

to transfer jurisdiction of a portion of the old route has been signed by the commissioner of transportation and the chair of the Dakota county board of commissioners and filed in the office of the commissioner.

Notwithstanding any law or rule to the contrary, the commissioner of transportation shall add to the county state-aid highway system in Dakota county any trunk highway that is removed from the trunk highway system under this act and transferred to Dakota county.

Subd. 3. REVISOR INSTRUCTION. The revisor of statutes, in compiling the next and subsequent editions of Minnesota Statutes and following notice from the commissioner that the agreement required under subdivision 2 has been filed with the commissioner, shall substitute the route established in subdivision 1 for the route discontinued and removed from the trunk highway system according to subdivision 2.

Sec. 3. EFFECTIVE DATE.

Sections 1 and 2 are effective the day following final enactment.

Presented to the governor May 15, 1993

Signed by the governor May 19, 1993, 8:25 a.m.

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CHAPTER 290—S.F.No. 1407

VETOED

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CHAPTER 291—H.F.No. 994

*An act relating to children; foster care and adoption placement; specifying time limits for compliance with placement preferences; setting standards for changing out-of-home placement; requiring notice of certain adoptions; clarifying certain language; requiring compliance with certain law; appropriating money; amending Minnesota Statutes 1992, sections 257.071, subdivisions 1, 1a, 3, and by adding subdivisions; 257.072, subdivision 1 and 7, and by adding a subdivision; 259.255; 259.28, subdivision 2, and by adding a subdivision; 259.455; 260.181, subdivision 3; 260.191, subdivisions 1d, 1e, 2, and by adding subdivisions; 260.192; and 260.221, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 257; 259; and 260.*

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

Section 1. [257.0651] COMPLIANCE WITH INDIAN CHILD WELFARE ACT.

New language is indicated by underline, deletions by ~~strikeout~~.

Sections 257.03 to 257.075 must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

Sec. 2. Minnesota Statutes 1992, section 257.071, subdivision 1, is amended to read:

Subdivision 1. **PLACEMENT; PLAN.** A case plan shall be prepared within 30 days after any child is placed in a residential facility by court order or by the voluntary release of the child by the parent or parents.

For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services or family foster care as defined in section 260.015, subdivision 7.

For the purposes of this section, a case plan means a written document which is ordered by the court or which is prepared by the social service agency responsible for the residential facility placement and is signed by the parent or parents, or other custodian, of the child, the child's legal guardian, the social service agency responsible for the residential facility placement, and, if possible, the child. The document shall be explained to all persons involved in its implementation, including the child who has signed the document, and shall set forth:

- (1) The specific reasons for the placement of the child in a residential facility, including a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home;
- (2) The specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (1), and the time period during which the actions are to be taken;
- (3) The financial responsibilities and obligations, if any, of the parents for the support of the child during the period the child is in the residential facility;
- (4) The visitation rights and obligations of the parent or parents or other relatives as defined in section 260.181, if such visitation is consistent with the best interest of the child, during the period the child is in the residential facility;
- (5) The social and other supportive services to be provided to the parent or parents of the child, the child, and the residential facility during the period the child is in the residential facility;
- (6) The date on which the child is expected to be returned to the home of the parent or parents;
- (7) The nature of the effort to be made by the social service agency responsible for the placement to reunite the family; and
- (8) Notice to the parent or parents that placement of the child in foster care

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may result in termination of parental rights but only after notice and a hearing as provided in chapter 260.

The parent or parents and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social service agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved, the foster parents shall be fully informed of the provisions of the case plan.

When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had such an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has the examination within 30 days of coming into the agency's care and once a year in subsequent years.

Sec. 3. Minnesota Statutes 1992, section 257.071, subdivision 1a, is amended to read:

**Subd. 1a. PROTECTION OF HERITAGE OR BACKGROUND.** The authorized child placing agency shall ensure that the child's best interests are met by giving due, not sole, consideration of the child's race or ethnic heritage in making a family foster care placement. The authorized child placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by following the preferences described in section 260.181, subdivision 3.

