

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

S.F. No. 3647

(SENATE AUTHORS: HOFFMAN)

| DATE | D-PG | OFFICIAL STATUS |
|------------|-------|--|
| 03/02/2022 | 5182 | Introduction and first reading |
| | | Referred to Civil Law and Data Practices Policy |
| 03/23/2022 | 5563a | Comm report: To pass as amended and re-refer to Human Services Reform Finance and Policy |

1.1 A bill for an act

1.2 relating to child welfare; modifying provisions governing out-of-home placement

1.3 cost of care, examination, and treatment; amending Minnesota Statutes 2020,

1.4 sections 242.19, subdivision 2; 260B.331, subdivision 1; 260C.331, subdivision

1.5 1; 518A.43, subdivision 1.

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

1.7 Section 1. Minnesota Statutes 2020, section 242.19, subdivision 2, is amended to read:

1.8 Subd. 2. **Dispositions.** When a child has been committed to the commissioner of

1.9 corrections by a juvenile court, upon a finding of delinquency, the commissioner may for

1.10 the purposes of treatment and rehabilitation:

1.11 (1) order the child's confinement to the Minnesota Correctional Facility-Red Wing,

1.12 which shall accept the child, or to a group foster home under the control of the commissioner

1.13 of corrections, or to private facilities or facilities established by law or incorporated under

1.14 the laws of this state that may care for delinquent children;

1.15 (2) order the child's release on parole under such supervisions and conditions as the

1.16 commissioner believes conducive to law-abiding conduct, treatment and rehabilitation;

1.17 (3) order reconfinement or renewed parole as often as the commissioner believes to be

1.18 desirable;

1.19 (4) revoke or modify any order, except an order of discharge, as often as the commissioner

1.20 believes to be desirable;

1.21 (5) discharge the child when the commissioner is satisfied that the child has been

1.22 rehabilitated and that such discharge is consistent with the protection of the public;

2.1 (6) if the commissioner finds that the child is eligible for probation or parole and it
 2.2 appears from the commissioner's investigation that conditions in the child's or the guardian's
 2.3 home are not conducive to the child's treatment, rehabilitation, or law-abiding conduct, refer
 2.4 the child, together with the commissioner's findings, to a local social services agency or a
 2.5 licensed child-placing agency for placement in a foster care or, when appropriate, for
 2.6 initiation of child in need of protection or services proceedings as provided in sections
 2.7 260C.001 to 260C.421. The commissioner of corrections shall reimburse local social services
 2.8 agencies for foster care costs they incur for the child while on probation or parole to the
 2.9 extent that funds for this purpose are made available to the commissioner by the legislature.
 2.10 The juvenile court ~~shall~~ may order the parents of a child on probation or parole to pay the
 2.11 costs of foster care under section 260B.331, subdivision 1, if the local social services agency
 2.12 has determined that requiring reimbursement is in the child's best interests, according to
 2.13 their ability to pay, and to the extent that the commissioner of corrections has not reimbursed
 2.14 the local social services agency.

2.15 Sec. 2. Minnesota Statutes 2020, section 260B.331, subdivision 1, is amended to read:

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

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

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

2.24 (b) The court ~~shall~~ may order, and the local social services agency ~~shall~~ may require,
 2.25 the parents or custodian of a child, while the child is under the age of 18, to use ~~the total~~
 2.26 income and resources attributable to the child for the period of care, examination, or
 2.27 treatment, except for clothing and personal needs allowance as provided in section 256B.35,
 2.28 to reimburse the county for the cost of care, examination, or treatment. Income and resources
 2.29 attributable to the child include, but are not limited to, Social Security benefits, Supplemental
 2.30 Security Income (SSI), veterans benefits, railroad retirement benefits and child support.
 2.31 When the child is over the age of 18, and continues to receive care, examination, or treatment,
 2.32 the court ~~shall~~ may order, and the local social services agency ~~shall~~ may require,
 2.33 reimbursement from the child for the cost of care, examination, or treatment from the income
 2.34 and resources attributable to the child less the clothing and personal needs allowance. The

