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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH SESSION

HOUSE FILE No. 3039

February 18, 2010

Authored by Hayden, Abeler, Fritz, Hosch, Rosenthal and others The bill was read for the first time and referred to the Committee on Civil Justice

February 22, 2010

By motion, recalled and re-referred to the Committee on Health Care and Human Services Policy and Oversight

March 4, 2010

Committee Recommendation and Adoption of Report: To Pass as Amended and re-referred to the Committee on Civil Justice

1.1 A bill for an act
1.2 relating to children; modifying driver's license requirements for foster children;
1.3 requiring in-court reviews; expanding the definition of parent for child protection
1.4 proceedings; amending Minnesota Statutes 2008, sections 171.04, subdivision
1.5 1; 171.05, subdivision 2; 171.055, subdivision 1; 245C.33, subdivision 4, by
1.6 adding a subdivision; 260C.007, subdivision 4; 260C.163, subdivisions 1, 2;
1.7 260C.193, subdivision 6; 260C.201, subdivision 10; 260C.317, subdivision 3;
1.8 260C.451; Minnesota Statutes 2009 Supplement, sections 260C.007, subdivision
1.9 25; 260C.150, subdivision 3; 260C.151, subdivision 1; 260C.178, subdivision
1.10 3; 260C.201, subdivision 11; 260C.212, subdivision 7; 260C.331, subdivision
1.11 1; 260C.456.

1.12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.13 ARTICLE 1

1.14 FOSTER CHILDREN; DRIVER'S LICENSE

1.15 Section 1. Minnesota Statutes 2008, section 171.04, subdivision 1, is amended to read:

1.16 Subdivision 1. Persons not eligible. The department shall not issue a driver's
1.17 license:

1.18 (1) to any person under 18 years unless:

1.19 (i) the applicant is 16 or 17 years of age and has a previously issued valid license
1.20 from another state or country or the applicant has, for the 12 consecutive months
1.21 preceding application, held a provisional license and during that time has incurred (A) no
1.22 conviction for a violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50
1.23 to 169A.53, (B) no conviction for a crash-related moving violation, and (C) not more
1.24 than one conviction for a moving violation that is not crash related. "Moving violation"
1.25 means a violation of a traffic regulation but does not include a parking violation, vehicle
1.26 equipment violation, or warning citation;

2.1 (ii) the application for a license is approved by (A) either parent when both reside in  
2.2 the same household as the minor applicant or, if otherwise, then (B) the parent or spouse  
2.3 of the parent having custody or, in the event there is no court order for custody, then (C)  
2.4 the parent or spouse of the parent with whom the minor is living or, if subitems (A) to  
2.5 (C) do not apply, then (D) the guardian having custody of the minor, (E) the foster parent  
2.6 or director of the transitional living program in which the child resides or, in the event  
2.7 a person under the age of 18 has no living father, mother, or guardian, or is married or  
2.8 otherwise legally emancipated, then ~~(E)~~ (F) the minor's adult spouse, adult close family  
2.9 member, or adult employer; provided, that the approval required by this item contains a  
2.10 verification of the age of the applicant and the identity of the parent, guardian, adult  
2.11 spouse, adult close family member, or adult employer; and

2.12 (iii) the applicant presents a certification by the person who approves the application  
2.13 under item (ii), stating that the applicant has driven a motor vehicle accompanied by  
2.14 and under supervision of a licensed driver at least 21 years of age for at least ten hours  
2.15 during the period of provisional licensure;

2.16 (2) to any person who is 18 years of age or younger, unless the person has applied  
2.17 for, been issued, and possessed the appropriate instruction permit for a minimum of six  
2.18 months, and, with respect to a person under 18 years of age, a provisional license for a  
2.19 minimum of 12 months;

2.20 (3) to any person who is 19 years of age or older, unless that person has applied  
2.21 for, been issued, and possessed the appropriate instruction permit for a minimum of  
2.22 three months;

2.23 (4) to any person whose license has been suspended during the period of suspension  
2.24 except that a suspended license may be reinstated during the period of suspension upon  
2.25 the licensee furnishing proof of financial responsibility in the same manner as provided in  
2.26 the Minnesota No-Fault Automobile Insurance Act;

2.27 (5) to any person whose license has been revoked except upon furnishing proof  
2.28 of financial responsibility in the same manner as provided in the Minnesota No-Fault  
2.29 Automobile Insurance Act and if otherwise qualified;

2.30 (6) to any drug-dependent person, as defined in section 254A.02, subdivision 5;

2.31 (7) to any person who has been adjudged legally incompetent by reason of mental  
2.32 illness, mental deficiency, or inebriation, and has not been restored to capacity, unless  
2.33 the department is satisfied that the person is competent to operate a motor vehicle with  
2.34 safety to persons or property;

2.35 (8) to any person who is required by this chapter to take a vision, knowledge, or road  
2.36 examination, unless the person has successfully passed the examination. An applicant

3.1 who fails four road tests must complete a minimum of six hours of behind-the-wheel  
3.2 instruction with an approved instructor before taking the road test again;

3.3 (9) to any person who is required under the Minnesota No-Fault Automobile  
3.4 Insurance Act to deposit proof of financial responsibility and who has not deposited the  
3.5 proof;

3.6 (10) to any person when the commissioner has good cause to believe that the  
3.7 operation of a motor vehicle on the highways by the person would be inimical to public  
3.8 safety or welfare;

3.9 (11) to any person when, in the opinion of the commissioner, the person is afflicted  
3.10 with or suffering from a physical or mental disability or disease that will affect the person  
3.11 in a manner as to prevent the person from exercising reasonable and ordinary control over  
3.12 a motor vehicle while operating it upon the highways;

3.13 (12) to a person who is unable to read and understand official signs regulating,  
3.14 warning, and directing traffic;

3.15 (13) to a child for whom a court has ordered denial of driving privileges under  
3.16 section 260C.201, subdivision 1, or 260B.235, subdivision 5, until the period of denial is  
3.17 completed; or

3.18 (14) to any person whose license has been canceled, during the period of cancellation.

3.19 Sec. 2. Minnesota Statutes 2008, section 171.05, subdivision 2, is amended to read:

3.20 Subd. 2. **Person less than 18 years of age.** (a) Notwithstanding any provision  
3.21 in subdivision 1 to the contrary, the department may issue an instruction permit to an  
3.22 applicant who is 15, 16, or 17 years of age and who:

3.23 (1) has completed a course of driver education in another state, has a previously  
3.24 issued valid license from another state, or is enrolled in either:

3.25 (i) a public, private, or commercial driver education program that is approved by  
3.26 the commissioner of public safety and that includes classroom and behind-the-wheel  
3.27 training; or

3.28 (ii) an approved behind-the-wheel driver education program when the student is  
3.29 receiving full-time instruction in a home school within the meaning of sections 120A.22  
3.30 and 120A.24, the student is working toward a homeschool diploma, the student's status  
3.31 as a homeschool student has been certified by the superintendent of the school district in  
3.32 which the student resides, and the student is taking home-classroom driver training with  
3.33 classroom materials approved by the commissioner of public safety;

3.34 (2) has completed the classroom phase of instruction in the driver education program;

3.35 (3) has passed a test of the applicant's eyesight;

4.1 (4) has passed a department-administered test of the applicant's knowledge of traffic  
4.2 laws;

4.3 (5) has completed the required application, which must be approved by (i) either  
4.4 parent when both reside in the same household as the minor applicant or, if otherwise,  
4.5 then (ii) the parent or spouse of the parent having custody or, in the event there is no  
4.6 court order for custody, then (iii) the parent or spouse of the parent with whom the minor  
4.7 is living or, if items (i) to (iii) do not apply, then (iv) the guardian having custody of the  
4.8 minor, (v) the foster parent or the director of the transitional living program in which the  
4.9 child resides or, in the event a person under the age of 18 has no living father, mother,  
4.10 or guardian, or is married or otherwise legally emancipated, then ~~(v)~~ (vi) the applicant's  
4.11 adult spouse, adult close family member, or adult employer; provided, that the approval  
4.12 required by this clause contains a verification of the age of the applicant and the identity of  
4.13 the parent, guardian, adult spouse, adult close family member, or adult employer; and

4.14 (6) has paid the fee required in section 171.06, subdivision 2.