In instances where a child from a family of color is placed in a family foster home of a different racial or ethnic background, the local social service agency shall review the placement after 30 days and each 30 days thereafter for the first six months to determine if there is another available placement that would better satisfy the requirements of this subdivision.

Sec. 4. Minnesota Statutes 1992, section 257.071, is amended by adding a subdivision to read:

**Subd. 1b. LIMIT ON MULTIPLE PLACEMENTS.** If a child has been placed in a residential facility pursuant to a court order under section 260.172 or 260.191, the social service agency responsible for the residential facility place-

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ment for the child may not change the child's placement unless the agency specifically documents that the current placement is unsuitable or another placement is in the best interests of the child. This subdivision does not apply if the new placement is in an adoptive home or other permanent placement.

Sec. 5. Minnesota Statutes 1992, section 257.071, subdivision 3, is amended to read:

Subd. 3. **REVIEW OF VOLUNTARY PLACEMENTS.** Subject to the provisions of subdivisions 3 and Except as provided in subdivision 4, if the child has been placed in a residential facility pursuant to a voluntary release by the parent or parents, and is not returned home within ~~12~~ six months after initial placement in the residential facility, the social service agency responsible for the placement shall:

(a) (1) return the child to the home of the parent or parents; or

(b) (2) file an appropriate petition pursuant to section 260.131, subdivision 1, or 260.231; and ~~if the petition is dismissed, petition the court within two years; pursuant to section 260.131, subdivision 1a, to determine if the placement is in the best interests of the child.~~

The case plan must be updated when a petition is filed and must include a specific plan for permanency.

Sec. 6. Minnesota Statutes 1992, section 257.071, is amended by adding a subdivision to read:

Subd. 8. RULES ON REMOVAL OF CHILDREN. The commissioner shall adopt rules establishing criteria for removal of children from their homes and return of children to their homes.

Sec. 7. Minnesota Statutes 1992, section 257.072, subdivision 1, is amended to read:

Subdivision 1. **RECRUITMENT OF FOSTER FAMILIES.** Each authorized child placing agency shall make special efforts to recruit a foster family from among the child's relatives, except as authorized in section 260.181, subdivision 3, and among families of the same ~~minority~~ racial or ~~minority~~ ethnic heritage. Special efforts include contacting and working with community organizations and religious organizations and may include contracting with these organizations, utilizing local media and other local resources, conducting outreach activities, and increasing the number of minority recruitment staff employed by the agency. The requirement of special efforts in this section is satisfied if the responsible child placing agency has made appropriate efforts for six months following the child's placement in a residential facility and the court approves the agency's efforts pursuant to section 260.191, subdivision 3a. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

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Sec. 8. Minnesota Statutes 1992, section 257.072, subdivision 7, is amended to read:

Subd. 7. **DUTIES OF CHILD-PLACING AGENCIES.** Each authorized child-placing agency must:

(1) develop and follow procedures for implementing the order of preference prescribed by section 260.181, subdivision 3, and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923;

(a) In implementing the order of preference, an authorized child-placing agency may disclose private or confidential data, as defined in section 13.02, to relatives of the child for the purpose of locating a suitable placement. The agency shall disclose only data that is necessary to facilitate implementing the preference. If a parent makes an explicit request that the relative preference not be followed, the agency shall bring the matter to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives unless ordered to do so by the juvenile court; and

(b) ~~In implementing the order of preference, the authorized child-placing agency shall develop written standards for determining the suitability of proposed placements. The standards need not meet all requirements for foster care licensing, but must ensure that the safety, health, and welfare of the child is safeguarded. In the case In determining the suitability of a proposed placement of an Indian child, the standards to be applied must be the prevailing social and cultural standards of the Indian child's community, and the agency shall defer to tribal judgment as to suitability of a particular home when the tribe has intervened pursuant to the Indian Child Welfare Act;~~

