

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0346**

In the Matter of the Welfare of the Child(ren) of: T. L. J., Parent.

**Filed August 31, 2026
Affirmed
Harris, Judge**

Hennepin County District Court
File No. 27-JV-25-2097

Brooke Beskau Warg, Hennepin County Adult Representation Services, Minneapolis, Minnesota (for appellant-father T.L.J.)

Mary F. Moriarty, Hennepin County Attorney, Britta Nicholson, Assistant County Attorney, Minneapolis, Minnesota (for respondent Hennepin County Human Services and Public Health Department)

Nicole Billings, Solution-Focused Family Law, LLC, St. Louis Park, Minnesota (for respondent-mother K.S.L.H.)

David Yates, Juvenile Justice Center, Minneapolis, Minnesota (for guardian ad litem)

Considered and decided by Wheelock, Presiding Judge; Ross, Judge; and Harris, Judge.

SYLLABUS

I. Under the Minnesota African American Family Preservation and Child Welfare Disproportionality Act (MAAFPA), Minnesota Statutes sections 260.61-.693 (2024), a district court may not terminate the parental rights of a parent of an African American or disproportionately represented child under Minnesota Statutes section 260C.301 (2024), unless the allegations against a parent involve egregious harm or serious crimes specified under Minnesota Statutes section 260.67, subdivision 2(b).

II. Under Minnesota Statutes section 260.67, subdivision 3(a)(2), a district court may terminate parental rights of a noncustodial parent even if a child remains with a custodial parent.

OPINION

HARRIS, Judge

On appeal from the involuntary termination of his parental rights, appellant challenges the district court's interpretation of the Minnesota African American Family Preservation and Child Welfare Disproportionality Act (MAAFPA), Minnesota Statutes sections 260.61-.693. Father argues that the district court erred by (1) interpreting section 260.67 as a two-path framework to terminate father's parental rights,¹ (2) terminating his parental rights under Minnesota Statutes section 260.67 subdivision 3(a)(2), because the children will remain with their custodial parent, and (3) terminating his parental rights under both the juvenile protection provisions of the Juvenile Court Act, Minnesota Statutes sections 260C.001-.637 (2024) (Chapter 260C), and the relevant provision of MAAFPFA, section 260.67. We conclude that the district court correctly interpreted Minnesota Statutes section 260.67 by applying MAAFPFA's two-path framework to terminate father's parental rights. We also conclude that the district court had authority to terminate father's parental rights under Minnesota Statutes section 260.67, subdivision 3(a)(2), and that its

¹ The parties identify two paths for termination under MAAFPFA. The first permits termination under section 260.67, subdivision 2(b), which modifies the general-applicable grounds to terminate parental rights listed in section 260C.301. The second, under section 260.67, subdivision 3(a), provides certain exceptions to the bases for termination under section 260.67, subdivision 2(b), when the prerequisites of that subdivision are not met.

determination was supported by substantial evidence in the record. Accordingly, we affirm.

FACTS

In August 2025, respondent Hennepin County Human Services and Public Health Department (the county) filed a petition to terminate the parental rights of appellant T.L.J. (father). The county’s asserted statutory bases for termination of parental rights included an allegation that father was palpably unfit to be a party to the parent-child relationship under Minnesota Statutes section 260C.301, subdivision 1(b)(3). The county also alleged that father had a prior involuntary termination of parental rights to another child. The county designated this case as a MAAFPFA phase-in case.² The following factual summary is based on the findings of fact issued by the district court after trial, as well as portions of the record that are relevant to the parties’ arguments on appeal.

Parties

Father and respondent K.S.L.H. (mother) are not married and have three minor children together. Father is the adjudicated father of the three children involved in this appeal, C.A.J., A.S.J., and Q.K.J. Mother was not married at the time of their birth, and she is the children’s sole legal and sole physical custodian under Minnesota Statutes section

² The petition was filed as a MAAFPFA “phase-in” case. The legislature specified multiple effective dates for MAAFPFA. For most counties in Minnesota, MAAFPFA takes effect on January 1, 2027. *See* 2024 Minn. Laws ch. 117, § 1, at 1922. But the legislature specified that, beginning on January 1, 2025, MAAFPFA applies to a limited number of cases in Hennepin and Ramsey Counties, with the number of cases in those counties increasing through January 1, 2027, when it will apply to all eligible cases. *Id.*, § 20, at 1940. MAAFPFA requires the commissioner of human services to create a plan to phase in application of MAAFPFA in Hennepin and Ramsey Counties. *Id.*

257.541, subdivision 1 (2024). Throughout the proceedings, the children remained in mother's care.

Father's Attempted Murder of Mother

In May 2021, father asked mother if he could see the children. Mother agreed to bring the children to meet father at the home of a member of father's family. When mother arrived, the family member removed C.A.J. from mother's vehicle. A.S.J. and Q.K.J. remained in the vehicle. When father arrived, he got in the front passenger's seat of mother's vehicle and asked mother for \$200. When mother refused, father pulled out a gun and told her to drive to the gas station to withdraw money from the ATM. Mother drove to the gas station, exited her vehicle, and walked into the gas station to call the police. Father followed mother into the gas station with the gun and shot her seven times before fleeing the scene.³ The two children were still inside the vehicle, which was approximately ten feet away from the gas station's main entrance. Mother believed the children could hear the gunshots and that the gunshots frightened them.