4.15 (b) The instruction permit is valid for two years from the date of application and  
4.16 may be renewed upon payment of a fee equal to the fee for issuance of an instruction  
4.17 permit under section 171.06, subdivision 2.

4.18 Sec. 3. Minnesota Statutes 2008, section 171.055, subdivision 1, is amended to read:

4.19 Subdivision 1. **Requirements for provisional license.** (a) The department may  
4.20 issue a provisional license, which must be distinctive in appearance from a driver's  
4.21 license, to an applicant who:

4.22 (1) has reached the age of 16 years;

4.23 (2) during the six months immediately preceding the application for the provisional  
4.24 license has possessed an instruction permit and has incurred (i) no convictions for a  
4.25 violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53, (ii) no  
4.26 convictions for a crash-related moving violation, and (iii) no convictions for a moving  
4.27 violation that is not crash related;

4.28 (3) has successfully completed a course of driver education in accordance with  
4.29 department rules;

4.30 (4) completes the required application, which must be approved by (i) either parent  
4.31 when both reside in the same household as the minor applicant or, if otherwise, then (ii)  
4.32 the parent or spouse of the parent having custody or, in the event there is no court order for  
4.33 custody, then (iii) the parent or spouse of the parent with whom the minor is living or, if  
4.34 items (i) to (iii) do not apply, then (iv) the guardian having custody of the minor, (v) the  
4.35 foster parent or the director of the transitional living program in which the child resides or,

5.1 in the event a person under the age of 18 has no living father, mother, or guardian, or is  
5.2 married or otherwise legally emancipated, then ~~(v)~~ (vi) the applicant's adult spouse, adult  
5.3 close family member, or adult employer; provided, that the approval required by this  
5.4 clause contains a verification of the age of the applicant and the identity of the parent,  
5.5 guardian, adult spouse, adult close family member, or adult employer;

5.6 (5) presents certification by the person who approves the application under clause  
5.7 (4) stating that the applicant has driven a motor vehicle accompanied by and under the  
5.8 supervision of a licensed driver at least 21 years of age, for no less than 30 hours, at least  
5.9 ten of which were nighttime hours; and

5.10 (6) pays the fee required in section 171.06, subdivision 2.

5.11 (b) For purposes of this section, "moving violation" has the meaning given it in  
5.12 section 171.04, subdivision 1.

5.13 (c) Notwithstanding paragraph (a), clause (2), the commissioner shall not issue a  
5.14 provisional license to a person who has ever incurred a conviction for violation of section  
5.15 169A.20, 169A.33, or 169A.35; a violation of a provision of sections 169A.50 to 169A.53;  
5.16 or a crash-related moving violation, and at the time of the conviction the person did not  
5.17 possess an instruction permit.

## 5.18 ARTICLE 2

### 5.19 MISCELLANEOUS

5.20 Section 1. Minnesota Statutes 2008, section 245C.33, subdivision 4, is amended to read:

5.21 Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review  
5.22 the following information regarding the background study subject:

5.23 (1) the information under section 245C.08, subdivisions 1, 3, and 4;

5.24 (2) information from the child abuse and neglect registry for any state in which the  
5.25 subject has resided for the past five years; and

5.26 (3) information from national crime information databases, when required under  
5.27 section 245C.08.

5.28 (b) The commissioner shall provide any information collected under this subdivision  
5.29 to the county or private agency that initiated the background study. The commissioner  
5.30 shall ~~indicate if~~ also provide the agency:

5.31 (1) notice whether the information collected shows that the subject of the background  
5.32 study has a conviction listed in United States Code, title 42, section 671(a)(20)(A); and

5.33 (2) the date of all adoption-related background studies completed on the subject by  
5.34 the commissioner after June 30, 2007, and the name of the county or private agency that  
5.35 initiated the adoption-related background study.

6.1 Sec. 2. Minnesota Statutes 2008, section 245C.33, is amended by adding a subdivision  
6.2 to read:

6.3 Subd. 5. **Studies for children under guardianship of the commissioner.** (a)

6.4 When the adoption of a child under guardianship of the commissioner is facilitated by a  
6.5 private agency licensed to place children for adoption, a county agency may initiate the  
6.6 background studies required under this section and section 259.41. Upon receipt of the  
6.7 background study results from the commissioner, the county agency may provide those  
6.8 results to the private agency.

6.9 (b) When a county agency initiates a background study under paragraph (a) for a  
6.10 private agency licensed to place children for adoption, the private agency shall have met  
6.11 the background study requirements under this section and section 259.41 upon receipt  
6.12 of the background study results from the county agency.

6.13 Sec. 3. Minnesota Statutes 2008, section 260C.007, subdivision 4, is amended to read:

6.14 Subd. 4. **Child.** "Child" means an individual under 18 years of age. For purposes of  
6.15 this chapter, child also includes individuals under age 21 who are in foster care pursuant to  
6.16 section 260C.451.

6.17 Sec. 4. Minnesota Statutes 2008, section 260C.193, subdivision 6, is amended to read:

6.18 Subd. 6. **Jurisdiction to review foster care to age 21, termination of jurisdiction,**  
6.19 **jurisdiction to age 18.** (a) Jurisdiction over a child in foster care pursuant to section  
6.20 260C.451 may continue to age 21 for the purpose of conducting the reviews required under  
6.21 section 260C.201, subdivision 11, paragraph (d), 260C.212, subdivision 7, or 260C.317,  
6.22 subdivision 3. Jurisdiction over a child in foster care pursuant to section 260C.451 shall  
6.23 not be terminated without giving the child notice of any motion or proposed order to  
6.24 dismiss jurisdiction and an opportunity to be heard on the appropriateness of the dismissal.  
6.25 When a child in foster care pursuant to section 260C.451 asks to leave foster care or  
6.26 actually leaves foster care, the court may terminate its jurisdiction.

6.27 (b) Except when a court order is necessary for a child to be in foster care or when  
6.28 continued review under (1) section 260C.212, subdivision 7, paragraph (d), or 260C.201,  
6.29 subdivision 11, paragraph (d); and (2) section 260C.317, subdivision 3, is required for  
6.30 a child in foster care under section 260C.451, the court may ~~dismiss the petition or~~  
6.31 ~~otherwise~~ terminate its jurisdiction on its own motion or ~~on the motion or petition~~ of any  
6.32 interested party ~~at any time~~ upon a determination that jurisdiction is no longer necessary to  
6.33 protect the child's best interests.

7.1           (c) Unless terminated by the court, and except as otherwise provided in this  
7.2 subdivision, the jurisdiction of the court shall continue until the ~~individual~~ child becomes  
7.3 ~~19~~ 18 years of age ~~if the court determines it is in the best interest of the individual to do so.~~

7.4           Sec. 5. Minnesota Statutes 2008, section 260C.201, subdivision 10, is amended to read:

7.5           Subd. 10. **Court review of foster care.** (a) If the court orders a child placed in  
7.6 foster care, the court shall review the out-of-home placement at least every 90 days as  
7.7 required in juvenile court rules to determine whether continued out-of-home placement is  
7.8 necessary and appropriate or whether the child should be returned home. This review is  
7.9 not required if the court has returned the child home, ordered the child permanently placed  
7.10 away from the parent under subdivision 11, or terminated rights under section 260C.301.  
7.11 Court review for a child permanently placed away from a parent, including where the  
7.12 child is under guardianship and legal custody of the commissioner, shall be governed by  
7.13 subdivision 11 or section 260C.317, subdivision 3, whichever is applicable.

7.14           (b) No later than six months after the child's placement in foster care, the court shall  
7.15 review agency efforts pursuant to section 260C.212, subdivision 2, and order that the  
7.16 efforts continue if the agency has failed to perform the duties under that section.

7.17           (c) The court shall review the out-of-home placement plan and may modify the plan  
7.18 as provided under subdivisions 6 and 7.