(2) have a written plan for recruiting minority adoptive and foster families. The plan must include (a) strategies for using existing resources in minority communities, (b) use of minority outreach staff wherever possible, (c) use of minority foster homes for placements after birth and before adoption, and (d) other techniques as appropriate;

(3) have a written plan for training adoptive and foster families of minority children;

(4) if located in an area with a significant minority population, have a written plan for employing minority social workers in adoption and foster care. The plan must include staffing goals and objectives;

(5) ensure that adoption and foster care workers attend training offered or approved by the department of human services regarding cultural diversity and the needs of special needs children; and

(6) develop and implement procedures for implementing the requirements of the Indian Child Welfare Act and the Minnesota Indian family preservation act.

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Sec. 9. Minnesota Statutes 1992, section 257.072, is amended by adding a subdivision to read:

Subd. 9. RULES. The commissioner of human services shall adopt rules to establish standards for relative foster care placement, conducting relative searches, and recruiting foster and adoptive families of the same racial or ethnic heritage as the child.

Sec. 10. Minnesota Statutes 1992, section 259.255, is amended to read:

**259.255 PROTECTION OF HERITAGE OR BACKGROUND.**

The policy of the state of Minnesota is to ensure that the best interests of the child are met by requiring due, not sole, consideration of the child's race or ethnic heritage in adoption placements. For purposes of intercountry adoptions, due consideration is deemed to have occurred if the appropriate authority in the child's country of birth has approved the placement of the child.

The authorized child placing agency shall give preference, in the absence of good cause to the contrary, to placing the child with (a) a relative or relatives of the child, or, if that would be detrimental to the child or a relative is not available, (b) a family with the same racial or ethnic heritage as the child, or, if that is not feasible, (c) a family of different racial or ethnic heritage from the child which is knowledgeable and appreciative of the child's racial or ethnic heritage.

If the child's genetic parent or parents explicitly request that the preference described in clause (a) or clauses (a) and (b) not be followed, the authorized child placing agency shall honor that request consistent with the best interests of the child.

If the child's genetic parent or parents express a preference for placing the child in an adoptive home of the same or a similar religious background to that of the genetic parent or parents, in following the preferences in clause (a) or (b), the agency shall place the child with a family that also meets the genetic parent's religious preference. Only if no family is available that is described in clause (a) or (b) may the agency give preference to a family described in clause (c) that meets the parent's religious preference.

**Sec. 11. [259.2565] NOTICE REGARDING PERMANENT PLACEMENT OF CERTAIN CHILDREN.**

When a termination of parental rights order regarding a child becomes final, the agency with guardianship of the child shall give the notice provided in this section to any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan for the child or demonstrated an interest in the child. This notice must not be provided to a parent whose parental rights to the child have been terminated under section 260.221, subdivision 1. The notice must state that a permanent home is sought for the child and that individuals

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receiving the notice may indicate to the agency their interest in providing a permanent home. The agency with guardianship of the child shall review the child's custodial history and relationships with siblings, relatives, foster parents, and any other person who may significantly affect the child in determining an appropriate permanent placement.

Sec. 12. Minnesota Statutes 1992, section 259.28, subdivision 2, is amended to read:

Subd. 2. **PROTECTION OF HERITAGE OR BACKGROUND.** The policy of the state of Minnesota is to ensure that the best interests of children are met by requiring due, not sole, consideration of the child's race or ethnic heritage in adoption placements. For purposes of intercountry adoptions, due consideration is deemed to have occurred if the appropriate authority in the child's country of birth has approved the placement of the child.

In reviewing adoptive placement, the court shall consider preference, and in determining appropriate adoption, the court shall give preference, in the absence of good cause to the contrary, to (a) a relative or relatives of the child, or, if that would be detrimental to the child or a relative is not available, to (b) a family with the same racial or ethnic heritage as the child, or if that is not feasible, to (c) a family of different racial or ethnic heritage from the child that is knowledgeable and appreciative of the child's racial or ethnic heritage.