Father was arrested and charged with attempted second-degree murder, first-degree assault, and second-degree assault. Father pleaded guilty to attempted second-degree

³ Father shot mother in her leg, abdomen, and left hand. Mother was hospitalized for a month and a half recovering from the shooting. During her hospitalization, the children were placed in the care of mother's family members. After being discharged from the hospital, mother continued her recovery, which required her to obtain assistance to care for the children. Mother had a lifting restriction that prevented her from holding Q.K.J., who was an infant at the time of the shooting. The shooting resulted in mother having lasting nerve damage in her leg, difficulties using her pointer finger on her left hand, posttraumatic stress disorder, anxiety, and depression.

murder and was sentenced to 164 months in prison. Father's anticipated release date is July 2030.

Termination of Parental Rights (TPR) Petition

In August 2025, the county filed a petition to terminate father's parental rights. The petition alleged statutory grounds under sections 260C.301, subdivision 1(b)(3) (palpable unfitness), and 260C.503, subdivision 2(a)(4) (expedited termination of parental rights based on prior involuntary termination). In relevant part, the petition alleged: (1) In May 2021, father shot mother while two of the children were in the vehicle and fled, resulting in father being charged with attempted second-degree murder, as well as first-degree and second-degree assault; (2) father pleaded guilty to attempted second-degree murder and was sentenced to 164 months in prison; (3) father's parental rights to another child had been involuntarily terminated; (4) mother was in favor of terminating father's parental rights; and (5) the termination of father's parental rights was in the children's best interests. The petition noted that the case was designated as a MAAFPFA phase-in case. Because the county designated the case as a phase-in case, the district court found that MAAFPFA applied and required the county to make active efforts to reunite the family.

Motion to Dismiss the TPR Petition

In October 2025, father moved to dismiss the petition for two reasons. He first argued that the county's statutory basis for terminating his parental rights under Minnesota Statutes section 260C.301 does not apply because MAAFPFA's termination requirements superseded Chapter 260C. Second, he argued that MAAFPFA prohibits termination of

parental rights when the children will remain with their custodial parent because MAAFPA favors transfer of custody over termination of parental rights.

At the motion hearing, the county orally moved to amend its petition to include Minnesota Statutes section 260.67, subdivision 3(a)(2), as an additional basis to terminate father's parental rights. The district court granted the motion to amend.

Following the hearing, the district court issued an order denying father's motion to dismiss. The district court reasoned that MAAFPA must be read harmoniously with Chapter 260C. It determined that MAAFPA could not function independently from Chapter 260C because MAAFPA and Chapter 260C "are part of a coherent legislative policy." Applying the statute's plain language, the district court concluded that MAAFPA "create[ed] two separate avenues for permitting termination of parental rights." Under the first avenue—subdivision 2—the district court may terminate parental rights without regard to the exceptions contained in section 260.67, subdivision 3, when there are allegations of egregious harm or a serious crime pursuant to section 260.67, subdivision 2(b). And under the second avenue—subdivision 3—the district court may terminate parental rights if (1) transfer of permanent legal and physical custody is not possible because the child has no willing and able custodian to whom custody can be transferred and (2) one or more of the following conditions exists: abandonment, palpable unfitness, failure of active efforts, or egregious harm.

TPR Trial and Order

The TPR trial occurred in December 2025. The district court heard testimony from mother, a child protection investigator, a social worker, and a guardian ad litem. Father

appeared for the trial but did not testify. In January 2026, the district court issued its order terminating father's parental rights, along with its findings of fact and conclusions of law. The district court determined that the county provided clear and convincing evidence that would allow the court to terminate father's parental rights as a palpably unfit parent under either section 260C.301, subdivision 1(b)(3), or section 260.67, subdivision 3(a)(2), or both. The district court found that father had engaged in a consistent pattern of specific conduct that rendered him unable to care for the "ongoing physical, mental, or emotional needs of the child[ren]." It found that father lacked engagement with the children, physically abused mother and the children, and continued to threaten mother from prison. It also found that the "egregious act[s]" of shooting mother, then fleeing the scene and leaving her incapacitated and the children unattended, demonstrated a specific condition directly relating to the parent-child relationship and showed that father was unable to care for the children for the reasonably foreseeable future. The court further found that termination was in the children's best interests and that the county made active efforts as required under MAAFP. The court terminated father's parental rights to all three children.

Father's Post-Trial Motion

In January 2026, father moved for a new trial, amended findings of fact, and relief from the termination order under Minnesota Rules of Juvenile Protection Procedure 21 and 22. The district court denied father's motion, reasoning that father advanced no new arguments to justify amended findings. The district court also found that father did not

assert any of the grounds that warrant a new trial under Minnesota Rules of Juvenile Protection Procedure 21.01, 21.04, and 22.02.

Father appeals.

ISSUES

- I. Can Minnesota Statutes section 260C.301 be read harmoniously with MAAFPA's permanency provisions, or does MAAFPA, as the more specific statute, displace section 260C.301?
- II. Did the district court erroneously interpret Minnesota Statutes section 260.67 when it applied MAAFPA's two-path framework to terminate father's parental rights under section 260.67, subdivisions 2(b) and 3(a)(2)?
- III. Did the district court erroneously interpret Minnesota Statutes section 260.67, subdivision 3(a)(2), to allow it to terminate father's parental rights when the children remained with a custodial parent?
- IV. Did the district court abuse its discretion by terminating father's parental rights under both Minnesota Statutes sections 260C.301, subdivision 1(b)(3), and 260.67, subdivision 3(a)(2), because the county did not present sufficient evidence?