7.19           (d) When the court orders transfer of custody to a responsible social services  
7.20 agency resulting in foster care or protective supervision with a noncustodial parent under  
7.21 subdivision 1, the court shall notify the parents of the provisions of subdivisions 11 and  
7.22 11a as required under juvenile court rules.

7.23           (e) When a child remains in foster care pursuant to section 260C.451 and the court  
7.24 has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the court shall  
7.25 annually conduct the review required under subdivision 11, paragraph (d), or sections  
7.26 260C.212, subdivision 7, and 260C.317, subdivision 3.

7.27           Sec. 6. Minnesota Statutes 2008, section 260C.317, subdivision 3, is amended to read:

7.28           Subd. 3. **Order; retention of jurisdiction.** (a) A certified copy of the findings and  
7.29 the order terminating parental rights, and a summary of the court's information concerning  
7.30 the child shall be furnished by the court to the commissioner or the agency to which  
7.31 guardianship is transferred. The orders shall be on a document separate from the findings.  
7.32 The court shall furnish the individual to whom guardianship is transferred a copy of the  
7.33 order terminating parental rights.

8.1 (b) The court shall retain jurisdiction in a case where adoption is the intended  
8.2 permanent placement disposition until the child's adoption is finalized, ~~the child is 18 years~~  
8.3 ~~of age~~, or the child is otherwise ordered discharged from the jurisdiction of the court. The  
8.4 guardian ad litem and counsel for the child shall continue on the case until an adoption  
8.5 decree is entered. A hearing must be held every 90 days following termination of parental  
8.6 rights for the court to review progress toward an adoptive placement and the specific  
8.7 recruitment efforts the agency has taken to find an adoptive family or other placement  
8.8 living arrangement for the child and to finalize the adoption or other permanency plan.

8.9 (c) The responsible social services agency may make a determination of compelling  
8.10 reasons for a child to be in long-term foster care when the agency has made exhaustive  
8.11 efforts to recruit, identify, and place the child in an adoptive home, and the child continues  
8.12 in foster care for at least 24 months after the court has issued the order terminating  
8.13 parental rights. A child of any age who is under the guardianship of the commissioner of  
8.14 the Department of Human Services and is legally available for adoption may not refuse  
8.15 or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the  
8.16 child in an adoptive home required under paragraph (b) or sign a document relieving  
8.17 county social services agencies of all recruitment efforts on the child's behalf. Upon  
8.18 approving the agency's determination of compelling reasons, the court may order the  
8.19 child placed in long-term foster care. At least every 12 months thereafter as long as the  
8.20 child continues in out-of-home placement, the court shall conduct a permanency review  
8.21 hearing to determine the future status of the child using the review requirements of section  
8.22 260C.201, subdivision 11, paragraph (g).

8.23 (d) The court shall retain jurisdiction through the child's minority in a case where  
8.24 long-term foster care is the permanent disposition whether under paragraph (c) or section  
8.25 260C.201, subdivision 11, or for children in foster care beyond age 18 pursuant to section  
8.26 260C.451, until the individual becomes 21 years of age according to the provisions set  
8.27 forth in sections 260C.193, subdivision 6, and 260C.451.

8.28 Sec. 7. Minnesota Statutes 2009 Supplement, section 260C.331, subdivision 1, is  
8.29 amended to read:

8.30 Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights  
8.31 are terminated,

8.32 (1) whenever legal custody of a child is transferred by the court to a responsible  
8.33 social services agency,

8.34 (2) whenever legal custody is transferred to a person other than the responsible social  
8.35 services agency, but under the supervision of the responsible social services agency, or



9.1 (3) whenever a child is given physical or mental examinations or treatment under  
9.2 order of the court, and no provision is otherwise made by law for payment for the care,  
9.3 examination, or treatment of the child, these costs are a charge upon the welfare funds of  
9.4 the county in which proceedings are held upon certification of the judge of juvenile court.

9.5 (b) The court shall order, and the responsible social services agency shall require,  
9.6 the parents or custodian of a child, while the child is under the age of 18, to use the  
9.7 total income and resources attributable to the child for the period of care, examination,  
9.8 or treatment, except for clothing and personal needs allowance as provided in section  
9.9 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income  
9.10 and resources attributable to the child include, but are not limited to, Social Security  
9.11 benefits, supplemental security income (SSI), veterans benefits, railroad retirement  
9.12 benefits and child support. When the child is over the age of 18, and continues to receive  
9.13 care, examination, or treatment, the court shall order, and the responsible social services  
9.14 agency shall require, reimbursement from the child for the cost of care, examination, or  
9.15 treatment from the income and resources attributable to the child less the clothing and  
9.16 personal needs allowance. Income does not include earnings from a child over the age  
9.17 of 18 who is working as part of a plan under section 260C.212, subdivision 1, paragraph  
9.18 (c), clause (11), to transition from foster care, or the income and resources from sources  
9.19 other than supplemental security income and child support that are needed to complete the  
9.20 requirements listed in section 260C.212, subdivision 7, paragraph (d), clause (2).

9.21 (c) If the income and resources attributable to the child are not enough to reimburse  
9.22 the county for the full cost of the care, examination, or treatment, the court shall inquire  
9.23 into the ability of the parents to support the child and, after giving the parents a reasonable  
9.24 opportunity to be heard, the court shall order, and the responsible social services agency  
9.25 shall require, the parents to contribute to the cost of care, examination, or treatment of  
9.26 the child. When determining the amount to be contributed by the parents, the court shall  
9.27 use a fee schedule based upon ability to pay that is established by the responsible social  
9.28 services agency and approved by the commissioner of human services. The income of  
9.29 a stepparent who has not adopted a child shall be excluded in calculating the parental  
9.30 contribution under this section.

9.31 (d) The court shall order the amount of reimbursement attributable to the parents  
9.32 or custodian, or attributable to the child, or attributable to both sources, withheld under  
9.33 chapter 518A from the income of the parents or the custodian of the child. A parent or  
9.34 custodian who fails to pay without good reason may be proceeded against for contempt, or  
9.35 the court may inform the county attorney, who shall proceed to collect the unpaid sums,  
9.36 or both procedures may be used.

10.1 (e) If the court orders a physical or mental examination for a child, the examination  
 10.2 is a medically necessary service for purposes of determining whether the service is  
 10.3 covered by a health insurance policy, health maintenance contract, or other health  
 10.4 coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan  
 10.5 requirements for medical necessity. Nothing in this paragraph changes or eliminates  
 10.6 benefit limits, conditions of coverage, co-payments or deductibles, provider restrictions,  
 10.7 or other requirements in the policy, contract, or plan that relate to coverage of other  
 10.8 medically necessary services.

10.9 (f) Notwithstanding paragraph (b), (c), or (d), a parent, custodian, or guardian of the  
 10.10 child is not required to use income and resources attributable to the child to reimburse  
 10.11 the county for costs of care and is not required to contribute to the cost of care of the  
 10.12 child during any period of time when the child is returned to the home of that parent,  
 10.13 custodian, or guardian pursuant to a trial home visit under section 260C.201, subdivision  
 10.14 1, paragraph (a).

10.15 Sec. 8. Minnesota Statutes 2008, section 260C.451, is amended to read:

10.16 **260C.451 AGE LIMIT FOR BENEFITS TO CHILDREN FOSTER CARE**  
 10.17 **BENEFITS TO AGE 21.**

10.18 Subdivision 1. Notification of benefits. For purposes of any program for foster  
 10.19 children or children under state guardianship for which benefits are made available on June  
 10.20 1, 1973, unless specifically provided therein, the age of majority shall be 21 years of age.  
 10.21 Within the six months prior to the child's 18th birthday, the local agency shall advise any  
 10.22 child in foster care under this chapter, the child's parents or legal guardian, if any, and the  
 10.23 child's foster parents of the availability of benefits of the foster care program up to age 21.

