

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 342

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| DATE | D-PG | OFFICIAL STATUS |
|------------|------|--|
| 01/22/2019 | 132 | Introduction and first reading Referred to Human Services Reform Finance and Policy |
| 02/11/2019 | 312a | Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy |
| 04/01/2019 | | Comm report: To pass as amended Second reading |

- 1.1 A bill for an act
- 1.2 relating to human services; permitting parent to petition for reestablishment of the
- 1.3 legal parent and child relationship; prohibiting disqualification of individuals
- 1.4 subject to human services background studies with expunged criminal records;
- 1.5 amending Minnesota Statutes 2018, sections 245C.08, subdivision 1; 260C.329,
- 1.6 subdivisions 3, 7, 8, by adding a subdivision; repealing Minnesota Statutes 2018,
- 1.7 section 260C.329, subdivision 5.
- 1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.9 Section 1. Minnesota Statutes 2018, section 245C.08, subdivision 1, is amended to read:
- 1.10 Subdivision 1. **Background studies conducted by Department of Human Services.** (a)
- 1.11 For a background study conducted by the Department of Human Services, the commissioner
- 1.12 shall review:
- 1.13 (1) information related to names of substantiated perpetrators of maltreatment of
- 1.14 vulnerable adults that has been received by the commissioner as required under section
- 1.15 626.557, subdivision 9c, paragraph (j);
- 1.16 (2) the commissioner's records relating to the maltreatment of minors in licensed
- 1.17 programs, and from findings of maltreatment of minors as indicated through the social
- 1.18 service information system;
- 1.19 (3) information from juvenile courts as required in subdivision 4 for individuals listed
- 1.20 in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;
- 1.21 (4) information from the Bureau of Criminal Apprehension, including information
- 1.22 regarding a background study subject's registration in Minnesota as a predatory offender
- 1.23 under section 243.166;

2.1 (5) except as provided in clause (6), information received as a result of submission of
2.2 fingerprints for a national criminal history record check, as defined in section 245C.02,
2.3 subdivision 13c, when the commissioner has reasonable cause for a national criminal history
2.4 record check as defined under section 245C.02, subdivision 15a, or as required under section
2.5 144.057, subdivision 1, clause (2);

2.6 (6) for a background study related to a child foster care application for licensure, a
2.7 transfer of permanent legal and physical custody of a child under sections 260C.503 to
2.8 260C.515, or adoptions, and for a background study required for family child care, certified
2.9 license-exempt child care, child care centers, and legal nonlicensed child care authorized
2.10 under chapter 119B, the commissioner shall also review:

2.11 (i) information from the child abuse and neglect registry for any state in which the
2.12 background study subject has resided for the past five years; and

2.13 (ii) when the background study subject is 18 years of age or older, or a minor under
2.14 section 245C.05, subdivision 5a, paragraph (c), information received following submission
2.15 of fingerprints for a national criminal history record check; and

2.16 (7) for a background study required for family child care, certified license-exempt child
2.17 care centers, licensed child care centers, and legal nonlicensed child care authorized under
2.18 chapter 119B, the background study shall also include, to the extent practicable, a name
2.19 and date-of-birth search of the National Sex Offender Public website.

2.20 (b) ~~Notwithstanding expungement by a court~~ For any action taken in this chapter, the
2.21 commissioner may shall not consider the following information obtained under paragraph
2.22 (a), clauses (3) and (4), ~~unless:~~

2.23 (1) a criminal record that was expunged under chapter 260B or 609A, where the
2.24 commissioner received notice of the petition for expungement and the court order for
2.25 expungement is directed specifically to the commissioner; or

2.26 (2) any underlying fact of an element of the expunged criminal record, including an
2.27 arrest or criminal charge, where the commissioner received notice of the petition for
2.28 expungement and the court order for expungement is directed specifically to the
2.29 commissioner.

2.30 Nothing in this paragraph prohibits the commissioner from considering information from
2.31 a separate administrative decision under this chapter.

2.32 (c) The commissioner shall also review criminal case information received according
2.33 to section 245C.04, subdivision 4a, from the Minnesota court information system that relates

3.1 to individuals who have already been studied under this chapter and who remain affiliated
3.2 with the agency that initiated the background study.

3.3 (d) When the commissioner has reasonable cause to believe that the identity of a
3.4 background study subject is uncertain, the commissioner may require the subject to provide
3.5 a set of classifiable fingerprints for purposes of completing a fingerprint-based record check
3.6 with the Bureau of Criminal Apprehension. Fingerprints collected under this paragraph
3.7 shall not be saved by the commissioner after they have been used to verify the identity of
3.8 the background study subject against the particular criminal record in question.

3.9 (e) The commissioner may inform the entity that initiated a background study under
3.10 NETStudy 2.0 of the status of processing of the subject's fingerprints.