ANALYSIS

Father appeals from the district court's order terminating his parental rights to his three children, arguing that the district court erred in interpreting Minnesota Statutes section 260.67 as establishing two separate paths for terminating the parental rights of a parent of an African American or disproportionately represented child.

To resolve this appeal, we first describe the statutory framework within the general juvenile protection statutes governing the termination of parental rights set forth in Chapter 260C. We then review the statutory scheme established by MAAFPA governing permanency proceedings involving African American and disproportionately represented children. After discussing the statutory schemes, we determine whether section 260C.301

and MAAFPFA can be harmonized or whether MAAFPFA, as the more specific statute, displaces section 260C.301. Next, we discuss whether the district court erred in its interpretation of section 260.67 by applying the statute’s two-path framework to terminate father’s parental rights. We then determine whether the district court had authority to terminate father’s parental rights under Minnesota Statutes section 260.67, subdivision 3(a)(2), based on the factual circumstances presented in this case. Finally, we consider whether the district court’s decision to terminate father’s parental rights was supported by substantial evidence in the record.

Chapter 260C

We begin our analysis with a review of the general juvenile protection statutes governing the termination of parental rights. Typically, termination of parental rights is governed by Chapter 260C of the Minnesota Statutes. *See* Minn. Stat. §§ 260C.001-.637. A child’s best interests are “[t]he paramount consideration” in termination proceedings. Minn. Stat. § 260C.001, subd. 3. To involuntarily terminate parental rights, a district court must determine that (1) at least one of the eight enumerated statutory grounds for terminating parental rights exists; (2) termination is in the child’s best interests; and (3) the county made reasonable efforts to rehabilitate the parent and reunify the family or that such efforts were not required. Minn. Stat. § 260C.301, subds. 1(b), 7, 8 (2024); *see also In re Welfare of Children of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008) (stating that appellate courts will “affirm the district court’s termination of parental rights when at least one statutory ground for termination is supported by clear and convincing evidence and termination is in the best interests of the child, provided that the county has made

reasonable efforts to reunite the family.” (citations omitted)). Reasonable efforts are “services that go beyond mere matters of form so as to include real, genuine assistance.” *In re Welfare of Children of S.W.*, 727 N.W.2d 144, 150 (Minn. App. 2007) (quotation omitted), *rev. denied* (Minn. Mar. 28, 2007).

As relevant to this appeal, one of the enumerated statutory grounds for terminating parental rights is:

[the] parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship, either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child.

Minn. Stat. § 260C.301, subdivision 1(b)(3).

MAAFPA

In 2024, the legislature enacted MAAFPFA to address the increased percentage of out-of-home placements and removals of African American and disproportionately represented children. Hearing on H.F. No. 912 Before the H. Children and Families Finance and Policy Comm. (Mar. 21, 2024) (statement of Rep. Agbaje). MAAFPFA seeks to “protect the best interests of African American and disproportionately represented children,” “promote the stability and security of African American and disproportionately represented children and their families by establishing minimum standards to prevent the arbitrary and unnecessary removal of African American and disproportionately represented

children from their families,” and “improve permanency outcomes.” Minn. Stat. § 260.62(a)(1)-(3).

MAAFPA defines “the best interests of an African American or disproportionately represented child” to mean that a social services agency will provide “a culturally informed practice lens that acknowledges, utilizes, and embraces the African American or disproportionately represented child’s community and cultural norms and allows the child to remain safely at home with the child’s family.” Minn. Stat. § 260.63, subd. 5. MAAFPA recognizes that the best interests of an African American or disproportionately represented child “support the child’s sense of belonging to the child’s family, extended family, kin, and cultural community.” *Id.*

MAAFPA requires that, in juvenile-protection cases involving an African American or disproportionately represented child, a social services agency must “make active efforts to prevent the out-of-home placement of an African American or a disproportionately represented child, eliminate the need for a child’s removal from the child’s home, and reunify an African American or a disproportionately represented child with the child’s family as soon as practicable.”⁴ Minn. Stat. § 260.64, subd. 1. The active-efforts standard is higher than the reasonable-efforts standard generally applicable in most juvenile-

⁴ This provision of MAAFPA parallels the federal Indian Child Welfare Act, which requires a social services agency to make “active efforts” to provide remedial services and rehabilitative programs before a child is placed out of the home. 25 U.S.C. § 1912(d) (2018); *see also* Minn. Stat. § 260.762, subd. 2a (2024) (requiring “active efforts” under the Minnesota Indian Family Preservation Act (MIFPA)). While MAAFPA was designed in a manner that appears to share some similarities with MIFPA, there are critical differences in the overall statutory scheme, as well as the details of each act.

protection cases to which MAAFPA does not apply. Minn. Stat. § 260.63, subd. 2. Active efforts are defined under the statute as the “rigorous and concerted level of effort that the responsible social services agency must continuously make throughout the time that the responsible social services agency is involved with an African American or a disproportionately represented child and the child’s family.”⁵ *Id.*

To provide active efforts, “the responsible social services agency must continuously involve an African American or a disproportionately represented child’s family in all services for the family, including case planning and choosing services and providers, and inform the family of the ability to file a report of noncompliance with this act.” *Id.* And “the responsible social services agency must consider an African American or a disproportionately represented child’s family’s social and cultural values at all times while providing services to the African American or disproportionately represented child and the child’s family.” *Id.*