10.24 Subd. 2. Independent living plan. Upon the request of any child receiving foster  
 10.25 care benefits immediately prior to the child's 18th birthday and who is in foster care at  
 10.26 the time of the request, the local agency shall, in conjunction with the child and other  
 10.27 appropriate parties, update the independent living plan required under section 260C.212,  
 10.28 subdivision 1, paragraph (c), clause (11), related to the child's employment, vocational,  
 10.29 educational, social, or maturational needs. The agency shall provide continued services  
 10.30 and foster care for the child including those services that are necessary to implement the  
 10.31 independent living plan.

10.32 Subd. 3. Eligibility. A child already in foster care may continue in foster care past  
 10.33 age 18. The child must meet at least one of the following conditions to be considered  
 10.34 eligible to continue in foster care to age 21. The child must be:

10.35 (1) completing secondary education or a program leading to an equivalent credential;

- 11.1 (2) enrolled in an institution which provides postsecondary or vocational education;  
11.2 (3) participating in a program or activity designed to promote or remove barriers to  
11.3 employment;  
11.4 (4) employed for at least 80 hours per month; or  
11.5 (5) incapable of doing any of the activities described in clauses (1) to (4) due to a  
11.6 medical condition.

11.7 Subd. 4. **Foster care benefits.** For children between the ages of 18 and 21, "foster  
11.8 care benefits" means payment for those foster care settings defined in section 260C.007,  
11.9 subdivision 18. Additionally, foster care benefits means payment for a supervised setting  
11.10 in which a child may live independently.

11.11 Subd. 5. **Permanent decision.** The particular foster care setting, including  
11.12 supervised settings, shall be selected based on the best interest of the child consistent with  
11.13 section 260C.212, subdivision 2. Supervision in approved settings must be determined by  
11.14 an individual determination of the child's needs by the responsible social services agency  
11.15 and consistent with section 260C.212, subdivision 4a.

11.16 Subd. 6. **Individual plan to age 21.** Upon request of an individual between the  
11.17 ages of 18 and 21 who, within six months of the individual's 18th birthday, had been under  
11.18 the guardianship of the commissioner and who has left foster care, the responsible social  
11.19 services agency which had been the commissioner's agent for purposes of the guardianship  
11.20 shall develop with the individual a plan related to the individual's vocational, educational,  
11.21 social, or maturational needs. The agency shall provide foster care with maintenance and  
11.22 counseling benefits as required to implement the plan. The agency shall enter into a  
11.23 voluntary placement agreement with the individual if the plan includes foster care.

11.24 Subd. 7. **Jurisdiction.** Notwithstanding that the court retains jurisdiction pursuant  
11.25 to this section, individuals in foster care pursuant to this section are adults for all purposes  
11.26 except the continued provision of foster care. Any order establishing guardianship under  
11.27 section 260C.325, any legal custody order under section 260C.201, subdivision 1, and any  
11.28 order for legal custody associated with an order for long-term foster care under section  
11.29 260C.201, subdivision 11, terminates on the child's 18th birthday.

11.30 Sec. 9. Minnesota Statutes 2009 Supplement, section 260C.456, is amended to read:

11.31 **260C.456 FOSTER CARE BENEFITS UNTIL AGE 21.**

11.32 Upon the request of a person, at any time, between the ages of 18 and 21 who had  
11.33 been receiving foster care benefits in the six consecutive months prior to the person's 18th  
11.34 birthday, or who was discharged while on runaway status after age 15, ~~or who had been~~  
11.35 ~~under the state guardianship as dependent or neglected,~~ the local agency shall develop, in

12.1 conjunction with the person and other appropriate parties, a specific plan related to that  
12.2 person's vocational, educational, social, or maturational needs and, to the extent funds  
12.3 are available, shall ensure that any foster care, housing, or counseling benefits are tied  
12.4 to that plan. Youth who left foster care while under state guardianship as dependent or  
12.5 neglected retain their ability to return to foster care for placement at any time between the  
12.6 ages of 18 and 21.

### 12.7 ARTICLE 3

### 12.8 FOSTER CARE

12.9 Section 1. Minnesota Statutes 2008, section 260C.163, subdivision 1, is amended to  
12.10 read:

12.11 Subdivision 1. **General.** (a) Except for hearings arising under section 260C.425,  
12.12 hearings on any matter shall be without a jury and may be conducted in an informal  
12.13 manner. In all adjudicatory proceedings involving a child alleged to be in need of  
12.14 protection or services, the court shall admit only evidence that would be admissible in a  
12.15 civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of  
12.16 protection or services must be proved by clear and convincing evidence.

12.17 (b) Except for proceedings involving a child alleged to be in need of protection or  
12.18 services and petitions for the termination of parental rights, hearings may be continued or  
12.19 adjourned from time to time. In proceedings involving a child alleged to be in need of  
12.20 protection or services and petitions for the termination of parental rights, hearings may not  
12.21 be continued or adjourned for more than one week unless the court makes specific findings  
12.22 that the continuance or adjournment is in the best interests of the child. If a hearing is held  
12.23 on a petition involving physical or sexual abuse of a child who is alleged to be in need of  
12.24 protection or services or neglected and in foster care, the court shall file the decision with  
12.25 the court administrator as soon as possible but no later than 15 days after the matter is  
12.26 submitted to the court. When a continuance or adjournment is ordered in any proceeding,  
12.27 the court may make any interim orders as it deems in the best interests of the minor in  
12.28 accordance with the provisions of sections 260C.001 to 260C.421.

12.29 (c) Absent exceptional circumstances, hearings under this chapter are presumed to  
12.30 be accessible to the public, however the court may close any hearing and the records  
12.31 related to any matter as provided in the Minnesota Rules of Juvenile Protection Procedure.

12.32 (d) Adoption hearings shall be conducted in accordance with the provisions of  
12.33 laws relating to adoptions.

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

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

13.5 Subd. 2. **Right to participate in proceedings.** A child who is the subject of  
13.6 a petition, and the parents, guardian, or legal custodian of the child have the right to  
13.7 participate in all proceedings on a petition, including the opportunity to personally attend  
13.8 all hearings. Official tribal representatives have the right to participate in any proceeding  
13.9 that is subject to the Indian Child Welfare Act of 1978, United States Code, title 25,  
13.10 sections 1901 to 1963.

13.11 Any grandparent of the child has a right to participate in the proceedings to the  
13.12 same extent as a parent, if the child has lived with the grandparent within the two years  
13.13 preceding the filing of the petition. At the first hearing following the filing of a petition,  
13.14 the court shall ask whether the child has lived with a grandparent within the last two years,  
13.15 except that the court need not make this inquiry if the petition states that the child did not  
13.16 live with a grandparent during this time period. Failure to notify a grandparent of the  
13.17 proceedings is not a jurisdictional defect.

13.18 If, in a proceeding involving a child in need of protection or services, the responsible  
13.19 social services agency recommends transfer of permanent legal and physical custody to  
13.20 a relative, the relative has a right to participate as a party, and thereafter shall receive  
13.21 notice of any hearing in the proceedings.

13.22 Sec. 3. Minnesota Statutes 2009 Supplement, section 260C.201, subdivision 11,  
13.23 is amended to read:

13.24 Subd. 11. **Review of court-ordered placements; permanent placement**  
13.25 **determination.** (a) This subdivision and subdivision 11a do not apply to cases where the  
13.26 child is in foster care for treatment of the child's developmental disability or emotional  
13.27 disturbance under chapter 260D. Foster care placements of children for treatment are  
13.28 governed by chapter 260D. In all other cases where the child is in foster care or in the  
13.29 care of a noncustodial parent under subdivision 1, the court shall commence proceedings  
13.30 to determine the permanent status of a child not later than 12 months after the child is  
13.31 placed in foster care or in the care of a noncustodial parent. At the admit-deny hearing  
13.32 commencing such proceedings, the court shall determine whether there is a prima facie  
13.33 basis for finding that the agency made reasonable efforts, or in the case of an Indian

14.1 child active efforts, required under section 260.012 and proceed according to the rules of  
14.2 juvenile court.

