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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 3863

May 16, 2010

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The bill was read for the first time and referred to the Committee on Civil Justice

1.1 A bill for an act
1.2 relating to child protection; adding guardian ad litem authority; amending
1.3 Minnesota Statutes 2008, sections 260C.193, subdivision 6, as amended;
1.4 260C.209, subdivision 1; Minnesota Statutes 2009 Supplement, section
1.5 260C.212, subdivision 4a.

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

1.7 Section 1. Minnesota Statutes 2008, section 260C.193, subdivision 6, as amended by
1.8 Laws 2010, chapter 269, article 3, section 4, is amended to read:

1.9 Subd. 6. **Jurisdiction to review foster care to age 21, termination of jurisdiction,**
1.10 **jurisdiction to age 18.** (a) Jurisdiction over a child in foster care pursuant to section
1.11 260C.451 may continue to age 21 for the purpose of conducting the reviews required under
1.12 section 260C.201, subdivision 11, paragraph (d), 260C.212, subdivision 7, or 260C.317,
1.13 subdivision 3. Jurisdiction over a child in foster care pursuant to section 260C.451 shall
1.14 not be terminated without giving the child notice of any motion or proposed order to
1.15 dismiss jurisdiction and an opportunity to be heard on the appropriateness of the dismissal.
1.16 When a child in foster care pursuant to section 260C.451 asks to leave foster care or
1.17 actually leaves foster care, the court may terminate its jurisdiction.

1.18 (b) Except when a court order is necessary for a child to be in foster care or when
1.19 continued review under (1) section 260C.212, subdivision 7, paragraph (d), or 260C.201,
1.20 subdivision 11, paragraph (d); and (2) section 260C.317, subdivision 3, is required for a
1.21 child in foster care under section 260C.451, the court may terminate jurisdiction on its
1.22 own motion or the motion of any interested party and the concurrence of the guardian
1.23 ad litem, if one has been appointed, upon a determination that jurisdiction is no longer
1.24 necessary to protect the child's best interests.

2.1 (c) Unless terminated by the court, and except as otherwise provided in this
2.2 subdivision, the jurisdiction of the court shall continue until the child becomes 18 years
2.3 of age.

2.4 Sec. 2. Minnesota Statutes 2008, section 260C.209, subdivision 1, is amended to read:

2.5 Subdivision 1. **Subjects.** (a) The responsible social services agency may have
2.6 access to the criminal history and history of child and adult maltreatment on the following
2.7 individuals:

2.8 (1) a noncustodial parent or nonadjudicated parent who is being assessed for
2.9 purposes of providing day-to-day care of a child temporarily or permanently under section
2.10 260C.212, subdivision 4, and any member of the parent's household who is over the age of
2.11 13 when there is a reasonable cause to believe that the parent or household member over
2.12 age 13 has a criminal history or a history of maltreatment of a child or vulnerable adult
2.13 which would endanger the child's health, safety, or welfare;

2.14 (2) an individual whose suitability for relative placement under section 260C.212,
2.15 subdivision 5, is being determined and any member of the relative's household who is
2.16 over the age of 13 when:

2.17 (i) the relative must be licensed for foster care; or

2.18 (ii) the background study is required under section 259.53, subdivision 2; or

2.19 (iii) the agency or the commissioner has reasonable cause to believe the relative
2.20 or household member over the age of 13 has a criminal history which would not make
2.21 transfer of permanent legal and physical custody to the relative under section 260C.201,
2.22 subdivision 11, in the child's best interest; and

2.23 (3) a parent, following an out-of-home placement, when the responsible social
2.24 services agency has reasonable cause to believe that the parent has been convicted of a
2.25 crime directly related to the parent's capacity to maintain the child's health, safety, or
2.26 welfare or the parent is the subject of an open investigation of, or has been the subject
2.27 of a substantiated allegation of, child or vulnerable-adult maltreatment within the past
2.28 ten years.

2.29 "Reasonable cause" means that the agency has received information or a report from the
2.30 subject or a third person that creates an articulable suspicion that the individual has a
2.31 history that may pose a risk to the health, safety, or welfare of the child. The information
2.32 or report must be specific to the potential subject of the background check and shall not
2.33 be based on the race, religion, ethnic background, age, class, or lifestyle of the potential
2.34 subject.

3.1 (b) The responsible social service agency shall request a criminal history and history
3.2 of child and adult maltreatment on any noncustodial parent or nonadjudicated parent who
3.3 is being assessed for purposes of providing day-to-day care of a child temporarily or
3.4 permanently under section 260C.212, subdivision 4, when the parent has never previously
3.5 had contact with the child. The social service agency shall submit the results of the
3.6 background study to the court with jurisdiction over the child custody matter.

3.7 Sec. 3. Minnesota Statutes 2009 Supplement, section 260C.212, subdivision 4a,
3.8 is amended to read:

3.9 Subd. 4a. **Monthly caseworker and guardian ad litem visits.** (a) Every child in
3.10 foster care or on a trial home visit shall be visited by the child's caseworker, the child's
3.11 guardian ad litem, or another person who has responsibility for visitation of the child on
3.12 a monthly basis, with the majority of visits occurring in the child's residence. For the
3.13 purposes of this section, the following definitions apply:

3.14 (1) "visit" is defined as a face-to-face contact between a child and the child's
3.15 caseworker;

3.16 (2) "visited on a monthly basis" is defined as at least one visit per calendar month;

3.17 (3) "the child's caseworker" is defined as the person who has responsibility for
3.18 managing the child's foster care placement case as assigned by the responsible social
3.19 service agency;

3.20 (4) "the child's guardian ad litem" is defined as the person appointed by the court to
3.21 protect the interests of the child; and

3.22 ~~(4)~~ (5) "the child's residence" is defined as the home where the child is residing, and
3.23 can include the foster home, child care institution, or the home from which the child was
3.24 removed if the child is on a trial home visit.

3.25 (b) Caseworker and guardian ad litem visits shall be of sufficient substance and
3.26 duration to address issues pertinent to case planning and service delivery to ensure the
3.27 safety, permanency, and well-being of the child, including whether the child is enrolled
3.28 and attending school as required by law.

3.29 (c) Every child who is returned to the home from which the child was removed,
3.30 placed with a relative, or placed with a noncustodial parent, shall be made available to
3.31 the child's caseworker and the child's guardian ad litem during a home visit. Failure to
3.32 make the child available shall be cause for the caseworker or the guardian ad litem to take
3.33 whatever actions are necessary to compel the caregiver or parent to produce the child.