Under MAAFPA, “termination of parental rights” is defined as “an action resulting in the termination of the parent-child relationship under section 260C.301.” Minn. Stat. § 260.63, subd. 20. MAAFPA provides that, “Except as provided in subdivision 3, the [district] court “shall not terminate the parental rights of a parent of an African American or a disproportionately represented child in a placement proceeding unless the allegations against the parent involve . . . egregious harm” or allegations of a serious crime specified

⁵ This provision of MAAFPA is consistent with MIFPA’s definition of “active efforts.” Minn. Stat. § 260.755, subd. 1a (2024).

in the statute. 2026 Minn. Laws ch. 88, art. I, § 161 (to be codified at Minn. Stat. § 260.67, subd. 2(b) (2026)).

Additionally, MAAFPFA states, a district court “may terminate the parental rights of a parent of an African American or a disproportionately represented child if a transfer of permanent legal and physical custody . . . is not possible because the child has no willing or able noncustodial parent or relative to whom custody can be transferred,” and if one or more conditions exist:

- (1) that the parent has abandoned the child;
 - (2) that a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship, either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child;
 - (3) that following the child’s placement out of the home, active efforts, under the direction of the court, have failed to correct the conditions leading to the child’s placement.
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- (4) that a child has experienced egregious harm in the parent’s care.

Minn. Stat. § 260.67, subd. 3.

With this understanding of the background and statutory scheme of MAAFPFA, we turn to the issues presented here.

Father contends that: (1) MAAFPFA provides a statutory framework separate from, and more restrictive than, the general termination provisions in Chapter 260C, and

therefore the district court erred by relying on section 260C.301 as an independent basis for termination; (2) under the MAAFPFA framework, subdivisions 2 and 3 must be read together, such that termination is permitted only when the allegations involve a serious crime, the child has no willing or able noncustodial parent or relative to whom custody can be transferred, *and* one or more of the conditions identified in subdivision 3(a) exist; (3) termination of parental rights is permissible under subdivision 3(a)(2) “only when the children are in need of a permanent home and cannot be returned to their custodial parent”; and (4) the district court abused its discretion by terminating his parental rights under both Minnesota Statutes sections 260C.301, subdivision 1(b)(3), and 260.67, subdivision 3(a)(2).

The county responds that section 260.67 establishes two distinct paths to termination. Under the first path, which is established by section 260.67, subdivision 2(b), the restrictions imposed by MAAFPFA do not apply when the allegations against the parent involve egregious harm or a serious crime, allowing termination under the general provisions of section 260C.301. Under the second path, which is established by section 260.67, subdivision 3(a), termination may be authorized even in the absence of allegations involving egregious harm or a serious crime when other statutory prerequisites are satisfied. The county therefore contends that MAAFPFA supplements, rather than displaces, Chapter 260C and that the district court correctly harmonized the two statutory schemes.⁶ We address each argument in turn.

⁶ When the county filed the petition, section 260.67, subdivision 2(b), stated: “Except as provided in paragraph (c) a court shall not terminate the parental rights of a parent of an

I. Chapter 260C and MAAFPA can be read harmoniously.

Father argues that because MAAFPA provides a statutory framework separate from, and more restrictive than, the general termination provisions in Chapter 260C, Chapter 260C does not apply to MAAFPA cases.

Generally, courts construe statutes, when possible, to avoid irreconcilable conflicts between (or among) the statute being construed. *D.W.H. ex rel. Mitchell v. Steele*, 494 N.W.2d 513, 515 (Minn. App. 1993), *aff'd*, 512 N.W.2d 586 (Minn. 1994); *see* Minn. Stat. § 645.26, subd. 1 (2024) (“When a general provision in a law is in conflict with a special provision in the same or another law, the two shall be construed, if possible, so that effect may be given to both.”). Statutory provisions conflict irreconcilably only when they are “necessarily inconsistent”—that is, when they cannot “stand and be operative without repugnance to each other.” *State v. City of Duluth*, 56 N.W.2d 416, 418 (Minn. 1952). “If the conflict between the two provisions [is] irreconcilable, the special provision shall prevail and shall be construed as an exception to the general provision, unless the general provision was enacted” later in time. Minn. Stat. § 645.26, subd. 1. And if the provisions

African American or a disproportionately represented child” unless certain conditions are met. Minn. Stat. § 260.67, subd. 2(b). The then-existing section 260.67, subdivision 2, however, did not contain a paragraph (c). In 2026, the legislature amended section 260.67, subdivision 2, to say: “Except as provided in *subdivision 3*, a court shall not terminate the parental rights of a parent of an African American or a disproportionately represented child.” 2026 Minn. Laws ch. 88, art. I, § 161, at 110 (emphasis added) (amending Minn. Stat. § 260.67, subd. 2(b) (2024)). And the amended version of the statute includes a “subdivision 3.” Because the amendment resolves the ambiguity asserted by father, we need not address this issue on appeal.

of two or more laws passed at different sessions are irreconcilable, the law latest in date of final enactment prevails. *Id.*, subd. 4.

Here, the parties agree that Chapter 260C supplies broad rules for all child protection matters, while MAAFPA provides more targeted provisions for African American and disproportionately represented children. Father, however, argues that MAAFPA, as the more specific statute, entirely displaces Chapter 260C unless it expressly incorporates Chapter 260C’s provisions. An assertion that MAAFPA entirely displaces Chapter 260C is inconsistent with both relevant caselaw and with the language of MAAFPA. Therefore, we reject father’s argument.