14.3 For purposes of this subdivision, the date of the child's placement in foster care is  
14.4 the earlier of the first court-ordered placement or 60 days after the date on which the  
14.5 child has been voluntarily placed in foster care by the child's parent or guardian. For  
14.6 purposes of this subdivision, time spent by a child under the protective supervision of the  
14.7 responsible social services agency in the home of a noncustodial parent pursuant to an  
14.8 order under subdivision 1 counts towards the requirement of a permanency hearing under  
14.9 this subdivision or subdivision 11a. Time spent on a trial home visit counts towards the  
14.10 requirement of a permanency hearing under this subdivision and a permanency review  
14.11 for a child under eight years of age under subdivision 11a.

14.12 For purposes of this subdivision, 12 months is calculated as follows:

14.13 (1) during the pendency of a petition alleging that a child is in need of protection  
14.14 or services, all time periods when a child is placed in foster care or in the home of a  
14.15 noncustodial parent are cumulated;

14.16 (2) if a child has been placed in foster care within the previous five years under one  
14.17 or more previous petitions, the lengths of all prior time periods when the child was placed  
14.18 in foster care within the previous five years are cumulated. If a child under this clause  
14.19 has been in foster care for 12 months or more, the court, if it is in the best interests of the  
14.20 child and for compelling reasons, may extend the total time the child may continue out  
14.21 of the home under the current petition up to an additional six months before making a  
14.22 permanency determination.

14.23 (b) Unless the responsible social services agency recommends return of the child  
14.24 to the custodial parent or parents, not later than 30 days prior to the admit-deny hearing  
14.25 required under paragraph (a) and the rules of juvenile court, the responsible social services  
14.26 agency shall file pleadings in juvenile court to establish the basis for the juvenile court to  
14.27 order permanent placement of the child, including a termination of parental rights petition,  
14.28 according to paragraph (d). Notice of the hearing and copies of the pleadings must be  
14.29 provided pursuant to section 260C.152.

14.30 (c) The permanency proceedings shall be conducted in a timely fashion including  
14.31 that any trial required under section 260C.163 shall be commenced within 60 days of the  
14.32 admit-deny hearing required under paragraph (a). At the conclusion of the permanency  
14.33 proceedings, the court shall:

14.34 (1) order the child returned to the care of the parent or guardian from whom the  
14.35 child was removed; or

15.1 (2) order a permanent placement or termination of parental rights if permanent  
15.2 placement or termination of parental rights is in the child's best interests. The "best  
15.3 interests of the child" means all relevant factors to be considered and evaluated. Transfer  
15.4 of permanent legal and physical custody, termination of parental rights, or guardianship  
15.5 and legal custody to the commissioner through a consent to adopt are preferred  
15.6 permanency options for a child who cannot return home.

15.7 (d) If the child is not returned to the home, the court must order one of the following  
15.8 dispositions:

15.9 (1) permanent legal and physical custody to a relative in the best interests of the  
15.10 child according to the following conditions:

15.11 (i) an order for transfer of permanent legal and physical custody to a relative shall  
15.12 only be made after the court has reviewed the suitability of the prospective legal and  
15.13 physical custodian;

15.14 (ii) in transferring permanent legal and physical custody to a relative, the juvenile  
15.15 court shall follow the standards applicable under this chapter and chapter 260, and the  
15.16 procedures set out in the juvenile court rules;

15.17 (iii) an order establishing permanent legal and physical custody under this  
15.18 subdivision must be filed with the family court;

15.19 (iv) a transfer of legal and physical custody includes responsibility for the protection,  
15.20 education, care, and control of the child and decision making on behalf of the child;

15.21 (v) the social services agency may bring a petition or motion naming a fit and  
15.22 willing relative as a proposed permanent legal and physical custodian. The commissioner  
15.23 of human services shall annually prepare for counties information that must be given to  
15.24 proposed custodians about their legal rights and obligations as custodians together with  
15.25 information on financial and medical benefits for which the child is eligible; and

15.26 (vi) the juvenile court may maintain jurisdiction over the responsible social services  
15.27 agency, the parents or guardian of the child, the child, and the permanent legal and  
15.28 physical custodian for purposes of ensuring appropriate services are delivered to the child  
15.29 and permanent legal custodian or for the purpose of ensuring conditions ordered by the  
15.30 court related to the care and custody of the child are met;

15.31 (2) termination of parental rights when the requirements of sections 260C.301 to  
15.32 260C.328 are met or according to the following conditions:

15.33 (i) order the social services agency to file a petition for termination of parental  
15.34 rights in which case all the requirements of sections 260C.301 to 260C.328 remain  
15.35 applicable; and

16.1 (ii) an adoption completed subsequent to a determination under this subdivision may  
16.2 include an agreement for communication or contact under section 259.58;

16.3 (3) long-term foster care according to the following conditions:

16.4 (i) the court may order a child into long-term foster care only if it approves the  
16.5 responsible social service agency's compelling reasons that neither an award of permanent  
16.6 legal and physical custody to a relative, nor termination of parental rights is in the child's  
16.7 best interests;

16.8 (ii) further, the court may only order long-term foster care for the child under this  
16.9 section if it finds the following:

16.10 (A) the child has reached age 12 and the responsible social services agency has made  
16.11 reasonable efforts to locate and place the child with an adoptive family or with a fit and  
16.12 willing relative who will agree to a transfer of permanent legal and physical custody of  
16.13 the child, but such efforts have not proven successful; or

16.14 (B) the child is a sibling of a child described in subitem (A) and the siblings have  
16.15 a significant positive relationship and are ordered into the same long-term foster care  
16.16 home; and

16.17 (iii) at least annually, the responsible social services agency reconsiders its provision  
16.18 of services to the child and the child's placement in long-term foster care to ensure that:

16.19 (A) long-term foster care continues to be the most appropriate legal arrangement  
16.20 for meeting the child's need for permanency and stability, including whether there is  
16.21 another permanent placement option under this chapter that would better serve the child's  
16.22 needs and best interests;

16.23 (B) whenever possible, there is an identified long-term foster care family that is  
16.24 committed to being the foster family for the child as long as the child is a minor or under  
16.25 the jurisdiction of the court;

16.26 (C) the child is receiving appropriate services or assistance to maintain or build  
16.27 connections with the child's family and community;

16.28 (D) the child's physical and mental health needs are being appropriately provided  
16.29 for; and

16.30 (E) the child's educational needs are being met;

16.31 (4) foster care for a specified period of time according to the following conditions:

16.32 (i) foster care for a specified period of time may be ordered only if:

16.33 (A) the sole basis for an adjudication that the child is in need of protection or  
16.34 services is the child's behavior;

16.35 (B) the court finds that foster care for a specified period of time is in the best  
16.36 interests of the child; and



17.1 (C) the court approves the responsible social services agency's compelling reasons  
17.2 that neither an award of permanent legal and physical custody to a relative, nor termination  
17.3 of parental rights is in the child's best interests;

17.4 (ii) the order does not specify that the child continue in foster care for any period  
17.5 exceeding one year; or

17.6 (5) guardianship and legal custody to the commissioner of human services under  
17.7 the following procedures and conditions:

17.8 (i) there is an identified prospective adoptive home agreed to by the responsible  
17.9 social services agency having legal custody of the child pursuant to court order under this  
17.10 section that has agreed to adopt the child and the court accepts the parent's voluntary  
17.11 consent to adopt under section 259.24, except that such consent executed by a parent under  
17.12 this item, following proper notice that consent given under this provision is irrevocable  
17.13 upon acceptance by the court, shall be irrevocable unless fraud is established and an order  
17.14 issues permitting revocation as stated in item (vii);

17.15 (ii) if the court accepts a consent to adopt in lieu of ordering one of the other  
17.16 enumerated permanency dispositions, the court must review the matter at least every 90  
17.17 days. The review will address the reasonable efforts of the agency to achieve a finalized  
17.18 adoption;

17.19 (iii) a consent to adopt under this clause vests all legal authority regarding the child,  
17.20 including guardianship and legal custody of the child, with the commissioner of human  
17.21 services as if the child were a state ward after termination of parental rights;

17.22 (iv) the court must forward a copy of the consent to adopt, together with a certified  
17.23 copy of the order transferring guardianship and legal custody to the commissioner, to  
17.24 the commissioner;

17.25 (v) if an adoption is not finalized by the identified prospective adoptive parent within  
17.26 12 months of the execution of the consent to adopt under this clause, the commissioner of  
17.27 human services or the commissioner's delegate shall pursue adoptive placement in another  
17.28 home unless the commissioner certifies that the failure to finalize is not due to either an  
17.29 action or a failure to act by the prospective adoptive parent;

17.30 (vi) notwithstanding item (v), the commissioner of human services or the  
17.31 commissioner's designee must pursue adoptive placement in another home as soon as the  
17.32 commissioner or commissioner's designee determines that finalization of the adoption with  
17.33 the identified prospective adoptive parent is not possible, that the identified prospective  
17.34 adoptive parent is not willing to adopt the child, that the identified prospective adoptive  
17.35 parent is not cooperative in completing the steps necessary to finalize the adoption, or  
17.36 upon the commissioner's determination to withhold consent to the adoption.

