

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 5126

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DATE
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Introduction and first reading
Referred to Health and Human Services

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to human services; eliminating parental fees for out-of-home placements;
1.3 amending Minnesota Statutes 2022, sections 252.27, subdivision 2; 260B.331,
1.4 subdivision 1; 260C.331, subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2022, section 252.27, subdivision 2, is amended to read:

1.7 Subd. 2. **Parental responsibility.** (a) Responsibility of the parents for the cost of services
1.8 shall be based upon ability to pay. The state agency shall adopt rules to determine
1.9 responsibility of the parents for the cost of services when:

1.10 (1) insurance or other health care benefits pay some but not all of the cost of services;

1.11 and

1.12 (2) no insurance or other health care benefits are available.

1.13 (b) A child's parents or guardians are not responsible for the cost of care for children
1.14 under this section and sections 246.511, 251.012, 254B.04, and 256B.14, if the child's
1.15 parents or guardians reside in this state.

1.16 Sec. 2. Minnesota Statutes 2022, section 260B.331, subdivision 1, is amended to read:

1.17 Subdivision 1. **Care, examination, or treatment.** (a)(1) Whenever legal custody of a
1.18 child is transferred by the court to a local social services agency, or

1.19 (2) whenever legal custody is transferred to a person other than the local social services
1.20 agency, but under the supervision of the local social services agency, and

2.1 (3) whenever a child is given physical or mental examinations or treatment under order
2.2 of the court, and no provision is otherwise made by law for payment for the care,
2.3 examination, or treatment of the child, these costs are a charge upon the welfare funds of
2.4 the county in which proceedings are held upon certification of the judge of juvenile court.

2.5 (b) The court may order, and the local social services agency may require, the parents
2.6 or custodian of a child, while the child is under the age of 18, to use income and resources
2.7 attributable to the child for the period of care, examination, or treatment, except for clothing
2.8 and personal needs allowance as provided in section 256B.35, to reimburse the county for
2.9 the cost of care, examination, or treatment. Income and resources attributable to the child
2.10 include, but are not limited to, Social Security benefits, Supplemental Security Income
2.11 (SSI), veterans benefits, railroad retirement benefits and child support. When the child is
2.12 over the age of 18, and continues to receive care, examination, or treatment, the court may
2.13 order, and the local social services agency may require, reimbursement from the child for
2.14 the cost of care, examination, or treatment from the income and resources attributable to
2.15 the child less the clothing and personal needs allowance. The local social services agency
2.16 shall determine whether requiring reimbursement, ~~either through child support or parental~~
2.17 ~~fees,~~ for the cost of care, examination, or treatment from income and resources attributable
2.18 to the child is in the child's best interests. In determining whether to require reimbursement,
2.19 the local social services agency shall consider:

2.20 (1) whether requiring reimbursement would compromise a parent's ability to meet the
2.21 child's treatment and rehabilitation needs before the child returns to the parent's home;

2.22 (2) whether requiring reimbursement would compromise the parent's ability to meet the
2.23 child's needs after the child returns home; and

2.24 (3) whether redirecting existing child support payments or changing the representative
2.25 payee of social security benefits to the local social services agency would limit the parent's
2.26 ability to maintain financial stability for the child upon the child's return home.

2.27 (c) If the income and resources attributable to the child are not enough to reimburse the
2.28 county for the full cost of the care, examination, or treatment, ~~the court may inquire into~~
2.29 ~~the ability of the parents to reimburse the county for the cost of care, examination, or~~
2.30 ~~treatment and, after giving the parents a reasonable opportunity to be heard, the court may~~
2.31 must not order, and the local social services agency ~~may~~ must not require, the parents to
2.32 contribute to the cost of care, examination, or treatment of the child. ~~When determining the~~
2.33 ~~amount to be contributed by the parents, the court shall use a fee schedule based upon ability~~
2.34 ~~to pay that is established by the local social services agency and approved by the~~

3.1 ~~commissioner of human services. The court shall take into account any expenses that the~~
3.2 ~~parents may have incurred as a result of the offense, including but not limited to co-payments~~
3.3 ~~for mental health treatment and attorney fees. The income of a stepparent who has not~~
3.4 ~~adopted a child shall be excluded in calculating the parental contribution under this section.~~
3.5 ~~The local social services agency shall determine whether requiring reimbursement from the~~
3.6 ~~parents, either through child support or parental fees, for the cost of care, examination, or~~
3.7 ~~treatment from income and resources attributable to the child is in the child's best interests.~~
3.8 ~~In determining whether to require reimbursement, the local social services agency shall~~
3.9 ~~consider:~~

3.10 ~~(1) whether requiring reimbursement would compromise a parent's ability to meet the~~
3.11 ~~child's treatment and rehabilitation needs before the child returns to the parent's home;~~

3.12 ~~(2) whether requiring reimbursement would compromise the parent's ability to meet the~~
3.13 ~~child's needs after the child returns home; and~~

3.14 ~~(3) whether requiring reimbursement would compromise the parent's ability to meet the~~
3.15 ~~needs of the family.~~

3.16 (d) If the local social services agency determines that requiring reimbursement is in the
3.17 child's best interests, the court shall order the amount of reimbursement attributable to ~~the~~
3.18 ~~parents or custodian, or attributable to the child, or attributable to both sources,~~ withheld
3.19 under chapter 518A from the income of the parents or the custodian of the child. A parent
3.20 or custodian who fails to pay without good reason may be proceeded against for contempt,
3.21 or the court may inform the county attorney, who shall proceed to collect the unpaid sums,
3.22 or both procedures may be used.