Specifically, the supreme court has stated that:

an exemption from the broad scope of [the earlier statute] is not presumed absent *express* statutory language to that effect. [The newer statute] contains no express language exempting it from the reach of [the older statute]. Instead, [the newer statute] *expressly limits* application of its provisions . . . to only that Act.

State by Smart Growth Minneapolis v. City of Minneapolis, 954 N.W.2d 584, 593 (Minn. 2021). Here, not only did the legislature not expressly exempt MAAFPA from Chapter 260C, it defined “termination of parental rights” under MAAFPA with reference to Minnesota Statutes section 260C.301. Minn. Stat. § 260C.63, subd. 20. We are bound by that definition. *State v. Bee*, 17 N.W.3d 150, 154 (Minn. 2025). Accordingly, not only is the “express” exemption required by caselaw missing from MAAFPA, but any exemption—express, implied, or inferred—would be inconsistent with the way the legislature structured MAAFPA. We therefore cannot accept father’s argument. Instead,

the two statutory schemes must be construed, whenever possible, to give effect to both. *See* Minn. Stat. § 645.26 (2024).

Applying MAAFPFA’s definition of “termination of parental rights” to the termination provision in section 260.67, subdivision 2(b), results in MAAFPFA saying that “a court shall not terminate the parental rights of a parent [under section 260C.301] of an African American or a disproportionately represented child . . . unless the allegations against the parent involve” one of the enumerated crimes. Minn. Stat. § 260.67, subd. 2(b). The plain language of subdivision 2(b) thus establishes a limitation on the application of section 260C.301 in MAAFPFA cases: A court may not terminate parental rights under that provision unless the allegations against the parent involve one of the enumerated crimes. Where such allegations are present, however, the statutory limitation does not preclude application of section 260C.301. Accordingly, the provisions are not irreconcilable or otherwise in conflict.

Likewise, applying MAAFPFA’s definition of “termination of parental rights” to the termination provision in section 260.67, subdivision 3, results in MAAFPFA saying that “a court may terminate the parental rights of a parent [under section 260C.301] of an African American or a disproportionately represented child . . . if a transfer of permanent legal and physical custody . . . is not possible” if one of the enumerated conditions exist. Minn. Stat. § 260.67, subd. 3. The plain language of subdivision 3 thus provides that a court may terminate the parental rights of a parent of an African American or disproportionately represented child under section 260C.301 if transfer of permanent legal and physical custody is not possible and one of the enumerated conditions exists. Where such a

condition is present, subdivision 3 does not preclude application of section 260C.301. Accordingly, the provisions are not irreconcilable or otherwise in conflict.

The legislature has prescribed the circumstances in which section 260C.301 may be applied, and we are bound to apply the statute according to its plain language. *See* Minn. Stat. § 645.16 (2024).

In sum, father does not identify an irreconcilable conflict between section 260C.301 and MAAFPFA. And we do not perceive one. The two statutes can be read to give effect to both provisions. Even if father were correct that parts of MAAFPFA conflict with parts of section 260C.301, the conflicts are not irreconcilable. Accordingly, both statutes can be construed harmoniously “so that effect may be given to both.” Minn. Stat § 645.26.

II. The district court did not err in its interpretation of Minnesota Statutes section 260.67 by applying the statute’s two-path framework to terminate father’s parental rights.

Father first argues that the district court erred by interpreting Minnesota Statutes section 260.67 as a two-path framework for termination. Father asserts that, instead, subdivisions 2 and 3 of section 260.67, must be read together. Under father’s interpretation of the statute, termination is only possible if (1) the allegations against the parent involve a serious crime, (2) the child has no willing or able custodial parent to whom custody can be transferred, *and* (3) the district court finds that one or more of the conditions provided under subdivision 3(a) exist. Father also argues that the district court erroneously relied on Chapter 260C to terminate his parental rights because MAAFPFA’s permanency provisions are “separate and distinct” from Chapter 260C.

The county contends that the district court correctly interpreted section 260.67 to provide a two-path framework to terminate the parental rights of a parent of an African American or a disproportionately represented child. More specifically, the county asserts that the first path—section 260.67, subdivision 2(b)—allows the court to rely on the broader termination authority provided under section 260C.301, while the second path—section 260.67, subdivision 3(a)—provides a narrower set of modified grounds to terminate parental rights under section 260C.301 when the conditions under subdivision 2(b) are not met. The county also argues that the plain language of section 260.67 unambiguously incorporates Chapter 260C as a baseline termination authority and that the legislature did not intend for section 260.67 to replace section 260C.301.

The district court determined that the plain language of the statute did not support father's interpretation. It reasoned that section 260.67 created two separate avenues to terminate parental rights: subdivision 2 and subdivision 3. Under the first avenue—subdivision 2—the district court determined that it could terminate parental rights without consideration of the exceptions contained in section 260.67, subdivision 3, if there are allegations of egregious harm or a serious crime pursuant to section 260.67, subdivision 2(b). It clarified that the plain language in subdivision 2(b) did not provide an entirely new basis to terminate, but instead acted as a “carve-out” to section 260C.301. In other words, if the requirements of subdivision 2(b) are met, the restrictions against termination in section 260.67, subdivision 3, do not apply and the district court can terminate parental rights under section 260C.301.