18.1 (vii) unless otherwise required by the Indian Child Welfare Act, United States Code,  
18.2 title 25, section 1913, a consent to adopt executed under this section, following proper  
18.3 notice that consent given under this provision is irrevocable upon acceptance by the court,  
18.4 shall be irrevocable upon acceptance by the court except upon order permitting revocation  
18.5 issued by the same court after written findings that consent was obtained by fraud.

18.6 (e) In ordering a permanent placement of a child, the court must be governed by the  
18.7 best interests of the child, including a review of the relationship between the child and  
18.8 relatives and the child and other important persons with whom the child has resided or  
18.9 had significant contact. When the court has determined that permanent placement of the  
18.10 child away from the parent is necessary, the court shall consider permanent alternative  
18.11 homes that are available both inside and outside the state.

18.12 (f) Once a permanent placement determination has been made and permanent  
18.13 placement has been established, further court reviews are necessary if:

18.14 (1) the placement is long-term foster care or foster care for a specified period of time;

18.15 (2) the court orders further hearings because it has retained jurisdiction of a transfer  
18.16 of permanent legal and physical custody matter;

18.17 (3) an adoption has not yet been finalized; or

18.18 (4) there is a disruption of the permanent or long-term placement.

18.19 (g) Court reviews of an order for long-term foster care, whether under this section  
18.20 or section 260C.317, subdivision 3, paragraph (d), must be conducted at least yearly  
18.21 at an in-court appearance hearing and must review the child's out-of-home placement  
18.22 plan and the reasonable efforts of the agency to finalize the permanent plan for the child  
18.23 including the agency's efforts to:

18.24 (1) ensure that long-term foster care continues to be the most appropriate legal  
18.25 arrangement for meeting the child's need for permanency and stability or, if not, to identify  
18.26 and attempt to finalize another permanent placement option under this chapter that would  
18.27 better serve the child's needs and best interests;

18.28 (2) identify a specific long-term foster home for the child, if one has not already  
18.29 been identified;

18.30 (3) support continued placement of the child in the identified home, if one has been  
18.31 identified;

18.32 (4) ensure appropriate services are provided to address the physical health, mental  
18.33 health, and educational needs of the child during the period of long-term foster care and  
18.34 also ensure appropriate services or assistance to maintain relationships with appropriate  
18.35 family members and the child's community; and

19.1 (5) plan for the child's independence upon the child's leaving long-term foster care  
19.2 living as required under section 260C.212, subdivision 1.

19.3 (h) In the event it is necessary for a child that has been ordered into foster care for a  
19.4 specified period of time to be in foster care longer than one year after the permanency  
19.5 hearing held under this section, not later than 12 months after the time the child was  
19.6 ordered into foster care for a specified period of time, the matter must be returned to  
19.7 court for a review of the appropriateness of continuing the child in foster care and of the  
19.8 responsible social services agency's reasonable efforts to finalize a permanent plan for  
19.9 the child; if it is in the child's best interests to continue the order for foster care for a  
19.10 specified period of time past a total of 12 months, the court shall set objectives for the  
19.11 child's continuation in foster care, specify any further amount of time the child may be in  
19.12 foster care, and review the plan for the safe return of the child to the parent.

19.13 (i) An order permanently placing a child out of the home of the parent or guardian  
19.14 must include the following detailed findings:

19.15 (1) how the child's best interests are served by the order;

19.16 (2) the nature and extent of the responsible social service agency's reasonable efforts,  
19.17 or, in the case of an Indian child, active efforts to reunify the child with the parent or  
19.18 guardian where reasonable efforts are required;

19.19 (3) the parent's or parents' efforts and ability to use services to correct the conditions  
19.20 which led to the out-of-home placement; and

19.21 (4) that the conditions which led to the out-of-home placement have not been  
19.22 corrected so that the child can safely return home.

19.23 (j) An order for permanent legal and physical custody of a child may be modified  
19.24 under sections 518.18 and 518.185. The social services agency is a party to the proceeding  
19.25 and must receive notice. A parent may only seek modification of an order for long-term  
19.26 foster care upon motion and a showing by the parent of a substantial change in the parent's  
19.27 circumstances such that the parent could provide appropriate care for the child and that  
19.28 removal of the child from the child's permanent placement and the return to the parent's  
19.29 care would be in the best interest of the child. The responsible social services agency may  
19.30 ask the court to vacate an order for long-term foster care upon a prima facie showing  
19.31 that there is a factual basis for the court to order another permanency option under this  
19.32 chapter and that such an option is in the child's best interests. Upon a hearing where  
19.33 the court determines that there is a factual basis for vacating the order for long-term  
19.34 foster care and that another permanent order regarding the placement of the child is in  
19.35 the child's best interests, the court may vacate the order for long-term foster care and  
19.36 enter a different order for permanent placement that is in the child's best interests. The

20.1 court shall not require further reasonable efforts to reunify the child with the parent or  
20.2 guardian as a basis for vacating the order for long-term foster care and ordering a different  
20.3 permanent placement in the child's best interests. The county attorney must file pleadings  
20.4 and give notice as required under the rules of juvenile court in order to modify an order for  
20.5 long-term foster care under this paragraph.

20.6 (k) The court shall issue an order required under this section within 15 days of the  
20.7 close of the proceedings. The court may extend issuing the order an additional 15 days  
20.8 when necessary in the interests of justice and the best interests of the child.

20.9 (l) This paragraph applies to proceedings required under this subdivision when  
20.10 the child is on a trial home visit:

20.11 (1) if the child is on a trial home visit 12 months after the child was placed in  
20.12 foster care or in the care of a noncustodial parent as calculated in this subdivision, the  
20.13 responsible social services agency may file a report with the court regarding the child's and  
20.14 parent's progress on the trial home visit and its reasonable efforts to finalize the child's safe  
20.15 and permanent return to the care of the parent in lieu of filing the pleadings required under  
20.16 paragraph (b). The court shall make findings regarding reasonableness of the responsible  
20.17 social services efforts to finalize the child's return home as the permanent order in the best  
20.18 interests of the child. The court may continue the trial home visit to a total time not to  
20.19 exceed six months as provided in subdivision 1. If the court finds the responsible social  
20.20 services agency has not made reasonable efforts to finalize the child's return home as the  
20.21 permanent order in the best interests of the child, the court may order other or additional  
20.22 efforts to support the child remaining in the care of the parent; and

20.23 (2) if a trial home visit ordered or continued at proceedings under this subdivision  
20.24 terminates, the court shall recommence proceedings under this subdivision to determine  
20.25 the permanent status of the child not later than 30 days after the child is returned to foster  
20.26 care.