If the child's genetic parent or parents explicitly request that the preference described in clause (a) or in clauses (a) and (b) not be followed, the court shall honor that request consistent with the best interests of the child.

If the child's genetic parent or parents express a preference for placing the child in an adoptive home of the same or a similar religious background to that of the genetic parent or parents, in following the preferences in clause (a) or (b), the court shall place the child with a family that also meets the genetic parent's religious preference. Only if no family is available as described in clause (a) or (b) may the court give preference to a family described in clause (c) that meets the parent's religious preference.

Sec. 13. Minnesota Statutes 1992, section 259.28, is amended by adding a subdivision to read:

Subd. 3. COMPLIANCE WITH INDIAN CHILD WELFARE ACT. The provisions of this chapter must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

Sec. 14. Minnesota Statutes 1992, section 259.455, is amended to read:

**259.455 FAMILY RECRUITMENT.**

Each authorized child placing agency shall make special efforts to recruit an adoptive family from among the child's relatives, except as authorized in section 259.28, subdivision 2, and among families of the same racial or ethnic heritage.

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Special efforts include contacting and working with community organizations and religious organizations and may include contracting with these organizations, utilizing local media and other local resources, and conducting outreach activities. The requirement of special efforts in this section is satisfied if the efforts have continued for six months after the child becomes available for adoption or if special efforts have been satisfied and approved by the court pursuant to section 260.191, subdivision 3a. The agency may accept any gifts, grants, offers of services, and other contributions to use in making special recruitment efforts.

**Sec. 15. [260.157] COMPLIANCE WITH INDIAN CHILD WELFARE ACT.**

The provisions of this chapter must be construed consistently with the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963.

Sec. 16. Minnesota Statutes 1992, section 260.181, subdivision 3, is amended to read:

Subd. 3. **PROTECTION OF HERITAGE OR BACKGROUND.** The policy of the state is to ensure that the best interests of children are met by requiring due, not sole, consideration of the child's race or ethnic heritage in foster care placements.

The court, in transferring legal custody of any child or appointing a guardian for the child under the laws relating to juvenile courts, shall place the child, in the following order of preference, in the absence of good cause to the contrary, in the legal custody or guardianship of an individual who (a) is the child's relative, or if that would be detrimental to the child or a relative is not available, who (b) is of the same racial or ethnic heritage as the child, or if that is not possible, who (c) is knowledgeable and appreciative of the child's racial or ethnic heritage. The court may require the county welfare agency to continue efforts to find a guardian of the child's racial or ethnic heritage when such a guardian is not immediately available. For purposes of this subdivision, "relative" includes members of a child's extended family and important friends with whom the child has resided or had significant contact.

If the child's genetic parent or parents explicitly request that the preference described in clause (a) or in clauses (a) and (b) not be followed, the court shall honor that request consistent with the best interests of the child.

If the child's genetic parent or parents express a preference for placing the child in a foster or adoptive home of the same or a similar religious background to that of the genetic parent or parents, in following the preferences in clause (a) or (b), the court shall order placement of the child with an individual who meets the genetic parent's religious preference. Only if no individual is available who is described in clause (a) or (b) may the court give preference to an individual described in clause (c) who meets the parent's religious preference.

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Sec. 17. Minnesota Statutes 1992, section 260.191, subdivision 1d, is amended to read:

Subd. 1d. ~~PARENTAL VISITATION.~~ If the court orders that the child be placed outside of the child's home or present residence, it shall set reasonable rules for supervised or unsupervised parental visitation that contribute to the objectives of the court order and the maintenance of the familial relationship. No parent may be denied visitation unless the court finds at the disposition hearing that the visitation would act to prevent the achievement of the order's objectives or that it would endanger the child's physical or emotional well-being. The court shall set reasonable rules for visitation for any relatives as defined in section 260.181, subdivision 3, if visitation is consistent with the best interests of the child.