The district court also recognized a second avenue to terminate parental rights under the statute—section 260.67, subdivision 3. It reasoned that even if there were no allegations of egregious harm or a serious crime, the district court could still terminate parental rights if two conditions were both present: (1) transfer of permanent legal and physical custody was not possible because the child had no willing or able custodian to whom custody could be transferred, and (2) one or more of the following conditions existed: abandonment, palpable unfitness, failure of active efforts, or egregious harm. The district court also held that MAAFPA was intended to be read consistently with other child protection statutes contained in Chapter 260C. It reasoned that MAAFPA could not function independently from Chapter 260C because MAAFPA and Chapter 260C were “part of a coherent legislative policy.”

The parties’ arguments require us to interpret provisions of MAAFPA. “Statutory interpretation is a question of law, which we review de novo.” *In re Welfare of Child of S.B.G.*, 991 N.W.2d 874, 884 (Minn. 2023) (quotation omitted). “Under the de novo standard, we do not defer to the analysis of the court[] below, but instead we exercise independent review.” *Id.* (quotation omitted). When engaging in statutory interpretation, we start by analyzing whether the applicable statutory language is ambiguous on its face. *Id.* “A statute is ambiguous when its language is subject to more than one reasonable interpretation.” *Id.* (quotation omitted). When addressing whether statutory language is ambiguous, we give words and phrases their plain and ordinary meaning. *Rodriguez v. State Farm Mut. Auto. Ins. Co.*, 931 N.W.2d 632, 634 (Minn. 2019) (“We construe words and phrases according to rules of grammar and according to their common and approved

usage.” (quotations omitted)). If a statute is unambiguous, we apply the statutory language. *In re Welfare of Children of J.D.T.*, 946 N.W.2d 321, 327 (Minn. 2020). If the statute is ambiguous, “then we may apply the canons of construction to resolve the ambiguity.” *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017).

We cannot add words to an unambiguous statute under the guise of statutory interpretation. *County of Dakota v. Cameron*, 839 N.W.2d 700, 709 (Minn. 2013); *see also* *Great River Energy v. Swedzinski*, 860 N.W.2d 362, 364 (Minn. 2015) (stating that we cannot add words to a statute that were intentionally or inadvertently omitted). “[W]hen a question of statutory construction involves a failure of expression rather than an ambiguity of expression, courts are not free to substitute amendment for construction and thereby supply the omissions of the legislature.” *In re E.M.B.*, 987 N.W.2d 597, 601 (Minn. App. 2023) (quotation omitted). Put differently, “we will not read into a statute a provision that the legislature has omitted, either purposely or inadvertently.” *Reiter v. Kiffmeyer*, 721 N.W.2d 908, 911 (Minn. 2006).

As is relevant to this appeal, section 260.67 is broken into five subdivisions: (1) Preference for permanency placement with a relative; (2) Termination of parental rights restrictions; (3) Termination of parental rights exceptions; (4) Voluntary termination of parental rights; and (5) Appeals.⁷ Minn. Stat. § 260.67, subds. 1-5. At issue in this case

⁷ The subdivision headings are noted at the beginning of each subdivision in boldface. “The headnotes printed in boldface type before sections and subdivisions in editions of Minnesota Statutes are mere catchwords to indicate the contents of the section or subdivision and are not part of the statute.” Minn. Stat. § 645.49 (2024).

are the restrictions on termination of parental rights outlined in section 260.67, subdivision 2(b), and the exceptions outlined in subdivision 3(a)(2).

We begin our analysis with subdivision 2. First, subdivision 2(a) states that the district court “shall not terminate the parental rights of a parent of an African American or a disproportionately represented child based solely on the parent’s failure to complete case plan requirements.” The parties agree that the language of subdivision 2(a) is unambiguous because it presents only one reasonable interpretation: courts cannot terminate the parental rights of a parent of an African American or a disproportionately represented child based solely on the parent’s failure to complete a case plan.

Next, subdivision 2(b) states, “Except as provided in subdivision 3, a court shall not terminate the parental rights of a parent of an African American or a disproportionately represented child in a child placement proceeding unless the allegations against the parent involve . . . egregious harm” or a serious crime. 2026 Minn. Laws ch. 88, art. I, § 161 (to be codified at Minn. Stat. § 260.67, subd. 2(b) (2026)). When a statute contains an exception, the exception “exempts from [the statute’s] operation something that would otherwise be within it.” *State v. Goodman*, 288 N.W. 157, 159 (1939).

Here, the grammatical structure of subdivision 2(b) indicates that the initial phrase—“[e]xcept as provided in subdivision 3”—modifies, and therefore is an exception to, the remainder of the sentence, which contains the general restriction on the termination of the parental rights of a parent of an African American or a disproportionately represented child. Next, the language notes that the court “shall not terminate the parental rights.” “Termination of parental rights” is defined by MAAFPA as “an action resulting in the

termination of the parent-child relationship *under section 260C.301.*” Minn. Stat. § 260.63, subd. 20 (emphasis added). Father argues that MAAFP’s definition of “termination of parental rights” does not create a pathway for the district court to terminate a parent’s rights under the statutory bases provided under section 260C.301. Father argues further that a plain reading of this definition provides that a termination of parental rights under MAAFP, which is governed by section 260.67, has the same legal effect or result as a termination of parental rights under section 260C.301. Father’s arguments are unavailing. Subdivision 2(b) refers to a termination of parental rights “under section 260C.301.” Thus, the termination of parental rights referred to in subdivision 2(b) is a termination that occurs pursuant to section 260C.301. Nor is the language of this provision ambiguous. It presents only one reasonable interpretation: unless section 260.67, subdivision 3, is satisfied, subdivision 2(b) precludes the use of section 260C.301 to terminate parental rights unless one of the crimes listed in that provision is alleged. The legislature decided that section 260C.301 applies, and courts must apply the statute as written. *See* Minn. Stat. § 645.16.