3.11 Sec. 2. Minnesota Statutes 2018, section 260C.329, subdivision 3, is amended to read:

3.12 Subd. 3. **Petition.** ~~Only the county attorney~~ The county attorney or a parent whose
3.13 parental rights were terminated under a previous order of the court may file a petition for
3.14 the reestablishment of the legal parent and child relationship. A parent filing a petition under
3.15 this section shall pay a filing fee in the amount required under section 357.021, subdivision
3.16 2, clause (1). The filing fee may be waived in cases of indigency. A petition for the
3.17 reestablishment of the legal parent and child relationship may be filed when:

3.18 (1) both the responsible social services agency and the county attorney agree that
3.19 reestablishment of the legal parent and child relationship is in the child's best interests. This
3.20 clause must be satisfied only when the county attorney is the petitioning party;

3.21 (2) the parent has corrected the conditions that led to an order terminating parental rights;

3.22 (3) the parent is willing and has the capability to provide day-to-day care and maintain
3.23 the health, safety, and welfare of the child;

3.24 (4) the child has been in foster care for at least ~~36~~ 24 months after the court issued the
3.25 order terminating parental rights;

3.26 ~~(5) the child is 15 years of age or older at the time the petition for reestablishment of~~
3.27 ~~the legal parent and child relationship is filed;~~

3.28 ~~(6)~~ (5) the child has not been adopted; and

3.29 ~~(7)~~ (6) the child is not the subject of a written adoption placement agreement between
3.30 the responsible social services agency and the prospective adoptive parent, as required under
3.31 Minnesota Rules, part 9560.0060, subpart 2.

4.1 Sec. 3. Minnesota Statutes 2018, section 260C.329, is amended by adding a subdivision
4.2 to read:

4.3 Subd. 3a. **Contents of parent's petition.** A parent's petition for reestablishment of the
4.4 legal parent and child relationship shall be signed under oath by the petitioner and shall
4.5 state the following:

4.6 (1) the petitioner's full name, date of birth, address, and all other legal names or aliases
4.7 by which the petitioner has been known at any time;

4.8 (2) the name and date of birth of each child for whom reunification is sought;

4.9 (3) the petitioner's relationship to each child for whom reunification is sought;

4.10 (4) why reunification is sought and why reunification is in the child's best interest;

4.11 (5) the details of the termination of parental rights for which reunification is sought,
4.12 including the date and jurisdiction of the order, and the court file number and date of any
4.13 prior order terminating parental rights;

4.14 (6) what steps the petitioner has taken toward personal rehabilitation since the time of
4.15 the order terminating parental rights, including treatment, work, or other personal history
4.16 that demonstrates rehabilitation;

4.17 (7) how the petitioner has corrected the conditions that led to the order terminating
4.18 parental rights for which reunification is sought;

4.19 (8) reasons why the petitioner is willing and capable to provide day-to-day care and
4.20 maintain the health, safety, and welfare of the child; and

4.21 (9) all prior requests by the petitioner, whether for the present order terminating parental
4.22 rights or for any other orders terminating parental rights, whether granted or not.

4.23 Sec. 4. Minnesota Statutes 2018, section 260C.329, subdivision 7, is amended to read:

4.24 Subd. 7. **Service of petition on the parties.** The petition for the reestablishment of the
4.25 legal parent and child relationship and notice of hearing on the petition must be served on:

4.26 (1) the child;

4.27 ~~(2) the parent whose rights have been terminated and with whom the legal parent and~~
4.28 ~~child relationship is proposed to be reestablished;~~

4.29 (2) the county attorney;

4.30 (3) the responsible social services agency;

5.1 ~~(3)~~ (4) the child's guardian ad litem; and

5.2 ~~(4)~~ (5) the child's tribe if the child is subject to the Indian Child Welfare Act.

5.3 Sec. 5. Minnesota Statutes 2018, section 260C.329, subdivision 8, is amended to read:

5.4 Subd. 8. **Hearing.** The court may grant the petition ordering the reestablishment of the
5.5 legal parent and child relationship only if it finds by clear and convincing evidence that:

5.6 (1) reestablishment of the legal parent and child relationship is in the child's best interests;

5.7 ~~(2) the child is 15 years of age or older;~~

5.8 ~~(3)~~ (2) the child has not been adopted;

5.9 ~~(4)~~ (3) the child is not the subject of a written adoption placement agreement between
5.10 the responsible social services agency and the prospective adoptive parent, as required under
5.11 Minnesota Rules, part 9560.0060, subpart 2;

5.12 ~~(5)~~ (4) at least ~~36~~ 24 months have elapsed following a final order terminating parental
5.13 rights and the child remains in foster care;

5.14 ~~(6)~~ (5) the child desires to reside with the parent;

5.15 ~~(7)~~ (6) the parent has corrected the conditions that led to an order terminating parental
5.16 rights; and

5.17 ~~(8)~~ (7) the parent is willing and has the capability to provide day-to-day care and maintain
5.18 the health, safety, and welfare of the child.

5.19 Sec. 6. **REPEALER.**

5.20 Minnesota Statutes 2018, section 260C.329, subdivision 5, is repealed.

APPENDIX
Repealed Minnesota Statutes: S0342-1

260C.329 REESTABLISHMENT OF THE LEGAL PARENT AND CHILD RELATIONSHIP.

Subd. 5. **Decision not appealable.** The decision by the county attorney not to file a petition for the reestablishment of legal parent and child relationship is not appealable.