Sec. 18. Minnesota Statutes 1992, section 260.191, subdivision 1e, is amended to read:

Subd. 1e. **CASE PLAN.** For each disposition ordered, the court shall order the appropriate agency to prepare a written case plan developed after consultation with any foster parents, and consultation with and participation by the child and the child's parent, guardian, or custodian, guardian ad litem, and tribal representative if the tribe has intervened. The case plan shall comply with the requirements of section 257.071, where applicable. The case plan shall, among other matters, specify the actions to be taken by the child and the child's parent, guardian, foster parent, or custodian to comply with the court's disposition order, and the services to be offered and provided by the agency to the child and the child's parent, guardian, or custodian. The court shall review the case plan and, upon approving it, incorporate the plan into its disposition order. The court may review and modify the terms of the case plan in the manner provided in subdivision 2. For each disposition ordered, the written case plan shall specify what reasonable efforts shall be provided to the family. The case plan must include a discussion of:

- (1) the availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal;
- (2) any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of initial adjudication, and whether those services or resources were provided or the basis for denial of the services or resources;
- (3) the need of the child and family for care, treatment, or rehabilitation;
- (4) the need for participation by the parent, guardian, or custodian in the plan of care for the child;
- (5) the visitation rights and obligations of the parent or other relatives, as defined in section 260.181, subdivision 3, during any period when the child is placed outside the home; and

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(6) a description of any services that could prevent placement or reunify the family if such services were available.

A party has a right to request a court review of the reasonableness of the case plan upon a showing of a substantial change of circumstances.

Sec. 19. Minnesota Statutes 1992, section 260.191, subdivision 2, is amended to read:

Subd. 2. **ORDER DURATION.** Subject to subdivisions 3a and 3b, all orders under this section shall be for a specified length of time set by the court not to exceed one year. However, before the order has expired and upon its own motion or that of any interested party, the court shall, after notice to the parties and a hearing, renew the order for another year or make some other disposition of the case, until the individual is no longer a minor. Any person to whom legal custody is transferred shall report to the court in writing at such periods as the court may direct.

Sec. 20. Minnesota Statutes 1992, section 260.191, is amended by adding a subdivision to read:

Subd. 3a. COURT REVIEW OF OUT-OF-HOME PLACEMENTS. If the court places a child in a residential facility, the court shall review the out-of-home placement at least every six months to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. The court shall review agency efforts pursuant to section 257.072, subdivision 1, and order that the efforts continue if the agency has failed to perform the duties under that section. The court shall review the case plan and may modify the case plan as provided under subdivisions 1e and 2. If the court orders continued out-of-home placement, the court shall notify the parents of the provisions of subdivision 3b.

Sec. 21. Minnesota Statutes 1992, section 260.191, is amended by adding a subdivision to read:

Subd. 3b. REVIEW OF COURT ORDERED PLACEMENTS; PERMANENT PLACEMENT DETERMINATION. (a) If the court places a child in a residential facility, the court shall conduct a hearing to determine the permanent status of the child not later than 12 months after the child was placed out of the home of the parent. Not later than 30 days prior to this hearing the responsible social service agency shall file pleadings to establish the basis for the permanent placement determination. Notice of the hearing and copies of the pleadings must be provided pursuant to sections 260.135 and 260.141. If a termination of parental rights petition is filed before the date required for the permanency planning determination, no hearing need be conducted under this section. The court shall determine whether the child is to be returned home or, if not, what permanent placement is consistent with the child's best interests. The "best interests of the child" means all relevant factors to be considered and evaluated.

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If the child is not returned to the home, the dispositions available for permanent placement determination are permanent legal and physical custody to a relative, adoption, or permanent foster care. The court may order a child into permanent foster care only if it finds that neither an award of legal and physical custody to a relative, termination of parental rights, nor adoption is in the child's best interests.