We continue our analysis with subdivision 3. Subdivision 3(a) provides that a court may terminate parental rights when “transfer of permanent legal and physical custody is not possible under subdivision 1 because the child has no willing or able noncustodial parent or relative to whom custody can be transferred,” and one or more of the listed grounds—abandonment, palpable unfitness, failure of active efforts, or egregious harm—has been established. Minn. Stat. § 260.67, subd. 3(a)(1)-(4).

Relevant here, subdivision 3(a)(2) states:

(a) The court may terminate the parental rights of a parent of an African American or a disproportionately represented child if a transfer of permanent legal and physical custody under subdivision 1 is not possible because the child has no willing or able noncustodial parent or relative to whom custody can be transferred, if it finds that one or more of the following conditions exist:

....

(2) that a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship, either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child.

Minn. Stat. § 260.67, subd. 3(a)(2). As noted above, MAAFPFA defines “termination of parental rights” by reference to section 260C.301.” *See* Minn. Stat. § 260.63, subd. 20. Section 260.67, subdivision 3(a)(2), can be broken down into two clauses. The first clause—“The court may terminate parental rights . . . if a transfer of permanent legal and physical custody under subdivision 1 is not possible”—precludes the district court from terminating parental rights unless a transfer of legal and physical custody of the child cannot occur. Minn. Stat. § 260.67, subd. 3. The second clause—“the parent is palpably unfit to be a party to the parent and child relationship”—establishes elements that a district court must find before determining that a parent is palpably unfit. *Id.* The parties do not dispute the language of the statute; rather, father argues that the district court erred when it interpreted section 260.67, subdivision 3(a), to allow for termination of father’s rights when

the children will remain with their custodial mother, which is discussed below in section III of this opinion.

Father argues that subdivisions 2 and 3 of section 260.67 are ambiguous because they do not expressly address whether the termination provisions of section 260C.301 remain available in MAAFPFA proceedings. He contends that, because the statute is susceptible to more than one reasonable interpretation, the district court should have construed it in light of the legislature's intent, including the principle that a later-enacted and more specific statute prevails over an earlier, more general one when the two cannot be reconciled. The county argues that the provisions are not ambiguous because the plain language of the statute identifies two paths to termination. We agree with the county that the language is plain and unambiguous.

Read as a whole, the statute provides two separate paths to terminate the parental rights of a parent of an African American or disproportionately represented child. The first path—subdivision 2(b)—provides that the district court may terminate parental rights under section 260C.301 in cases involving egregious harm or a serious crime. Notably, MAAFPFA's definition of termination of parental rights expressly incorporates section 260C.301. *See* Minn. Stat. § 260.67, subd. 20. The second path—subdivision 3(a)(2)—supplies narrower grounds for termination. Section 3(a)(2) also identifies a transfer of custody as the preferred preference over a termination of parental rights. The statute's structure supports separate paths. Read plainly, subdivision 2(b) provides that, with the exceptions listed in subdivision 3, a district court cannot terminate the parental rights of a parent of an African American or disproportionately represented

child “under section 260C.301,” unless the petition alleges a serious crime by the parent. Likewise, subdivision 3 allows termination of the parental rights of a parent of an African American or disproportionately represented child if: (a) it is impossible to transfer permanent legal and physical custody of the child, and (b) one or more enumerated conditions are present. Because the plain and ordinary reading of the statute supports only one reasonable interpretation, the statute is unambiguous.

The county’s reading of the statute harmonizes MAAFPA and Chapter 260C and avoids surplusage. *See* Minn. Stat. § 645.16 (stating that every law shall be construed “to give effect to all its provisions”); *see also* *Thonesavanh*, 904 N.W.2d at 437 (stating that the canon against surplusage “favors giving each word or phrase in a statute a distinct, not an identical, meaning”).

Accordingly, we conclude that the district court did not err in its interpretation of Minnesota Statutes section 260.67 by applying the statute’s two-path framework to terminate father’s parental rights.

III. The district court has authority to terminate parental rights of a noncustodial parent under Minnesota Statutes section 260.67, subdivision 3(a)(2), even if the children will remain with a custodial parent.

Father next argues that termination of parental rights was prohibited under subdivision 3(a)(2) because mother already had legal and physical custody of the children.

As relevant to this appeal, section 260.67, subdivision 3(a)(2), provides that the district court “may terminate the parental rights of a parent . . . if a transfer of permanent legal and physical custody under subdivision 1 is not possible because the child has no willing or able noncustodial parent or relative to whom custody can be transferred,” and if

the district court finds that the “parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship.” Minn. Stat. § 260.67, subdivision 3(a)(2).

