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Article 1: Adoption Assistance

Overview

This article updates adoption assistance procedures and ensures this program is targeted to meet the needs of special needs children who are under the guardianship of the commissioner.

- 1** **Definitions.** Creates § 259A.01. Provides definitions for "adoption assistance," "adoptive parent," "AFDC," "assessment," "at-risk child," "basic maintenance payment," "child," "child-placing agency," "child under guardianship of the commissioner of human services," "commissioner," "consent of parent to adoption under chapter 260C," "department," "disability," "foster care," "guardian," "guardianship," "Indian child," "legal custodian," "medical assistance," "parent," "permanent legal and physical custody," "preadoptive parent," "reassessment," "relative," "relative search," "sibling," "social and medical history," "supplemental needs payment," and "termination of parental rights."
- 2** **Program administration.** Creates § 259A.05.
 - Subd. 1. Administration of title IV-E programs.** Requires the IV-E Adoption Assistance program to comply with federal requirements.
 - Subd. 2. Administration responsibilities.** Establishes the administrative process for determining a child's eligibility for adoption assistance. Requires child-placing agencies to assist the commissioner with administering the adoption assistance program. Requires disclosure of the child's eligibility for Medicaid in the state of residence.
 - Subd. 3. Procedures, requirements, and deadlines.** Requires the commissioner to establish procedures, requirements, and deadlines for administration of the adoption assistance program.
 - Subd. 4. Promotion of programs.** Instructs the commissioner to ensure parents who adopt child with special needs are informed of the adoption tax credit. Directs the commissioner to actively seek ways to promote the adoption assistance program.

3 **Eligibility requirements.** Creates § 259A.10.

Subd. 1. General eligibility requirements. Paragraph (a) lists the eligibility criteria for a child to be eligible for adoption assistance.

Paragraph (b) provides that the adoptive parents must meet background study requirements.

Subd. 2. Special needs determination. Lists the requirements and procedures that must be met or exhausted in order for a child to be identified as a child with special needs and eligible for adoption assistance.

Subd. 3. Citizenship and immigration status. Paragraph (a) requires that to be eligible for IV-E adoption assistance a child must be a United States citizen or otherwise eligible for federal public benefits.

Paragraph (b) requires that to be eligible for state-funded adoption assistance a child must be a United States citizen or meet the qualified alien requirements.

Subd. 4. Background study requirements. Requires each prospective adoptive parent to have a background study. Lists criminal convictions that would cause a prospective adoptive parent to be ineligible to receive adoption assistance on behalf of a child.

Subd. 5. Responsibility for determining adoption assistance eligibility. Requires the state to determine eligibility for children under the guardianship of the commissioner, a child not under guardianship of the commissioner but who meets the IV-E requirements and no state agency has responsibility for the child, a child under tribal jurisdiction, and an Indian child being placed in Minnesota who meets IV-E eligibility requirements.

Subd. 6. Exclusions. Provides that an adoption assistance agreement cannot be entered into with a child's biological parent, a child's relative with whom the child lived prior to placement, a child's legal custodian or guardian, an individual adopting a child through a direct adoptive placement, or an individual adopting a child who is not a citizen or resident of the U.S. and was either adopted in another country or brought to this country for the purpose of adoption.

4 **Establishment of adoption assistance eligibility.** Creates § 259A.15.

Subd. 1. Adoption assistance certification. Requires that documentation from a qualified expert must accompany the child-placing agency's certification that a child meets the special needs criteria. Provides that documentation that a child is an at-risk child must meet the requirements established by the commissioner.

Subd. 2. Adoption assistance agreement. Paragraph (a) states that an adoption assistance agreement is a binding contract.

Paragraph (b) provides that in order for a parent to receive adoption assistance benefits the adoption assistance agreement must be negotiated with the parent. It must be a written agreement signed by the parent, a representative of the child-placing agency, and the commissioner. Disruption or termination of the adoptive placement prior to finalization voids the agreement.

Paragraph (c) lists the mandatory components of the adoption assistance agreement.

Paragraph (d) states the agreement is effective on the date of the adoption decree.

Subd. 3. Assessment tool. Requires that an assessment prescribed by the commissioner must be completed for any child who has a disability that necessitates care beyond that provided in a

family setting. The assessment must be submitted with the adoption assistance certification.

5 Benefits and payments. Creates § 259A.20.

Subd. 1. General information. Requires monthly adoption assistance payments to begin when the commissioner receives the adoption decree and are payable only to the parent or parents specified on the adoption agreement. Provides that payment is considered income and a resource attributable to the child.