(b) The court may extend the time period for determination of permanent placement to 18 months after the child was placed in a residential facility if:

(1) there is a substantial probability that the child will be returned home within the next six months;

(2) the agency has not made reasonable, or, in the case of an Indian child, active efforts, to correct the conditions that form the basis of the out-of-home placement; or

(3) extraordinary circumstances exist precluding a permanent placement determination, in which case the court shall make written findings documenting the extraordinary circumstances and order one subsequent review after six months to determine permanent placement.

(c) If the court determines that an adoptive placement is in the best interests of the child, the social service agency shall file a petition for termination of parental rights under section 260.231. Nothing in this subdivision waives the requirements of sections 260.221 to 260.245 with respect to termination of parental rights.

(d) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact.

(e) Once a permanent placement determination has been made and permanent placement has been established, further reviews are only necessary if otherwise required by federal law, an adoption has not yet been finalized, or there is a disruption of the permanent placement. These reviews must take place no less frequently than every six months.

(f) An order under this subdivision must include the following detailed findings:

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

(2) the nature and extent of the responsible social service agency's reasonable efforts, or, in the case of an Indian child, active efforts, to reunify the child with the parent or parents;

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

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(4) whether the conditions which led to the out-of-home placement have been corrected so that the child can return home; and

(5) if the child cannot be returned home, whether there is a substantial probability of the child being able to return home in the next six months.

If the court orders the child placed in permanent foster care, the court shall make findings that neither an award of legal and physical custody to a relative, termination of parental rights, nor adoption is in the child's best interests.

A court finding that extraordinary circumstances exist precluding a permanent placement determination must be supported by detailed factual findings regarding those circumstances.

Sec. 22. Minnesota Statutes 1992, section 260.192, is amended to read:

**260.192 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS.**

Upon a petition for review of the foster care status of a child, the court may:

(a) In the case of a petition required to be filed under section 257.071, subdivision 3, find that the child's needs are being met and, that the child's placement in foster care is in the best interests of the child and that the child will be returned home in the next six months, in which case the court shall approve the voluntary arrangement and continue the matter for six months to assure the child returns to the parent's home. The court shall order the social service agency responsible for the placement to bring a petition pursuant to either section 260.131, subdivision 1 or section 260.131, subdivision 1a, as appropriate, within two years if court review was pursuant to section 257.071, subdivision 3 or 4, or within one year if court review was pursuant to section 257.071, subdivision 2.

(b) In the case of a petition required to be filed under section 257.071, subdivision 4, find that the child's needs are being met and that the child's placement in foster care is in the best interests of the child, in which case the court shall approve the voluntary arrangement. The court shall order the social service agency responsible for the placement to bring a petition under section 260.131, subdivision 1 or 1a, as appropriate, within two years.

(c) Find that the child's needs are not being met, in which case the court shall order the social service agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social service agency of services to the parents which would enable the child to live at home, and shall order an administrative review of the case again within six months and a review by the court within one year under a disposition under section 260.191.

(e) (d) Find that the child has been abandoned by parents financially or

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emotionally, or that the developmentally disabled child does not require out-of-home care because of the handicapping condition, in which case the court shall order the social service agency to file an appropriate petition pursuant to sections 260.131, subdivision 1, or 260.231.

Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260.131, subdivision 1 or 2, sooner than required by court order pursuant to this section.

Sec. 23. Minnesota Statutes 1992, section 260.221, subdivision 1, is amended to read:

Subdivision 1. **VOLUNTARY AND INVOLUNTARY.** The juvenile court may upon petition, terminate all rights of a parent to a child in the following cases:

(a) With the written consent of a parent who for good cause desires to terminate parental rights; or

(b) If it finds that one or more of the following conditions exist:

(1) That the parent has abandoned the child. Abandonment is presumed when:

(i) the parent has had no contact ~~or merely incidental contact~~ with the child on a regular basis and no demonstrated, consistent interest in the child's well-being for six months ~~in the case of a child under six years of age, or for 12 months in the case of a child ages six to 11; and~~