20.27 Sec. 4. Minnesota Statutes 2009 Supplement, section 260C.212, subdivision 7, is  
20.28 amended to read:

20.29 Subd. 7. **Administrative or court review of placements.** (a) There shall be an  
20.30 administrative review of the out-of-home placement plan of each child placed in foster  
20.31 care no later than 180 days after the initial placement of the child in foster care and at least  
20.32 every six months thereafter if the child is not returned to the home of the parent or parents  
20.33 within that time. The out-of-home placement plan must be monitored and updated at each  
20.34 administrative review. The administrative review shall be conducted by the responsible  
20.35 social services agency using a panel of appropriate persons at least one of whom is not

21.1 responsible for the case management of, or the delivery of services to, either the child or  
21.2 the parents who are the subject of the review. The administrative review shall be open to  
21.3 participation by the parent or guardian of the child and the child, as appropriate.

21.4 (b) As an alternative to the administrative review required in paragraph (a), the court  
21.5 may, as part of any hearing required under the Minnesota Rules of Juvenile Protection  
21.6 Procedure, conduct a hearing to monitor and update the out-of-home placement plan  
21.7 pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d).  
21.8 The party requesting review of the out-of-home placement plan shall give parties to the  
21.9 proceeding notice of the request to review and update the out-of-home placement plan.  
21.10 A court review conducted pursuant to section 260C.193; 260C.201, subdivision 1 or 11;  
21.11 260C.141, subdivision 2 or 2a, clause (2); or 260C.317 shall satisfy the requirement for  
21.12 the review so long as the other requirements of this section are met.

21.13 (c) As appropriate to the stage of the proceedings and relevant court orders, the  
21.14 responsible social services agency or the court shall review:

21.15 (1) the safety, permanency needs, and well-being of the child;

21.16 (2) the continuing necessity for and appropriateness of the placement;

21.17 (3) the extent of compliance with the out-of-home placement plan;

21.18 (4) the extent of progress which has been made toward alleviating or mitigating the  
21.19 causes necessitating placement in foster care;

21.20 (5) the projected date by which the child may be returned to and safely maintained in  
21.21 the home or placed permanently away from the care of the parent or parents or guardian;  
21.22 and

21.23 (6) the appropriateness of the services provided to the child.

21.24 (d) When a child is age 16 or older, in addition to any administrative review  
21.25 conducted by the agency, at the in-court review required under section 260C.201,  
21.26 subdivision 11, ~~paragraph (d), clause (3), item (iii)~~; or 260C.317, subdivision 3, clause (3),  
21.27 the court shall review the independent living plan required under subdivision 1, paragraph  
21.28 (c), clause (11), and the provision of services to the child related to the well-being of  
21.29 the child as the child prepares to leave foster care. The review shall include the actual  
21.30 plans related to each item in the plan necessary to the child's future safety and well-being  
21.31 when the child is no longer in foster care.

21.32 (1) At the court review, the responsible social services agency shall establish that it  
21.33 has given the notice required under Minnesota Rules, part 9560.0060, regarding the right  
21.34 to continued access to services for certain children in foster care past age 18 and of the  
21.35 right to appeal a denial of social services under section 256.045. If the agency is unable

22.1 to establish that the notice, including the right to appeal a denial of social services, has  
22.2 been given, the court shall require the agency to give it.

22.3 (2) The court shall make findings regarding progress toward or accomplishment of  
22.4 the following goals:

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

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

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

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

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

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

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

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

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

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

22.22 (xi) the child has a permanent connection to a caring adult.

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

22.29 (e) When a child is age 17 or older, during the 90-day period immediately prior to  
22.30 the date the child is expected to be discharged from foster care, the responsible social  
22.31 services agency is required to provide the child with assistance and support in developing  
22.32 a transition plan that is personalized at the direction of the child. The transition plan  
22.33 must be as detailed as the child may elect and include specific options on housing, health  
22.34 insurance, education, local opportunities for mentors and continuing support services,  
22.35 and work force supports and employment services. The county shall also provide the

23.1 individual with appropriate contact information if the individual needs more information  
23.2 or needs help dealing with a crisis situation through age 21.

23.3 Sec. 5. Minnesota Statutes 2008, section 260C.317, subdivision 3, is amended to read:

23.4 Subd. 3. **Order; retention of jurisdiction.** (a) A certified copy of the findings and  
23.5 the order terminating parental rights, and a summary of the court's information concerning  
23.6 the child shall be furnished by the court to the commissioner or the agency to which  
23.7 guardianship is transferred. The orders shall be on a document separate from the findings.  
23.8 The court shall furnish the individual to whom guardianship is transferred a copy of the  
23.9 order terminating parental rights.

23.10 (b) The court shall retain jurisdiction in a case where adoption is the intended  
23.11 permanent placement disposition until the child's adoption is finalized, the child is 18  
23.12 years of age, or the child is otherwise ordered discharged from the jurisdiction of the  
23.13 court. The guardian ad litem and counsel for the child shall continue on the case until an  
23.14 adoption decree is entered. ~~A~~ An in-court appearance hearing must be held every 90  
23.15 days following termination of parental rights for the court to review progress toward an  
23.16 adoptive placement and the specific recruitment efforts the agency has taken to find an  
23.17 adoptive family or other placement living arrangement for the child and to finalize the  
23.18 adoption or other permanency plan.

23.19 (c) The responsible social services agency may make a determination of compelling  
23.20 reasons for a child to be in long-term foster care when the agency has made exhaustive  
23.21 efforts to recruit, identify, and place the child in an adoptive home, and the child continues  
23.22 in foster care for at least 24 months after the court has issued the order terminating  
23.23 parental rights. A child of any age who is under the guardianship of the commissioner of  
23.24 the Department of Human Services and is legally available for adoption may not refuse  
23.25 or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the  
23.26 child in an adoptive home required under paragraph (b) or sign a document relieving  
23.27 county social services agencies of all recruitment efforts on the child's behalf. Upon  
23.28 approving the agency's determination of compelling reasons, the court may order the child  
23.29 placed in long-term foster care. At least every 12 months thereafter as long as the child  
23.30 continues in out-of-home placement, the court shall conduct ~~a~~ an in-court permanency  
23.31 review hearing to determine the future status of the child using the review requirements of  
23.32 section 260C.201, subdivision 11, paragraph (g).

23.33 (d) The court shall retain jurisdiction through the child's minority in a case where  
23.34 long-term foster care is the permanent disposition whether under paragraph (c) or section  
23.35 260C.201, subdivision 11.

## ARTICLE 4

## FATHERS; NONCUSTODIAL PARENTS

Section 1. Minnesota Statutes 2009 Supplement, section 260C.007, subdivision 25, is amended to read:

Subd. 25. **Parent.** (a) "Parent" means a person who has a legal parent and child relationship with a child ~~under section 257.52~~ which confers or imposes on the person legal rights, privileges, duties, and obligations consistent with sections 257.51 to 257.74 or 257.75. It includes the mother and child relationship and the father and child relationship. For matters governed by the Indian Child Welfare Act, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14. ~~For matters governed by the Indian Child Welfare Act, parent, and does not include the unwed father where paternity has not been acknowledged or established. Parent does not mean a putative father of a child unless the putative father also meets the requirements of section 257.55 or unless the putative father is entitled to notice under section 259.49, subdivision 1.~~

(b) A legally recognized parent and child relationship is established for purposes of this chapter between:

(1) a child and a biological mother, by proof of her having given birth to the child, or under sections 257.51 to 257.74 or 257.75;

(2) a child and father when:

(i) there is a presumption of paternity under section 257.55, subdivision 1, paragraphs (a), (b), or (c), and no action has been taken to declare the nonexistence of the father and child relationship;

(ii) there is a presumption of paternity under section 257.55, subdivision 1, paragraph (d), and there is an adjudication of paternity under sections 257.51 to 257.74, or the father and mother have signed a recognition of parentage having the effect of an adjudication under section 257.75;

(iii) there is a presumption of paternity under section 257.55, subdivision 1, paragraphs (e), (f), (g), or (h), and there is an adjudication of paternity under sections 257.51 to 257.74;

(iv) there is no presumption of paternity under section 257.55, but the father has been adjudicated by court order under sections 257.51 to 257.74;

(v) there is no presumption of paternity under section 257.55, but the father and mother have signed a Recognition of Parentage having the effect of adjudication under section 257.75;



- 25.1 (vi) there is a positive test result under section 257.62, subdivision 5, and the  
25.2 father is adjudicated as the father of the child either by court order under sections 257.51  
25.3 to 257.74, or because the father and the child's mother have signed a Recognition of  
25.4 Parentage having the effect of adjudication under section 257.75; or  
25.5 (vii) the parent and child relationship is established under section 260.755,  
25.6 subdivision 14; or  
25.7 (3) between a child and an adoptive parent by proof of adoption.

