

Statutory Excerpts Related to Permanency

DETERMINING PARENTAGE AND ENGAGING FATHERS

Determining parentage (Minn. Stat. § 260C.150, subd. 1)

A parent and child relationship may be established in juvenile court as part of a child protection proceeding using the procedures in section [257.54](#) and the Minnesota Rules of Juvenile Protection Procedure.

Genetic test results; duty to cooperate. (Minn. Stat. § 260C.150, subd. 2)

- (a) For purposes of proceedings under this chapter, a positive test result under section 257.62, subdivision 5, shall be used by the court to treat a person determined to be the biological father of a child by a positive test as if the individual were a presumed father under section 257.55, including giving the biological father the right to notice of proceedings and the right to be assessed and considered for day-to-day care of his child under section 260C.212, subdivision 4.
- (b) Nothing in this subdivision relieves a person determined to be the biological father of the child by a positive test from the duty to cooperate with paternity establishment proceedings under section [260C.212, subdivision 4](#).

Identifying parents of child; diligent efforts; data. (Minn. Stat. § 260C.150, subd. 3)

- (a) The responsible social services agency shall make diligent efforts to identify and locate both parents of any child who is the subject of proceedings under this chapter. Diligent efforts include:
- asking the custodial or known parent to identify any nonresident parent of the child and provide information that can be used to verify the nonresident parent's identity including
 - the dates and locations of marriages and divorces;
 - dates and locations of any legal proceedings regarding paternity;
 - date and place of the child's birth;
 - nonresident parent's full legal name;
 - nonresident parent's date of birth, or if the nonresident parent's date of birth is unknown, an approximate age;
 - the nonresident parent's Social Security number; the nonresident parent's whereabouts including last known whereabouts; and
 - the whereabouts of relatives of the nonresident parent.
 - For purposes of this subdivision, "nonresident parent" means a parent who does not reside in the same household as the child or did not reside in the same household as the child at the time the child was removed when the child is in foster care;
 - obtaining information that will identify and locate the nonresident parent from the county and state of Minnesota child support enforcement information system;
 - requesting a search of the Minnesota Fathers' Adoption Registry 30 days after the child's birth; and
 - using any other reasonable means to identify and locate the nonresident parent.
- (b) The agency may disclose data which is otherwise private under section [13.46](#) or [626.556](#) in order to carry out its duties under this subdivision.

Court inquiry regarding identities of both parents. (Minn. Stat. § 260C.150, subd. 4)

- At the first hearing regarding the petition and at any subsequent hearings, as appropriate, the court shall inquire of the parties whether the identities and whereabouts of both parents of the child are known and correctly reflected in the petition filed with the court.
- If either the identity or whereabouts of both parents is not known, the court shall make inquiry on the record of any party or participant present regarding the identity and whereabouts of the unknown parent of the child.

Sworn testimony from known parent. (Minn. Stat. § 260C.150, subd. 5)

- When the county attorney requests, the court shall have the custodial or known parent of the child sworn for the purpose of answering questions relevant to the identity of a child's other parent in any proceeding under this chapter.
- The county attorney may request this information at any point in the proceedings if the custodial or known parent has not been cooperative in providing information to identify and locate the nonresident parent or information that may lead to identifying and locating the nonresident parent.
- If the child's custodial or known parent testifies that disclosure of identifying information regarding the identity of the nonresident parent would cause either the custodial or known parent, the child, or another family member to be endangered, the court may make a protective order regarding any information necessary to protect the custodial or known parent, the child, or family member.
- Consistent with section [260C.212, subdivision 4](#), paragraph (a), clause (4), if the child remains in the care of the known or custodial parent and the court finds it in the child's best interests, the court may waive notice to the nonresident parent of the child if such notice would endanger the known or custodial parent, the child, or another family member.

Court review of diligent efforts and service. (Minn. Stat. § 260C.150, subd. 6)

- As soon as possible, but not later than the first review hearing required under the Minnesota Rules of Juvenile Protection Procedure, unless the responsible social services agency has identified and located both parents of the child, the agency shall include in its report to the court required under the Minnesota Rules of Juvenile Protection Procedure a description of its diligent efforts to locate any parent who remains unknown or who the agency has been unable to locate.
- The court shall determine whether:
 - (1) diligent efforts have been made by the agency to identify both parents of the child,
 - (2) both parents have been located, and
 - (3) both parents have been served with the summons or notice of the proceedings required by section [260C.151](#) or [260C.152](#) and the Minnesota Rules of Juvenile Protection Procedure.
- If the court determines the agency has not made diligent efforts to locate both parents of the child or if both parents of the child have not been served as required by the rules, the court shall order the agency to take further steps to identify and locate both parents of the child identifying what further specific efforts are appropriate.
- If the summons has not been served on the parent as required by section [260C.151, subdivision 1](#), the court shall order further efforts to complete service.