(ii) the social service agency has made reasonable efforts to facilitate contact, unless the parent establishes that an extreme financial or physical hardship or treatment for mental disability or chemical dependency or other good cause prevented the parent from making contact with the child. This presumption does not apply to children whose custody has been determined under chapter 257 or 518. The court is not prohibited from finding abandonment in the absence of this presumption; or

(2) That the parent has substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed upon that parent by the parent and child relationship, including but not limited to providing the child with necessary food, clothing, shelter, education, and other care and control necessary for the child's physical, mental, or emotional health and development, if the parent is physically and financially able, and reasonable efforts by the social service agency have failed to correct the conditions that formed the basis of the petition; or

(3) That a parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has continuously failed to do so without good cause. This clause shall not be construed to state a grounds for termination of parental rights of a noncustodial parent if that parent has not been

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ordered to or cannot financially contribute to the support of the child or aid in the child's birth; or

(4) That a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child. It is presumed that a parent is palpably unfit to be a party to the parent and child relationship upon a showing that:

(i) the child was adjudicated in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); and

(ii) within the three-year period immediately prior to that adjudication, the parent's parental rights to one or more other children were involuntarily terminated under clause (1), (2), (4), or (7) of this paragraph, or under clause (5) of this paragraph if the child was initially determined to be in need of protection or services due to circumstances described in section 260.015, subdivision 2a, clause (1), (2), (3), (5), or (8); or

(5) That following upon a determination of neglect or dependency, or of a child's need for protection or services, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the determination. It is presumed that reasonable efforts under this clause have failed upon a showing that:

(i) a child under the age of 12 has resided out of the parental home under court order for more than one year following an adjudication of dependency, neglect, need for protection or services under section 260.015, subdivision 2a, clause (1), (2), (6), (8), or (9), or neglected and in foster care, and an order for disposition under section 260.191, including adoption of the case plan required by section 257.071;

(ii) conditions leading to the determination will not be corrected within the reasonably foreseeable future; and

(iii) reasonable efforts have been made by the social service agency to rehabilitate the parent and reunite the family.

This clause does not prohibit the termination of parental rights prior to one year after a child has been placed out of the home.

It is also presumed that reasonable efforts have failed under this clause upon a showing that:

(i) the parent has been diagnosed as chemically dependent by a professional certified to make the diagnosis;

New language is indicated by underline, deletions by ~~strikeout~~.

(ii) the parent has been required by a case plan to participate in a chemical dependency treatment program;

(iii) the treatment programs offered to the parent were culturally, linguistically, and clinically appropriate;

(iv) the parent has either failed two or more times to successfully complete a treatment program or has refused at two or more separate meetings with a caseworker to participate in a treatment program; and

(v) the parent continues to abuse chemicals.

Provided, that this presumption applies only to parents required by a case plan to participate in a chemical dependency treatment program on or after July 1, 1990; or

(6) That the parent has been convicted of causing the death of another of the parent's children; or

(7) That in the case of a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born the person is not entitled to notice of an adoption hearing under section 259.26 and either the person has not filed a notice of intent to retain parental rights under section 259.261 or that the notice has been successfully challenged; or

(8) That the child is neglected and in foster care.

In an action involving an American Indian child, sections 257.35 to 257.3579 and the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, control to the extent that the provisions of this section are inconsistent with those laws.

#### Sec. 24. REPORT.

The commissioner of human services shall prepare a report for the legislature which includes a comprehensive plan to ensure compliance by county social services departments with the foster care and adoption placement statutes and rules. The report must include an analysis of possible financial incentives and sanctions for county compliance and also address the feasibility of providing timely hearings for families affected by the foster care and adoption rules and statutes in the administrative process. The report is due by February 15, 1994.

#### Sec. 25. APPROPRIATION.

\$135,000 is appropriated from the general fund to the commissioner of human services to implement this act. \$73,000 is for fiscal year 1994 and \$62,000 is for fiscal year 1995.

Presented to the governor May 17, 1993

Signed by the governor May 19, 1993, 3:46 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.