Subd. 2. Medical assistance eligibility. Provides the criteria for medical assistance eligibility.

Subd. 3. Payments. Provides a detailed schedule of the adoption assistance payment guidelines. Includes the basic maintenance payments and the supplemental needs schedule for children with a disability.

Subd. 4. Reimbursement for special nonmedical expenses. States that reimbursement for nonmedical expenses is available to children, except those who are at-risk children. Requires that adoptive parents must first document that all available resources have been exhausted before reimbursement will be given. Requires prior authorization. Lists the expenses that may be eligible for reimbursement.

6 Determination of adoption assistance benefits and payment. Creates § 259A.25.

Subd. 1. Negotiation of adoption assistance agreement. Requires the adoptive parents and the child-placing agency to negotiate the amount of payment, with consideration given to the needs of the child and the circumstances of the parents. Requires documentation of disability and manifestation of this disability for an at-risk child before the monthly payment will be made.

Subd. 2. Renegotiation of adoption assistance agreement. Permits an adoptive parent to request renegotiation of the amount of the adoption assistance payment when there is a change in the child's needs or the family's circumstances. Requires reassessment of the child. If the renegotiation is for payments for an at-risk child, the adoptive parents must submit documentation from a qualified expert, and a reassessment is required.

Subd. 3. Child income or income attributable to the child. Provides that any income received by the child must be disregarded when determining the adoption assistance payment.

7 Reporting responsibilities. Creates § 259A.30.

Subd. 1. Notification of change. Requires adoptive parents to notify the agency of changes in status or circumstances that would make the child ineligible for adoption assistance. Provides a list of additional changes in status that require the adoptive parents to notify the agency within 30 days.

Subd. 2. Current and true information. Provides that if an adoptive parent knowingly provides false information or fails to notify the commissioner or agency of changes that may affect eligibility, then the adoptive parent may be investigated for theft and face criminal sanctions.

8 Termination of agreement. Creates § 259A.35.

Subd. 1. Reasons for termination. Lists the reasons for termination of an adoption agreement and the circumstances under which the adoptive parent is no longer legally responsible for the child.

Subd. 2. Death of adoptive parent or adoption dissolution. States that the adoption

assistance agreement ends upon the death or termination of parent rights of the adoptive parent.

Subd. 3. Termination notice for parent. Requires the commissioner to send written notification of termination of adoption assistance to the adoptive parent.

9 Assignment of adoption assistance agreement. Creates § 259A.40.

Subd. 1. Continuing child's eligibility for title IV-E adoption assistance in a subsequent adoption. Provides that the child remains eligible in a subsequent adoption if the specified criteria are met.

Subd. 2. Assigning a child's adoption assistance to a court-appointed guardian. In cases where a child is eligible for state-funded adoption assistance, the commissioner can consent, for a maximum of six months, to continue paying the assistance to a guardian appointed by the court upon the death of the adoptive parent.

10 Extension of adoption assistance agreement. Creates § 259A.45.

Subd. 1. General requirements. Provides that a child may be eligible for adoption assistance up to age 21 in limited circumstances. Lists the process for requesting the extension.

Subd. 2. Extension past age 18 for child adopted after 16th birthday. Provides the criteria under which a child who was adopted after their 16th birthday remains eligible for adoption assistance to age 21.

Subd. 3. Extension past age 18 for child adopted prior to 16th birthday. Provides the criteria under which a child who was adopted before their 16th birthday remains eligible for adoption assistance to age 21.

11 Overpayments of adoption assistance. Creates § 259A.50. States that the commissioner is entitled to recover overpayments paid to the adoptive parents even if the overpayment was caused by agency error.

12 Appeals and fair hearings. Creates § 259A.55.

Subd. 1. Appeals for denials, modifications, or terminations. Allows an adoptive parent or a prospective adoptive parent to appeal to the commissioner under specified circumstances.

Subd. 2. Extenuating circumstances. Allows an adoptive parent who believes extenuating circumstances resulted in the adoption being finalized before the adoption assistance agreement was fully executed to request a fair hearing. Places the burden of proof on the adoptive parent.

13 Interstate compact on adoption and medical assistance. Creates § 259A.65.

Subd. 1. Purpose. Provides a purpose and policy statement.

Subd. 2. Definitions. Defines "adoption assistance state," "resident state," and "state."

Subd. 3. Compacts authorized. Grants the commissioner authority to develop, negotiate, and enter into interstate compacts with other states to implement Medicaid for children receiving adoption assistance.