3.1 local social services agency shall determine whether requiring reimbursement, either through
 3.2 child support or parental fees, for the cost of care, examination, or treatment from income
 3.3 and resources attributable to the child is in the child's best interests. In determining whether
 3.4 to require reimbursement, the local social services agency shall consider:

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

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

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

3.12 (c) If the income and resources attributable to the child are not enough to reimburse the
 3.13 county for the full cost of the care, examination, or treatment, the court ~~shall~~ may inquire
 3.14 into the ability of the parents to ~~support the child~~ reimburse the county for the cost of care,
 3.15 examination, or treatment and, after giving the parents a reasonable opportunity to be heard,
 3.16 the court ~~shall~~ may order, and the local social services agency ~~shall~~ may require, the parents
 3.17 to contribute to the cost of care, examination, or treatment of the child. ~~Except in delinquency~~
 3.18 ~~eases where the victim is a member of the child's immediate family,~~ When determining the
 3.19 amount to be contributed by the parents, the court shall use a fee schedule based upon ability
 3.20 to pay that is established by the local social services agency and approved by the
 3.21 commissioner of human services. ~~In delinquency cases where the victim is a member of the~~
 3.22 ~~child's immediate family,~~ The court shall ~~use the fee schedule but may also take into account~~
 3.23 ~~the seriousness of the offense and any expenses which the parents have incurred as a result~~
 3.24 ~~of the offense~~ any expenses that the parents may have incurred as a result of the offense,
 3.25 including but not limited to co-payments for mental health treatment and attorney's fees.
 3.26 The income of a stepparent who has not adopted a child shall be excluded in calculating
 3.27 the parental contribution under this section. The local social services agency shall determine
 3.28 whether requiring reimbursement from the parents, either through child support or parental
 3.29 fees, for the cost of care, examination, or treatment from income and resources attributable
 3.30 to the child is in the child's best interests. In determining whether to require reimbursement,
 3.31 the local social services agency shall consider:

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

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

4.3 (3) whether requiring reimbursement would compromise the parent's ability to meet the
 4.4 needs of the family.

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

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

4.19 Sec. 3. Minnesota Statutes 2020, section 260C.331, subdivision 1, is amended to read:

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

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

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

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

4.30 (b) The court ~~shall~~ may order, and the responsible social services agency ~~shall~~ may
 4.31 require, the parents or custodian of a child, while the child is under the age of 18, to use ~~the~~
 4.32 ~~total~~ income and resources attributable to the child for the period of care, examination, or
 4.33 treatment, except for clothing and personal needs allowance as provided in section 256B.35,

5.1 to reimburse the county for the cost of care, examination, or treatment. Income and resources
5.2 attributable to the child include, but are not limited to, Social Security benefits, Supplemental
5.3 Security Income (SSI), veterans benefits, railroad retirement benefits and child support.

5.4 When the child is over the age of 18, and continues to receive care, examination, or treatment,
5.5 the court ~~shall~~ may order, and the responsible social services agency ~~shall~~ may require,
5.6 reimbursement from the child for the cost of care, examination, or treatment from the income
5.7 and resources attributable to the child less the clothing and personal needs allowance. Income
5.8 does not include earnings from a child over the age of 18 who is working as part of a plan
5.9 under section 260C.212, subdivision 1, paragraph (c), clause (12), to transition from foster
5.10 care, or the income and resources ~~from sources other than Supplemental Security Income~~
5.11 ~~and child support~~ that are needed to complete the requirements listed in section 260C.203.
5.12 The responsible social services agency shall determine whether requiring reimbursement,
5.13 either through child support or parental fees, for the cost of care, examination, or treatment
5.14 from the parents or custodian of a child is in the child's best interests. In determining whether
5.15 to require reimbursement, the responsible social services agency shall consider:

