

CHAPTER 260

JUVENILES

260.012 Duty to ensure placement prevention and family reunification; reasonable efforts.

260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts including culturally appropriate services by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, consistent with the best interests, safety, and protection of the child. In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's health and safety must be of paramount concern. Reasonable efforts for rehabilitation and reunification are not required upon a determination by the court that:

(1) a termination of parental rights petition has been filed stating a prima facie case that:

(i) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(ii) the parental rights of the parent to another child have been terminated involuntarily;

(iii) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2); or

(iv) the parent's custodial rights to another child have been involuntarily transferred to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar law of another jurisdiction;

(2) the county attorney has filed a determination not to proceed with a termination of parental rights petition on these grounds was made under section 260C.301, subdivision 3, paragraph (b), and a permanency hearing is held within 30 days of the determination; or

(3) a termination of parental rights petition or other petition according to section 260C.201, subdivision 11, has been filed alleging a prima facie case that the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

In the case of an Indian child, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. If a child is under the court's delinquency jurisdiction, it shall be the duty of the court to ensure that reasonable efforts are made to reunite the child with the child's family at the earliest possible time, consistent with the best interests of the child and the safety of the public.

(b) "Reasonable efforts" means the exercise of due diligence by the responsible social services agency to use appropriate and available services to meet the needs of the child and the child's family in order to prevent removal of the child from the child's family; or upon removal, services to eliminate the need for removal and reunite the family.

(1) Services may include appropriate services available in the community.

(2) At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts, the social services agency has the burden of demonstrating that it has made reasonable efforts, or that provision of services or further services for the purpose of rehabilitation and

reunification is futile and therefore unreasonable under the circumstances or that reasonable efforts aimed at reunification are not required under this section. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, or by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child.

(3) No reasonable efforts for reunification are required when the court makes a determination under paragraph (a) unless, after a hearing according to section 260C.163, the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case, the court may proceed under section 260C.312. Reunification of a surviving child with a parent is not required if the parent has been convicted of:

(i) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(ii) a violation of section 609.222, subdivision 2; or 609.223, in regard to the surviving child; or

(iii) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent.

(c) The juvenile court, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

- (1) relevant to the safety and protection of the child;
- (2) adequate to meet the needs of the child and family;
- (3) culturally appropriate;
- (4) available and accessible;
- (5) consistent and timely; and
- (6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(d) This section does not prevent out-of-home placement for treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program.

(e) If continuation of reasonable efforts described in paragraph (b) is determined by the court to be inconsistent with the permanent plan for the child, or upon a determination under paragraph (a), reasonable efforts must be made to place the child in a timely manner in accordance with the permanent plan ordered by the court and to complete whatever steps are necessary to finalize the permanent plan for the child.

(f) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts as described in paragraphs (a) and (b). When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraphs (a) and (b), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under paragraphs (a) and (b).

History: *1Sp2003 c 14 art 11 s 11*

260.152 [Repealed, 1Sp2003 c 14 art 11 s 12]