Subd. 4. Contents of compacts. Lists the elements that must be included in the compacts.

Subd. 5. Duties of the commissioner of human services regarding medical assistance. Lists

the commissioner's responsibilities in providing medical assistance for children with an adoption assistance agreement.

Subd. 6. Cooperation with Medicaid. Instructs the adoptive parents to abide by Medicaid program requirements.

Subd. 7. Federal participation. Requires the commissioner to comply with state and federal laws.

14 Reimbursement of nonrecurring adoption expenses. Creates § 259A.70. Requires the commissioner to reimburse an adoptive parent for costs incurred in adopting a child with special needs according to section 259A.10, subdivision 2. Provides that reimbursement cannot exceed \$2,000. Sets out the procedures for adoptive parents to receive reimbursement and circumstances under which they are eligible.

15 Reimbursement of certain agency costs; purchase of service contracts. Creates § 259A.75.

Subd. 1. General information. Provides that a Minnesota county or tribal agency shall receive a 100 percent reimbursement from the commissioner for the cost of contracted adoption placement services that are not reimbursed under other federal or state sources. Allows the commissioner to spend up to \$16,000 for each contract. Instructs the commissioner to set aside an amount not to exceed 5 percent of the fiscal year appropriation for adoption assistance to reimburse placing agencies for child-specific adoption services.

Subd. 2. Child eligibility criteria. Lists the criteria for a child to be the subject of a purchase of service contract.

Subd. 3. Agency eligibility criteria. Requires an agency to be licensed in Minnesota and provides that reimbursement will only be made only for services provided before finalization of the adoption.

Subd. 4. Application and eligibility determination. Requires the agency requesting reimbursement to submit a completed purchase of service application to the commissioner. Provides that the commissioner shall determine eligibility for reimbursement.

Subd. 5. Reimbursement process. Requires the agency providing services to track all billable services. Allows the commissioner to determine whether the requested reimbursement costs are reasonable and appropriate.

Subd. 6. Retention of purchase of service records. Requires agencies to maintain all records related to purchase of service contracts in compliance with the department's record retention schedule.

Article 2: Child Protection

Overview

This article consolidates statutes so that all provisions related to permanency and adoptions are in one chapter. It clarifies permanency requirements.

1 Duty to ensure placement prevention and family reunification; reasonable efforts. Amends § 260.012. Adds that reasonable efforts to prevent placement and for reunification are not required when the parent has committed sexual abuse against the child or another child of the parent, or the parent has committed an offense that requires registration as a predatory offender.

2 Title, intent, and construction. Amends § 260C.001.

Subd. 1. Citation; scope. Changes "child protection" to "juvenile protection." Adds that juvenile protection proceedings include matters involving child in need of services or protection, permanency, postpermanency reviews, and adoption.

Subd. 2. Juvenile protection proceedings. Makes technical changes and adds a cross-reference. Adds that a purpose of juvenile protection proceedings is to ensure appropriate permanency planning for a child in foster care.

Subd. 3. Permanency, termination of parental rights, and adoption. Adds that the purpose of laws related to adoption is to ensure reasonable efforts are made to finalize an adoptive home for a child who is under the guardianship of the commissioner in a timely manner.

Subd. 4. Construction. Makes a technical change.

- 3 Child.** Amends § 260C.007, subd. 4. Adds a cross-reference to chapter 260D.
- 4 Putative father.** Amends § 260C.007, by adding subdivision 26a. Provides that putative father has the meaning given in section 259.21, subdivision 12.
- 5 Responsible social services agency.** Amends § 260C.007, by adding subdivision 27a. Defines responsible social services agency as the county social services agency responsible for public child welfare.
- 6 Sibling.** Amends § 260C.007, by adding subdivision 31. Defines sibling as one of two or more individuals who have one or both parents in common through blood, marriage, or adoption.
- 7 Other matters relating to children.** Amends § 260C.101, subdivision 2. Adds that the juvenile court has jurisdiction over permanency matters. Adds that the court retains jurisdiction of children over age 18 in certain circumstances. Strikes obsolete language.
- 8 Determining parentage.** Amends § 260C.150, subdivision 1. Provides the procedures for determining parentage.
- 9 Investigation.** Amends § 260C.157, subdivision 1. Adds cross-references to the language on adoption investigations.
- 10 Juvenile treatment screening team.** Amends § 260C.157, subdivision 3. Requires the juvenile treatment screening team to conduct screenings within 15 days of a request for a screening. Adds the child's parent, guardian, or permanent legal custodian to the membership of the screening team. Provides an August 1, 2011, effective date.
- 11 General.** Amends § 260C.163, subdivision 1. Clarifies that adoption proceedings are closed to the public and all records are inaccessible except as provided in the Minnesota Rules of Adoption Procedure. Makes technical changes.
- 12 County attorney.** Amends § 260C.163, subdivision 4. Clarifies that in adoption proceedings the county attorney has the responsibility to advance the public interest in the welfare of the child.
- 13 Rights of parties at hearing.** Amends § 260C.163, subd. 8. Clarifies who can be heard at an adoption proceeding. Provides that a child has a right to be consulted about the adoption plan for the child. Requires a child age 16 or over to consent to the adoption.
- 14 Hearing and release requirements.** Amends § 260C.178, subdivision 1. Adds that reunification efforts are not required if a parent has committed sexual abuse against the child or another child of the parent or if the parent has committed an offense that requires registration as a predatory offender. Updates cross-references. Adds that when a child has been ordered into an out-of-home placement,

