. 11. Relative.</b></p> <p><b>Subd. 12. Safety network.</b></p> <p><b>Subd. 13. Sexual abuse.</b></p> <p><b>Subd. 14. Substantial child endangerment.</b></p>
<b>4</b>	<p><b>Duty to prevent out-of-home placement and promote family reunification.</b></p> <p>Proposes coding for § 260.64.</p> <p>(a) Requires the local social services agency to make active efforts to prevent out-of-home placement of an African American child, eliminate the need for the child's removal, and reunify the child and family as soon as possible.</p> <p>(b) Requires the local social services agency to implement an in-home safety plan with a family before an African American child is removed, except in cases of alleged sexual abuse, physical abuse, or egregious harm; specifies safety plan requirements.</p>

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Requires the agency to establish a safety network for the family and engage the safety network in developing the safety plan.

(c) Prohibits a court from ordering an out-of-home or permanency placement for an African American child absent clear and convincing evidence that the child's health or welfare would be immediately endangered if the child were to remain in the child's home, unless the court finds that the local social services agency made the required active efforts to preserve the child's family.

Requires the court to review active efforts at each hearing, and to require the local social services agency to provide documentation and evidence demonstrating how the agency provides specified services to the family. Specifies findings the court must make regarding the agency's provision of active efforts. Requires the court to order the agency to immediately provide active efforts if the court determines that the agency has not made active efforts.

**5 Temporary out-of-home placement.**

Proposes coding for § 260.65.

(a) Requires the responsible local social services agency to make active efforts to locate a child's relatives, notify them of the need for a foster home, and provide them with legal resources, before an African American child is placed in foster care. Requires the agency to inform the relatives of the option to become a placement resource, and of the possibility of the need for a permanent placement. Allows for these notices within 48 hours of a child's removal, if prior notice is not practicable. Requires the local agency to keep detailed records of the efforts made under this section.

(b) Requires the local social services agency to temporarily place an African American child with the willing and able noncustodial or nonadjudicated parent, after an immediate assessment of the parent's ability to care for the child.

(c) Requires the local social services agency to comply with the custodial parent or legal custodian's request to temporarily place the child with a selected relative, if the noncustodial or nonadjudicated parent is unwilling to or incapable of caring for the child and remaining in the child's home would endanger the child's health, safety, or welfare, after an immediate assessment of the relative's ability to care for the child.

(d) Requires the local social services agency to make active efforts to allow a noncustodial parent or selected relative to remedy any issues preventing placement of the child, including assisting a relative or noncustodial parent with applying for a licensing variance. Specifies that this duty does not apply if the agency demonstrates that placement with the particular relative would not be in the child's best interests.

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	(e) Requires specific, written reasons with supporting evidence, submitted to the court, if the local social services agency determines that the child cannot be placed with a relative or noncustodial parent.
6	<b>Emergency removal hearing.</b> Proposes coding for § 260.66. Specifies that an African American parent in an emergency protective care hearing must be represented by an attorney. Requires the court to appoint a qualified attorney to a parent who meets the requirements for court-appointed counsel.
7	<b>Termination of parental rights; child placement proceedings.</b> Proposes coding for § 260.67.  <b>Subd. 1. Termination of parental rights restrictions.</b> (a) Prohibits a court from terminating the parental rights of an African American parent based solely on a failure to complete case plan requirements.  (b) Prohibits a court from terminating the parental rights of an African American parent in child placement proceedings that do not involve alleged: sexual abuse; egregious harm; murder; murder of an unborn child; manslaughter; manslaughter of an unborn child; assault; domestic assault by strangulation; felony domestic assault; kidnapping; solicitation, inducement and promotion of prostitution; criminal sexual conduct; engaging in, hiring, or agreeing to hire a minor to engage in prostitution; solicitation of children to engage in sexual conduct; possession of pornographic work involving minors; criminal malicious punishment, neglect, or endangerment of a child; use of a minor in sexual performance; or failing to protect a child from egregious harm.  Requires the court to, if possible, transfer permanent legal and physical custody to a relative or third party.  <b>Subd. 2. Appeals.</b> Allows an African American parent to appeal a termination of parental rights within 60 days of receiving notice of the court's order.
8	<b>Local welfare agency conduct and case review.</b> Proposes coding for § 260.68.  (a) Prohibits a local social services agency child welfare employee from: (1) making untrue statements about any child protection case; (2) withholding material case information; or (3) fabricating or falsifying any documents or evidence in a child protection case.  (b) Specifies that the above acts are grounds for adverse employment action.

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(c) Requires the local social services agency to notify the Department of Human Services (DHS) of a screened-in maltreatment report and of steps taken to investigate and remedy the conditions leading to the report or a child's removal within seven days after screening in a report or initiating an out-of-home placement for an African American child. Requires DHS to review the local agency's handling of the child's case for compliance with the act. Requires the local social services agency to cooperate with the department and the African American Child Welfare Oversight Council.