Reasonable efforts findings. (Minn. Stat. § 260C.150, subd. 7)

- When the court finds the agency has made diligent efforts to identify and locate both parents of the child and one or both parents remain unknown or cannot be located, the court may find that the agency has made reasonable efforts under sections [260.012](#), [260C.178](#), [260C.201](#), and [260C.301](#), subdivision 8, regarding any parent who remains unknown or cannot be located.
- The court may also find that further reasonable efforts for reunification with the parent who cannot be identified or located would be futile.

Safe place for newborns. (Minn. Stat. § 260C.150, subd. 8)

- Neither the requirements of this subdivision nor the search requirements of section [259.52, subdivision 2](#), apply when the agency is proceeding under section [260C.217](#).
- When the agency is proceeding under section [260C.217](#), the agency has no duty to identify and locate either parent of the newborn and no notice or service of summons on either parent is required under section [260C.151](#) or [260C.152](#) or the Minnesota Rules of Juvenile Protection Procedure.

WORKING WITH RELATIVES

Relative search. (Minn. Stat. § 260C.212, subd. 5)

- (a) The responsible social services agency shall exercise due diligence to identify and notify adult relatives prior to placement or within 30 days after the child's removal from the parent.
- The county agency shall consider placement with a relative under subdivision 2 without delay.
 - The relative search required by this section shall be reasonable and comprehensive in scope and may last up to six months or until a fit and willing relative is identified.
 - The relative search required by this section shall include both maternal relatives of the child and paternal relatives of the child, if paternity is adjudicated.
 - The relatives must be notified:
 - (1) of the need for a foster home for the child, the option to become a placement resource for the child, and the possibility of the need for a permanent placement for the child;
 - (2) of their responsibility to keep the responsible social services agency informed of their current address in order to receive notice in the event that a permanent placement is sought for the child. A relative who fails to provide a current address to the responsible social services agency forfeits the right to notice of the possibility of permanent placement. A decision by a relative not to be a placement resource at the beginning of the case shall not affect whether the relative is considered for placement of the child with that relative later;
 - (3) that the relative may participate in the care and planning for the child, including that the opportunity for such participation may be lost by failing to respond to the notice; and
 - (4) of the family foster care licensing requirements, including how to complete an application and how to request a variance from licensing standards that do not present a safety or health risk to the child in the home under section [245A.04](#) and supports that are available for relatives and children who reside in a family foster home.
- (b) A responsible social services agency may disclose private or confidential data, as defined in section [13.02](#), to relatives of the child for the purpose of locating a suitable placement.
- The agency shall disclose only data that is necessary to facilitate possible placement with relatives.
 - If the child's parent refuses to give the responsible social services agency information sufficient to identify the maternal and paternal relatives of the child, the agency shall ask the juvenile court to order the parent to provide the necessary information.
 - If a parent makes an explicit request that relatives or a specific relative not be contacted or considered for placement, the agency shall bring the parent's request to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact relatives or a specific relative unless authorized to do so by the juvenile court.
- (c) When the placing agency determines that a permanent placement hearing is necessary because there is a likelihood that the child will not return to a parent's care, the agency may send the notice provided in paragraph (d), may ask the court to modify the requirements of the agency under this paragraph, or may ask the court to completely relieve the agency of the requirements of this paragraph.
- The relative notification requirements of this paragraph do not apply when the child is placed with an appropriate relative or a foster home that has committed to being the permanent legal placement for the child and the agency approves of that foster home for permanent placement of the child.
 - The actions ordered by the court under this section must be consistent with the best interests, safety, and welfare of the child.
- (d) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph (c), when the agency determines that it is necessary to prepare for the permanent placement determination hearing, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the

past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan.

- The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home.
 - The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement.
- (e) The Department of Human Services shall develop a best practices guide and specialized staff training to assist the responsible social services agency in performing and complying with the relative search requirements under this subdivision.