the court can order assessments of the parent in order to develop a reunification plan.

- 15 Out-of-home placement plan.** Amends § 260C.178, subdivision 7. Makes technical and clarifying changes.
- 16 Best interest of the child.** Amends § 260C.193, subdivision 3. Requires the court to review the status of an agency's efforts to locate relatives no later than three months after a child has been removed from the home. Clarifies that the best interest standards apply throughout the juvenile protection process.
- 17 Jurisdiction to review foster care to age 21, termination of jurisdiction, jurisdiction to age 18.** Amends § 260C.193, subdivision 6. Corrects cross-references. Adds the circumstances under which the juvenile court retains jurisdiction over a child when the child becomes age 18.
- 18 Written findings.** Amends § 260C.201, subdivision 2. Expands written findings of fact that must be included in the court's dispositional order.
- 19 Court review of foster care.** Amends § 260C.201, subdivision 10. Adds that the court must also review the child's placement during judicial reviews. Corrects cross-references.
- 20 Relative search.** Amends § 260C.212, subdivision 5. Requires ongoing efforts to locate a relative for placement of a child. Allows agencies to use any reasonable means to locate a relative. Adds a requirement for the agency to issue a report to the court within three months after the child's foster care placement on the agency's efforts to locate relatives. Allows the court, when satisfied the agency has exercised due diligence to locate relatives, to find the agency has used reasonable efforts to locate a relative.
- 21 Administrative or court review of placements.** Amends § 260C.212, subdivision 7. Clarifies the responsibility for administrative reviews of placement. Sets out the requirements for a state agency when a child will be discharged from foster care at age 18 or older. Specifies components of the written plan.
- 22 Duties of commissioner.** Amends § 260C.215, subdivision 4. Makes technical and format changes. Adds that if a foster parent plans to adopt, the licensing authority responsible for the foster parent's license must complete the updated home study and background check. Adds that if an adoptive parent plans to adopt, the licensing authority responsible for the adoptive parent's license must complete the updated home study and background check. Deletes references to provisions prohibited by federal law related recruitment of foster and adoptive parents.
- 23 Duties of child-placing agencies.** Amends § 260C.215, subdivision 6. Deletes references to provisions prohibited by federal law related to recruitment of foster and adoptive parents.
- 24 Voluntary foster care for children over age 18; required court review.** Creates § 260C.229. Sets out the procedures and requirements for voluntary placement.
- 25 Findings regarding reasonable efforts.** Amends § 260C.301, subdivision 8. Makes clarifying changes.
- 26 Change of guardian; termination of guardianship.** Amends § 260C.328. Strikes language permitting the guardian and the foster child petition the court to discharge the guardian and appoint the foster parents as guardian of the child. Allows a child who has not been adopted to continue in or reenter foster care at age 18 or after.
- 27 Foster care benefits past age 18.** Amends § 260C.451. Clarifies eligibility for individual over age 18 to reenter foster care. Provides that a child who can safely return home, a youth who is receiving adult services due to a developmental disability, or a youth who can be adopted or have a permanent

legal home with a relative are ineligible for foster care reentry.

