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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 3961

03/02/2020 Authored by Miller, Scott, O'Neill, Poston and Franson
The bill was read for the first time and referred to the Judiciary Finance and Civil Law Division

1.1 A bill for an act
1.2 relating to child protection; modifying termination of parental rights procedures
1.3 when a child was conceived as a result of rape; amending Minnesota Statutes 2018,
1.4 sections 260C.001, subdivision 3; 260C.301, by adding a subdivision; 518.179,
1.5 by adding a subdivision.

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

1.7 Section 1. Minnesota Statutes 2018, section 260C.001, subdivision 3, is amended to read:

1.8 Subd. 3. Permanency, termination of parental rights, and adoption. The purpose of
1.9 the laws relating to permanency, termination of parental rights, and children who come
1.10 under the guardianship of the commissioner of human services is to ensure that:

1.11 (1) when required and appropriate, reasonable efforts have been made by the social
1.12 services agency to reunite the child with the child's parents in a home that is safe and
1.13 permanent;

1.14 (2) if placement with the parents is not reasonably foreseeable, to secure for the child a
1.15 safe and permanent placement according to the requirements of section 260C.212, subdivision
1.16 2, preferably with adoptive parents or, if that is not possible or in the best interests of the
1.17 child, a fit and willing relative through transfer of permanent legal and physical custody to
1.18 that relative; and

1.19 (3) when a child is under the guardianship of the commissioner of human services,
1.20 reasonable efforts are made to finalize an adoptive home for the child in a timely manner.

1.21 Nothing in this section requires reasonable efforts to prevent placement or to reunify
1.22 the child with the parent or guardian to be made in circumstances where the court has
1.23 determined that the child has been subjected to egregious harm, when the child is an

2.1 abandoned infant, the parent has involuntarily lost custody of another child through a
2.2 proceeding under section 260C.515, subdivision 4, or similar law of another state, the
2.3 parental rights of the parent to a sibling have been involuntarily terminated, the court has
2.4 found by clear and convincing evidence that the parent committed nonconsensual sexual
2.5 penetration or contact resulting in the conception of the child, or the court has determined
2.6 that reasonable efforts or further reasonable efforts to reunify the child with the parent or
2.7 guardian would be futile.

2.8 The paramount consideration in all proceedings for permanent placement of the child
2.9 under sections 260C.503 to 260C.521, or the termination of parental rights is the best interests
2.10 of the child. In proceedings involving an American Indian child, as defined in section
2.11 260.755, subdivision 8, the best interests of the child must be determined consistent with
2.12 the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq.

2.13 Sec. 2. Minnesota Statutes 2018, section 260C.301, is amended by adding a subdivision
2.14 to read:

2.15 Subd. 1a. **Rape of the mother.** Notwithstanding any contrary provision in subdivision
2.16 1, the juvenile court must, upon petition by the child's mother or any other reputable person
2.17 pursuant to section 260C.307, subdivision 1, terminate all rights of a parent to a child if the
2.18 court determines, after an evidentiary hearing, by clear and convincing evidence that the
2.19 parent committed nonconsensual sexual penetration or contact resulting in the conception
2.20 of the child. For purposes of this section, a conviction or a plea of guilty for criminal sexual
2.21 conduct that results in the conception of the child constitutes clear and convincing evidence
2.22 and an evidentiary hearing is not required. Termination of the perpetrating parent's parental
2.23 rights is in the best interests of the child.

2.24 Sec. 3. Minnesota Statutes 2018, section 518.179, is amended by adding a subdivision to
2.25 read:

2.26 Subd. 3. **Rape of the mother.** (a) Notwithstanding any contrary provision in section
2.27 518.17 or 518.175, an action may be brought by a mother to establish that a child was
2.28 conceived as a result of nonconsensual sexual penetration or contact. If, after an evidentiary
2.29 hearing, the mother proves by clear and convincing evidence that the child was conceived
2.30 as a result of nonconsensual sexual penetration or contact, the court must not grant the other
2.31 parent custody or parenting time. For purposes of this section, a conviction or a plea of
2.32 guilty for criminal sexual conduct that results in the conception of the child constitutes clear
2.33 and convincing evidence and an evidentiary hearing is not required.

3.1 (b) An action under this section must be brought in juvenile court. The parents in the
3.2 action have a right to effective assistance of counsel after the action has been commenced
3.3 consistent with section 260C.163, subdivision 3.

3.4 (c) An action under paragraph (a) is separate and any other pending custody and parenting
3.5 time actions are stayed until the action commenced under this subdivision is complete. If
3.6 paternity has not been determined, the court may determine paternity before a hearing the
3.7 action brought under paragraph (a). Paragraph (a) does not apply if:

3.8 (1) after the alleged nonconsensual sexual penetration or contact described in paragraph
3.9 (a) is alleged to have occurred, the mother willingly and without threat or coercion cohabits
3.10 with the biological father and establishes a mutual custodial environment for the child; and

3.11 (2) the mother was 18 years or older at the time of the alleged nonconsensual sexual
3.12 penetration or contact described in paragraph (a).

3.13 (d) The court must provide written notice to a mother in any family law or juvenile court
3.14 matter where the mother alleges a child is conceived as a result of nonconsensual sexual
3.15 penetration or contact. The notice must include the mother's rights to bring an action under
3.16 this subdivision and the mother's right to request a child support good cause exemption.