CASE PLANNING

Agency responsibilities for parents and children in placement.(Minn. Stat. § 260C.212, subd. 5)

- (a) When a child is in foster care, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.
- (1) The responsible social services agency shall assess whether a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child temporarily or permanently. An assessment under this clause may include, but is not limited to, obtaining information under section [260C.209](#). If after assessment, the responsible social services agency determines that a noncustodial or nonadjudicated parent is willing and capable of providing day-to-day care of the child, the responsible social services agency may seek authority from the custodial parent or the court to have that parent assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.
 - (2) If, after assessment, the responsible social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall:
 - i. prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care; and
 - ii. provide a parent who is the subject of a background study under section [260C.209](#) 15 days' notice that it intends to use the study to recommend against putting the child with that parent, and the court shall afford the parent an opportunity to be heard concerning the study. The results of a background study of a noncustodial parent shall not be used by the agency to determine that the parent is incapable of providing day-to-day care of the child unless the agency reasonably believes that placement of the child into the home of that parent would endanger the child's health, safety, or welfare.
 - (3) If, after the provision of services following an out-of-home placement plan under this section, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section [260C.201, subdivision 11](#). If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.
 - (4) The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section [260C.141](#).

Concurrent permanency planning defined *Minn. Stat. § 260C.212, subd. 1(a).*

- Concurrent Permanency Planning means working towards reunification, while at the same time developing and implementing an alternative permanency plan.
- Concurrent permanency planning involves a planning process for children who are placed out of the home of their parents pursuant to a court order, or who have been voluntarily placed out of the home by the parents for 60 days or more and who are not developmentally disabled or emotionally disabled. The social services agency shall develop an alternative or concurrent permanency plan while making reasonable efforts for reunification of the child with the family.
- The goals of concurrent permanency planning are to:
 - (1) achieve early permanency for children;
 - (2) decrease children's length of stay in foster care and reduce the number of moves children experience in foster care; and
 - (3) develop a group of families who will work towards reunification and also serve as permanent families for children.

Out-of-Home Placement Plan Requirements *Minn. Stat. § 260C.212, subd. 1(a).*

An out-of-home placement plan shall be filed with the court within 30 days of the date the child is placed in foster care by court order or a voluntary placement agreement between the responsible social services agency and the child's parent under 260C.212 or voluntary foster care for treatment under Minn. Stat chapter 260D.

Preparation of Out-of-Home Placement Plan

An out-of-home placement plan means a written document prepared by the social services agency jointly with the parent or parents or guardian of the child and in consultation with the child's guardian ad litem, the child's tribe, if the child is an Indian child, the child's foster parent or representative of the residential facility, and, where appropriate, the child.

Engaging parent in case planning process *Minn. Stat. § 260C.212, subd. 1(c).*

- The social services agency shall make reasonable attempts to engage both parents in case planning.
- If a parent refuses to cooperate in the development of the out-of-home placement plan or disagrees with the services recommended by the responsible social service agency, the agency shall note such refusal or disagreement for the court in the out-of-home placement plan filed with the court.
- The agency shall notify the court of the services it will provide or efforts it will attempt under the plan notwithstanding the parent's refusal to cooperate or disagreement with the services.
- The parent may ask the court to modify the plan to require different or additional services requested by the parent, but which the agency refused to provide.
- The court may approve the plan as presented by the agency or may modify the plan to require services requested by the parent. The court's approval shall be based on the content of the petition.

ONGOING PERMANENCY PLANNING FOR OLDER YOUTH

Review Hearing for Youth age 16 or older *Minn. Stat. § 260C.212, subd.7(d).*

- When a child is age 16 or older, at the required in-court hearing the court shall review the independent living plan and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care.
- The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care.
- At the court review, the responsible social services agency shall establish that it has given the notice required regarding the right to continued access to services for certain children in foster care past age 18 and of the right to appeal a denial of social services.
- If the agency is unable to establish that the notice, including the right to appeal a denial of social services, has been given, the court shall require the agency to give it.
- The court shall make findings regarding progress toward or accomplishment of the goals listed in the statute:

Transition Plan for Youth Age 17 or Older

- When a child is age 17 or older, during the 90-day period immediately prior to the date the child is expected to be discharged from foster care, the responsible social services agency is required to provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child.
 - The transition plan must be as detailed as the child may elect and include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services.
 - The county shall also provide the individual with appropriate contact information if the individual needs more information or needs help dealing with a crisis situation through age 21.
- Minn. Stat. § 260C.212, subd. 7(e).*