- 28 Permanency proceedings.** Creates § 260C.503.
- Subd. 1. Required permanency proceedings.** Requires permanency proceedings no later than 12 months after the child was placed in care.
- Subd. 2. Termination of parental rights.** Lists the conditions under which the agency must request the county attorney immediately file a petition to terminate parental rights.
- Subd. 3. Calculating time to required permanency proceeding.** Sets out the method of determining the time when permanency hearings are required to be held.
- 29 Petition.** Creates § 260C.505. Establishes the time limits for when a petition must be filed and upon whom it must be served. Provides that a petition is not required if the child is being reunified with the parent.
- 30 Admit-deny hearing.** Creates § 260C.507. Established the time limits for when the admit-deny hearing on a permanency or TPR petition must be held. Requires the court to enter findings.
- 31 Trial.** Creates § 260C.509. Requires a trial to be held in a timely fashion.
- 32 Best interests of the child.** Creates § 260C.511. Reorders, renumbers existing statute, 260C.201, subdivision 11.
- 33 Permanency dispositions when child cannot return home.** Creates § 260C.513. Provides that if a child cannot return home, the preferred permanency option is TPR and guardianship to the commissioner.
- 34 Permanency disposition orders.** Creates § 260C.515. Lists the options available to the court for dispositional orders when a child cannot be returned to the home from which the child was removed.
- 35 Findings and content of order for permanency disposition.** Creates § 260C.517. Lists the judicial findings that must be included in an order for out-of-home placement, except for a TPR order.
- 36 Further court hearings.** Creates § 260C.519. Lists when hearings are required after a permanency disposition order has been entered.
- 37 Court reviews after permanency disposition order.** Creates § 260C.521. Requires annual reviews and details the issues that must be examined at the hearing. Describes the methods and standards for modification of placement orders involving relatives or parents.

Article 3: Technical and Conforming Amendments

Overview

This article makes technical changes to conform with changes made in article 2, and to conform statutes to requirements of federal law.

- 1 American Indian child welfare projects.** Amends § 256.01, subd. 14b. Changes the definition of "American Indian child" to a person under 21 years of age.
- 2 Records required.** Amends § 257.01. Makes a conforming change to reflect that youth can remain in foster care to age 21.
- 3 Reimbursement of nonrecurring adoption expenses.** Amends § 259.73. Strikes language that now appears in section 259A.70.

- 4** **Voluntary and involuntary.** Amends § 260C.301, subdivision 1. Corrects a cross-reference.
- 5** **Annual review.** Amends § 260D.08. Clarifies requirements for judicial reviews of children in voluntary foster care under this chapter.
- 6** **Disposition of child of parent arrested.** Amends § 611.012. Allows a law enforcement officer to release a child to a person designated by the parent unless the child is found in surroundings or conditions that endanger the child.
- 7** **Definitions.** Amends § 626.556, subdivision 2. Conforms the maltreatment of minors act to federal law requiring that a parent's status as a predatory offender be added to the definition of threatened sexual abuse. Adds fetal alcohol syndrome to prenatal substance abuse exposure definition.
- 8** **Duties of local welfare agency and local law enforcement agency upon receipt of report.** Amends § 626.556, subdivision 10. Makes technical changes to reflect the difference between an assessment and an investigation.
- 9** **Determinations.** Amends § 626.556, subdivision 10e. Provides that a child under the age of 10 cannot be classified as the perpetrator of maltreatment.
- 10** **Notice of determinations.** Amends § 626.556, subdivision 10f. Makes technical changes to reflect the difference between an assessment and an investigation.
- 11** **Administrative reconsideration; review panel.** Amends § 626.556, subdivision 10i. Strikes the requirement for the commissioner to establish a panel to review complaints about facility investigations. Clarifies that there is a right to an administrative appeal.
- 12** **Release of certain assessment or investigative records to other counties.** Amends § 626.556, subdivision 10k. Clarifies that investigative and assessment records can be released.
- 13** **Revisor's instruction.** Instructs the revisor to renumber specific sections and make necessary cross-reference changes.

Article 4: Child Support

Overview

This article makes technical changes related to recognition of parentage forms and to a court's continuing, exclusive jurisdiction over child support cases.

- 1** **Hospital and Department of Health; recognition form.** Amends § 257.75, subdivision 7. Adds that hospitals and the registrar of vital statistics must help new parents complete recognition of parentage form and provide notary services. Requires hospitals to timely file the form with the registrar of vital statistics. This change is being made to comply with federal requirements.
- 2** **Continuing, exclusive jurisdiction.** Amends § 518C.205. Clarifies that when there is an open child support case, when both parents and the child move from the state of Minnesota, the Minnesota courts do not retain continuing, exclusive jurisdiction over the child support matter.