(d) Requires the local social services agency to notify DHS of a pending proceeding involving any involuntary adoptive or preadoptive placement involving an African American child, and of the right of intervention. Sets forth additional procedures for adoptive or preadoptive placements of African American children. Requires DHS to review the case to ensure compliance with the act.

(e) Requires the local social services agency to conduct a case review every 24 months, and report to the county board, related child welfare committees, the Children's Justice Initiative, the African American Child Welfare Oversight Council, and community stakeholders within six months. Specifies what the case review must include.

(f) Lists further requirements for what the case review must include.

(g) Requires any local social services agency with a disproportionate child welfare outcome rate to develop a remediation plan with measurable outcomes. Specifies what the plan must include, and the timing for the plan.

(h) Specifies that any local agency that fails to comply with this section is subject to corrective action and a fine.

9 **African American Child Welfare Oversight Council.**

Proposes coding for § 260.69.

**Subd. 1. Creation.** Creates the African American Child Welfare Oversight Council, appointed by the commissioner.

**Subd. 2. Membership and composition.** Specifies that the council shall have 31 members; specifies other membership requirements.

**Subd. 3. Meeting.** Requires the council to meet at least six times per year, allows the council to meet more frequently at the call of the chair, a majority of members, or the commissioner. Allows subgroups to meet as necessary.

**Subd. 4. Duties.** Establishes the council's duties, including: (1) monitoring, with DHS, the number of African American children in out-of-home placement; (2)

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reviewing summary reports on case reviews and individual case data with identifying information removed; (3) developing a culturally appropriate service model; (4) public policy activities; (5) coordinating stakeholder and agency efforts to improve African American child welfare outcomes; (6) a public awareness campaign; (7) partnering with DHS to provide services; and (8) partnering with DHS and local agencies to promote hiring of diverse child welfare employees.

**Subd. 5. Case review.** Allows the council to initiate a case review in order to provide recommendations. Outlines the council's access to specific data, and how that data and information must be treated and protected.

**Subd. 6. Annual report.** Requires the council to issue an annual report on its activities and other issues it chooses.

10	<b>Child welfare disproportionality specialists.</b>
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Proposes coding for § 260.694.

**Subd. 1. Establishment.** Requires the commissioner of human services to appoint six child welfare disproportionality specialists to provide assistance to counties and monitor child welfare processes.

**Subd. 2. Location.** Specifies that two specialists will serve Hennepin County, two will serve Ramsey County, and two will serve northern and southern Minnesota.

**Subd. 3. Duties.** Specifies functions of the child welfare disproportionality specialists, including:

- 1) assisting with development and review of child welfare training system curriculum;
- 2) providing on-site technical assistance to counties;
- 3) monitoring the number of African American children in out-of-home placement, conducting case reviews, and responding to case review requests;
- 4) directly overseeing, reviewing, and consulting on case plans to ensure compliance with the act;
- 5) screening foster care settings;
- 6) establishing and administering a request for proposals process for child welfare disparity and disproportionality grants; monitoring grant activities; providing technical assistance; and
- 7) coordinating housing, employment, and education assistance services.

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	<p><b>Subd. 4. Report.</b> Requires a quarterly report to the African American Child Welfare Oversight Council, and an annual census of disproportionately represented children residing in out-of-home placements statewide.</p> <p><b>Subd. 5. Representation.</b> Requires specialists appointed to represent the population being served.</p>
11	<p><b>Child welfare disparities and disproportionality grants.</b></p> <p>Proposes coding for § 260.695. Directs the commissioner to provide grants to organizations and programs led by African Americans via an RFP process, to provide primary support for programs to implement this act. Lists services eligible for grant funding and services ineligible for grant funding.</p>
12	<p><b>Petition.</b></p> <p>Amends § 260C.329, subd. 3. Modifies procedures for petition for reestablishment of the legal parent and child relationship; removes requirement for the child to have been in foster care for at least 48 months after the termination of parental rights.</p>
13	<p><b>African American Cultural Competency Training for Individuals Working with African American Families and Children in the Child Protection System.</b></p> <p><b>Subd. 1. Applicability.</b> Directs the commissioner to ensure that individuals working in the child protection system receive African American cultural competency training.</p> <p><b>Subd. 2. Training.</b> Specifies when training must be completed, who must provide training, the goals of the training, and the structure of the training.</p> <p><b>Subd. 3. Update.</b> Requires the commissioner and the African American Child Welfare Oversight Council to update the legislature on the implementation of this section by January 1, 2022.</p>
14	<p><b>Disaggregate data.</b></p> <p>Directs the commissioner to work with representatives of the African American community and other disproportionately represented communities to establish a method to disaggregate data and begin disaggregating data by January 1, 2022.</p>
15	<p><b>Increased visitation for African American children in out-of-home placement.</b></p> <p>Requires the local social services agency to engage in best practices related to visitation when an African American child is in out-of-home placement and to make active efforts to facilitate regular, frequent visitation between the child and the child's parents or guardians.</p>

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16	<p><b>Appropriation.</b> Appropriates money from the general fund to the commissioner of human services in fiscal year 2022 to administer the act. Specifies that the appropriation is added to the base.</p>
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