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

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

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

5.23 (c) If the income and resources attributable to the child are not enough to reimburse the
5.24 county for the full cost of the care, examination, or treatment, the court ~~shall~~ may inquire
5.25 into the ability of the parents to ~~support the child~~ reimburse the county for the cost of care,
5.26 examination, or treatment and, after giving the parents a reasonable opportunity to be heard,
5.27 the court ~~shall~~ may order, and the responsible social services agency ~~shall~~ may require, the
5.28 parents to contribute to the cost of care, examination, or treatment of the child. When
5.29 determining the amount to be contributed by the parents, the court shall use a fee schedule
5.30 based upon ability to pay that is established by the responsible social services agency and
5.31 approved by the commissioner of human services. The income of a stepparent who has not
5.32 adopted a child shall be excluded in calculating the parental contribution under this section.
5.33 In determining whether to require reimbursement, the responsible social services agency
5.34 shall consider:

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

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

6.5 (3) whether requiring reimbursement would compromise the parent's ability to meet the
6.6 needs of the family.

6.7 (d) If the responsible social services agency determines that reimbursement is in the
6.8 child's best interest, the court shall order the amount of reimbursement attributable to the
6.9 parents or custodian, or attributable to the child, or attributable to both sources, withheld
6.10 under chapter 518A from the income of the parents or the custodian of the child. A parent
6.11 or custodian who fails to pay without good reason may be proceeded against for contempt,
6.12 or the court may inform the county attorney, who shall proceed to collect the unpaid sums,
6.13 or both procedures may be used.

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

6.21 (f) Notwithstanding paragraph (b), (c), or (d), a parent, custodian, or guardian of the
6.22 child is not required to use income and resources attributable to the child to reimburse the
6.23 county for costs of care and is not required to contribute to the cost of care of the child
6.24 during any period of time when the child is returned to the home of that parent, custodian,
6.25 or guardian pursuant to a trial home visit under section 260C.201, subdivision 1, paragraph
6.26 (a).

6.27 Sec. 4. Minnesota Statutes 2020, section 518A.43, subdivision 1, is amended to read:

6.28 Subdivision 1. **General factors.** Among other reasons, deviation from the presumptive
6.29 child support obligation computed under section 518A.34 is intended to encourage prompt
6.30 and regular payments of child support and to prevent either parent or the joint children from
6.31 living in poverty. In addition to the child support guidelines and other factors used to calculate
6.32 the child support obligation under section 518A.34, the court must take into consideration

7.1 the following factors in setting or modifying child support or in determining whether to
7.2 deviate upward or downward from the presumptive child support obligation:

7.3 (1) all earnings, income, circumstances, and resources of each parent, including real and
7.4 personal property, but excluding income from excess employment of the obligor or obligee
7.5 that meets the criteria of section 518A.29, paragraph (b);

7.6 (2) the extraordinary financial needs and resources, physical and emotional condition,
7.7 and educational needs of the child to be supported;

7.8 (3) the standard of living the child would enjoy if the parents were currently living
7.9 together, but recognizing that the parents now have separate households;

7.10 (4) whether the child resides in a foreign country for more than one year that has a
7.11 substantially higher or lower cost of living than this country;

7.12 (5) which parent receives the income taxation dependency exemption and the financial
7.13 benefit the parent receives from it;

7.14 (6) the parents' debts as provided in subdivision 2; ~~and~~

7.15 (7) the obligor's total payments for court-ordered child support exceed the limitations
7.16 set forth in section 571.922; and

7.17 (8) in cases involving court-ordered out-of-home placement, whether ordering and
7.18 redirecting a child support obligation to reimburse the county for the cost of care,
7.19 examination, or treatment would compromise the parent's ability to meet the requirements
7.20 of a reunification plan or the parent's ability to meet the child's needs after reunification.