3.23 (e) If the court orders a physical or mental examination for a child, the examination is
3.24 a medically necessary service for purposes of determining whether the service is covered
3.25 by a health insurance policy, health maintenance contract, or other health coverage plan.
3.26 Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical
3.27 necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of
3.28 coverage, co-payments or deductibles, provider restrictions, or other requirements in the
3.29 policy, contract, or plan that relate to coverage of other medically necessary services.

3.30 Sec. 3. Minnesota Statutes 2022, section 260C.331, subdivision 1, is amended to read:

3.31 Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights are
3.32 terminated,

4.1 (1) whenever legal custody of a child is transferred by the court to a responsible social
4.2 services agency,

4.3 (2) whenever legal custody is transferred to a person other than the responsible social
4.4 services agency, but under the supervision of the responsible social services agency, or

4.5 (3) whenever a child is given physical or mental examinations or treatment under order
4.6 of the court, and no provision is otherwise made by law for payment for the care,
4.7 examination, or treatment of the child, these costs are a charge upon the welfare funds of
4.8 the county in which proceedings are held upon certification of the judge of juvenile court.

4.9 (b) The court may order, and the responsible social services agency may require, the
4.10 parents or custodian of a child, while the child is under the age of 18, to use income and
4.11 resources attributable to the child for the period of care, examination, or treatment, except
4.12 for clothing and personal needs allowance as provided in section 256B.35, to reimburse the
4.13 county for the cost of care, examination, or treatment. Income and resources attributable to
4.14 the child include, but are not limited to, Social Security benefits, Supplemental Security
4.15 Income (SSI), veterans benefits, railroad retirement benefits and child support. When the
4.16 child is over the age of 18, and continues to receive care, examination, or treatment, the
4.17 court may order, and the responsible social services agency may require, reimbursement
4.18 from the child for the cost of care, examination, or treatment from the income and resources
4.19 attributable to the child less the clothing and personal needs allowance. Income does not
4.20 include earnings from a child over the age of 18 who is working as part of a plan under
4.21 section 260C.212, subdivision 1, paragraph (c), clause (12), to transition from foster care,
4.22 or the income and resources that are needed to complete the requirements listed in section
4.23 260C.203. The responsible social services agency shall determine whether requiring
4.24 reimbursement, ~~either through child support or parental fees,~~ for the cost of care, examination,
4.25 or treatment from the parents or custodian of a child is in the child's best interests. In
4.26 determining whether to require reimbursement, the responsible social services agency shall
4.27 consider:

4.28 (1) whether requiring reimbursement would compromise the parent's ability to meet the
4.29 requirements of the reunification plan;

4.30 (2) whether requiring reimbursement would compromise the parent's ability to meet the
4.31 child's needs after reunification; and

4.32 (3) whether redirecting existing child support payments or changing the representative
4.33 payee of social security benefits to the responsible social services agency would limit the
4.34 parent's ability to maintain financial stability for the child.

5.1 (c) If the income and resources attributable to the child are not enough to reimburse the
5.2 county for the full cost of the care, examination, or treatment, ~~the court may inquire into~~
5.3 ~~the ability of the parents to reimburse the county for the cost of care, examination, or~~
5.4 ~~treatment and, after giving the parents a reasonable opportunity to be heard, the court may~~
5.5 must not order, and the responsible social services agency ~~may~~ must not require, the parents
5.6 to contribute to the cost of care, examination, or treatment of the child. ~~When determining~~
5.7 ~~the amount to be contributed by the parents, the court shall use a fee schedule based upon~~
5.8 ~~ability to pay that is established by the responsible social services agency and approved by~~
5.9 ~~the commissioner of human services. The income of a stepparent who has not adopted a~~
5.10 ~~child shall be excluded in calculating the parental contribution under this section. In~~
5.11 ~~determining whether to require reimbursement, the responsible social services agency shall~~
5.12 ~~consider:~~

5.13 ~~(1) whether requiring reimbursement would compromise the parent's ability to meet the~~
5.14 ~~requirements of the reunification plan;~~

5.15 ~~(2) whether requiring reimbursement would compromise the parent's ability to meet the~~
5.16 ~~child's needs after reunification; and~~

5.17 ~~(3) whether requiring reimbursement would compromise the parent's ability to meet the~~
5.18 ~~needs of the family.~~

5.19 (d) If the responsible social services agency determines that reimbursement is in the
5.20 child's best interests, the court shall order the amount of reimbursement attributable to ~~the~~
5.21 ~~parents or custodian, or attributable to the child, or attributable to both sources,~~ withheld
5.22 under chapter 518A from the income of the parents or the custodian of the child. A parent
5.23 or custodian who fails to pay without good reason may be proceeded against for contempt,
5.24 or the court may inform the county attorney, who shall proceed to collect the unpaid sums,
5.25 or both procedures may be used.

5.26 (e) If the court orders a physical or mental examination for a child, the examination is
5.27 a medically necessary service for purposes of determining whether the service is covered
5.28 by a health insurance policy, health maintenance contract, or other health coverage plan.
5.29 Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical
5.30 necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of
5.31 coverage, co-payments or deductibles, provider restrictions, or other requirements in the
5.32 policy, contract, or plan that relate to coverage of other medically necessary services.

5.33 (f) Notwithstanding paragraph (b), (c), or (d), a parent, custodian, or guardian of the
5.34 child is not required to use income and resources attributable to the child to reimburse the

- 6.1 county for costs of care and is not required to contribute to the cost of care of the child
- 6.2 during any period of time when the child is returned to the home of that parent, custodian,
- 6.3 or guardian pursuant to a trial home visit under section 260C.201, subdivision 1, paragraph
- 6.4 (a).