25.8 Sec. 2. Minnesota Statutes 2009 Supplement, section 260C.150, subdivision 3, is  
25.9 amended to read:

25.10 Subd. 3. **Identifying parents of child; diligent efforts; data.** (a) The responsible  
25.11 social services agency shall make diligent efforts to identify and locate both parents of any  
25.12 child who is the subject of proceedings under this chapter. Diligent efforts include:

25.13 (1) asking the custodial or known parent to identify any nonresident parent of the  
25.14 child and provide information that can be used to verify the nonresident parent's identity  
25.15 including the dates and locations of marriages and divorces; dates and locations of any  
25.16 legal proceedings regarding paternity; date and place of the child's birth; nonresident  
25.17 parent's full legal name; nonresident parent's date of birth, or if the nonresident parent's  
25.18 date of birth is unknown, an approximate age; the nonresident parent's Social Security  
25.19 number; the nonresident parent's whereabouts including last known whereabouts; and the  
25.20 whereabouts of relatives of the nonresident parent. For purposes of this subdivision,  
25.21 "nonresident parent" means a parent who does not reside in the same household as the  
25.22 child or did not reside in the same household as the child at the time the child was removed  
25.23 when the child is in foster care;

25.24 (2) obtaining information that will identify and locate the nonresident parent from  
25.25 the county and state of Minnesota child support enforcement information system;

25.26 (3) requesting a search of the Minnesota Fathers' Adoption Registry 30 days after  
25.27 the child's birth; and

25.28 (4) using any other reasonable means to identify and locate the nonresident parent.

25.29 (b) The agency may disclose data which is otherwise private under section 13.46 or  
25.30 626.556 in order to carry out its duties under this subdivision.

25.31 (c) Upon the filing of a petition alleging the child to be in need of protection or  
25.32 services, the responsible social services agency may contact a putative father who  
25.33 registered with the Minnesota Fathers' Adoption Registry more than 30 days after the  
25.34 child's birth. The social service agency may consider a putative father for the day-to-day  
25.35 care of the child under section 260C.212, subdivision 4, if the putative father cooperates

26.1 with genetic testing and there is a positive test result under section 257.62, subdivision 5.

26.2 Nothing in this paragraph:

26.3 (1) relieves a putative father who registered with the Minnesota Fathers' Adoption  
26.4 Registry more than 30 days after the child's birth of the duty to cooperate with paternity  
26.5 establishment proceedings under section 260C.212, subdivision 4;

26.6 (2) gives a putative father who registered with the Minnesota Fathers' Adoption  
26.7 Registry more than 30 days after the child's birth the right to notice under section  
26.8 260C.151 unless the putative father is entitled to notice under sections 259.24 and 259.49,  
26.9 subdivision 1, paragraph (a) or (b), clauses (1) to (7); or

26.10 (3) establishes a right to assert an interest in the child in a termination of parental  
26.11 rights proceeding contrary to section 259.52, subdivision 6, unless the putative father is  
26.12 entitled to notice under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b),  
26.13 clauses (1) to (7).

26.14 Sec. 3. Minnesota Statutes 2009 Supplement, section 260C.151, subdivision 1, is  
26.15 amended to read:

26.16 Subdivision 1. **Issuance of summons.** After a petition has been filed and unless  
26.17 the parties hereinafter named voluntarily appear, the court shall set a time for a hearing  
26.18 and shall issue a summons requiring the child's parents who have a legally recognized  
26.19 parent-child relationship as established under sections 257.51 to 257.74, 257.75, or  
26.20 260.755, subdivision 14, or legal guardian and any person who has legal custody of the  
26.21 child to appear before the court at a time and place stated. The summons shall have a  
26.22 copy of the petition attached, and shall advise the parties of the right to counsel and of  
26.23 the consequences of failure to obey the summons. The court shall give docket priority to  
26.24 any child in need of protection or services or neglected and in foster care, that contains  
26.25 allegations of child abuse over any other case. As used in this subdivision, "child abuse"  
26.26 has the meaning given it in section 630.36, subdivision 2.

26.27 Sec. 4. Minnesota Statutes 2008, section 260C.163, subdivision 2, is amended to read:

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

26.33 A parent with a legally recognized parent and child relationship must be provided the  
26.34 right to be heard in any review or hearing to be held with respect to the child, which shall

27.1 include the right to be heard on the disposition order under section 260C.201, subdivision  
27.2 1, parental visitation under section 260C.178, and the out-of-home placement plan under  
27.3 section 260C.212, subdivision 1. The right to be heard does not automatically confer party  
27.4 status. Party status is governed by the Minnesota Rules of Juvenile Protection Procedure.

27.5 Any grandparent of the child has a right to participate in the proceedings to the  
27.6 same extent as a parent, if the child has lived with the grandparent within the two years  
27.7 preceding the filing of the petition. At the first hearing following the filing of a petition,  
27.8 the court shall ask whether the child has lived with a grandparent within the last two years,  
27.9 except that the court need not make this inquiry if the petition states that the child did not  
27.10 live with a grandparent during this time period. Failure to notify a grandparent of the  
27.11 proceedings is not a jurisdictional defect.

27.12 If, in a proceeding involving a child in need of protection or services, the responsible  
27.13 social services agency recommends transfer of permanent legal and physical custody to  
27.14 a relative, the relative has a right to participate as a party, and thereafter shall receive  
27.15 notice of any hearing in the proceedings.

27.16 Sec. 5. Minnesota Statutes 2009 Supplement, section 260C.178, subdivision 3, is  
27.17 amended to read:

27.18 Subd. 3. **Parental visitation.** (a) If a child has been taken into custody under  
27.19 section 260C.151, subdivision 5, or 260C.175, subdivision 1, clause (2), item (ii), and  
27.20 the court determines that the child should continue in foster care, the court shall include  
27.21 in its order notice that the responsible social services agency has a duty to develop and  
27.22 implement a plan for parental visitation of and contact with the child that promotes the  
27.23 parent and child relationship unless the court finds that visitation would endanger the  
27.24 child's physical or emotional well-being.

27.25 (b) Unless the court finds that visitation would endanger the child's physical or  
27.26 emotional well-being or unless paragraph (c) or (d) apply, the plan for parental visitation  
27.27 required under section 260C.212, subdivision 1, paragraph (c), clause (5), must be  
27.28 developed and implemented by the agency and the child's parents as soon as possible  
27.29 after the court's order for the child to continue in foster care. If either parent of the child  
27.30 disagrees with the visitation plan, including a requirement for supervised visits, upon  
27.31 request the parent shall be entitled to a hearing on the plan. This hearing may occur at  
27.32 a regularly scheduled hearing. The court may modify the plan if the court determines  
27.33 that it is in the best interest of the child.

27.34 (c) When a parent has had no or only limited visitation or contact with the child prior  
27.35 to the court order for the child to continue in foster care, the court ~~shall not~~ may order a

28.1 visitation plan developed and implemented ~~until~~ while the agency ~~has conducted~~ conducts  
28.2 the assessment of the parent's ability to provide day-to-day care for the child required  
28.3 under section 260C.212, subdivision 4.

28.4 (d) When it is in the best interests of the child, the agency may ask the court to  
28.5 defer its duty to develop a visitation plan between a putative father and the child until the  
28.6 paternity status of the child's father is adjudicated or until there is a positive test result  
28.7 under section 257.62, subdivision 5.

28.8 (e) The visitation plan developed under this subdivision is the same visitation plan  
28.9 required under section 260C.212, subdivision 1, paragraph (c), clause (5).