The district court determined that terminating father’s rights was permissible under section 260.67, subdivision 3(a)(2), because father was palpably unfit. It reasoned that transfer of permanent legal and physical custody was not applicable because mother was already the sole legal and physical custodian of the children, the children had never been removed from mother’s care, and because father had no custodial rights to transfer. The district court concluded that because “the statutory condition precedent of transfer is satisfied by impossibility, and no corresponding duty to attempt to transfer arises again,” termination was permissible under section 260.67, subdivision 3(a)(2).⁸

The county argues that section 260.67, subdivision 3(a)(2), enables the termination of father’s rights, even if the child remains in the care of a custodial parent. The county asserts that the condition to terminate parental rights has been satisfied because there is no noncustodial parent or relative to whom custody can be transferred. And the county

⁸ The district court also rejected father’s argument that a noncustodial parent’s rights can never be terminated if the child remains with their custodial parent. It recognized that one of the purposes of MAAFPFA is to “protect the best interests of African American and disproportionately represented children,” and that “disrupt[ing] an existing stable environment in favor of a parent who has demonstrated no ability or willingness to provide care would undermine these objectives.” It also noted that, under these circumstances in which a noncustodial parent harmed the custodial parent, prohibiting the termination of the noncustodial parent’s rights would “produce perverse outcomes” and “pose[] a significant safety risk to those children and their custodial parent.”

contends that father's interpretation amounts to a categorical rule prohibiting termination of a noncustodial parent's rights in any circumstance where a custodial parent remains available, regardless of whether the noncustodial parent poses a danger to the children. Father asserts that termination is permissible "only when the children are in need of a permanent home and cannot be returned to their custodial parent." Father's argument is unavailing.

Read as a whole, the statute provides that a district court may terminate parental rights if two conditions are met. First, the district court must establish that the transfer of permanent legal and physical custody to a noncustodial parent or relative is not an available alternative. Second, the district court must find that the parent is palpably unfit. Father argues that because the children remained with their custodial parent, termination of his parental rights was not necessary to establish permanency for the children. Father's interpretation, however, would require us to add words and meaning to the statute.⁹ Under

⁹ Father's interpretation would bar the county from seeking to terminate a noncustodial parent's rights in a case such as this one where a noncustodial parent kidnaps the custodial parent and shoots her seven times in front of the two youngest children, and she survives. In this case, there are no safety concerns with the custodial parent. Section 260.67 provides specific scenarios when termination may be proper. The language in Section 260C.67, subdivision 2(b), which prohibits termination unless there are allegations of serious crime/egregious harm or the requirements of subdivision 3 are met, is the legislature's attempt at listing the behaviors that would be appropriate for termination. Under father's interpretation, the county would only be allowed to file TPR petitions when, in cases involving murder or attempted murder, the custodial parent dies. Given that the first stated purpose of MAAFPFA is to protect the best interests of African American and disproportionately represented children, it certainly would not be in the best interest of African American or disproportionately represented children to permit the county to petition for termination of the rights of a noncustodial parent only if the parent succeeded in their attempt to murder the custodial parent.

father's reading, a court may only terminate parental rights if transfer of permanent legal and physical custody is not possible because the child has no willing or able noncustodial parent or relative to whom custody can be transferred, *and if the children are in need of a permanent home but cannot be returned to their custodial parent*. We cannot add words to an unambiguous statute under the guise of statutory interpretation. *See Cameron*, 839 N.W.2d at 709; *E.M.B.*, 987 N.W.2d at 60. The statute is therefore unambiguous.

Here, mother is the sole custodian of the children, and the children have been placed in her care. The district court cannot transfer permanent legal and physical custody of the children because mother is already the sole custodian. This leaves no other noncustodial parent or relative to whom custodial rights can be transferred. Thus, the first condition of section 260.67, subdivision 3(a)(2), is satisfied because transfer of custody is not possible.

The second condition of section 260.67, subdivision 3(a)(2), is also satisfied. The district court necessarily found that father was palpably unfit to be a party to the parent-child relationship and that termination was in the best interest of the children. Accordingly, termination of father's parental rights under section 260.67, subdivision 3(a)(2), is permissible.

Because we conclude that the district court had authority to terminate father's noncustodial parental rights under section 260.67, subdivision 3(a)(2), we turn our analysis to whether the district court clearly erred by terminating father's parental rights and whether there was substantial evidence in the record to support its findings.

IV. The district court did not abuse its discretion by terminating father’s parental rights under Minnesota Statutes section 260C.301, subdivision 1(b)(3), and 260.67, subdivision 3(a)(2).

Father lastly argues that the district court abused its discretion by terminating his parental rights under both Minnesota Statutes sections 260C.301, subdivision 1(b)(3), and 260.67, subdivision 3(a)(2).

“Parental rights [may be] terminated only for grave and weighty reasons.” *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990). “[T]ermination of parental rights is always discretionary with the juvenile court.” *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136 (Minn. 2014). And “[w]e give considerable deference to the district court’s decision.” *S.E.P.*, 744 N.W.2d at 385. We will affirm the district court’s termination of parental rights if: (1) one of the statutory bases for terminating parental rights exists; (2) reasonable efforts toward reunification were made or were not required; and (3) termination is in the child’s best interests. Minn. Stat. §§ 260C.301, subds. 1(b), 7, 8, .317, subd. 1 (2024); *S.E.P.*, 744 N.W.2d at 385.

We review the factual findings for clear error and the statutory basis for abuse of discretion. *In re Welfare of Children of J.R.B.*, 805 N.W.2d 895, 901 (Minn. App. 2011), *rev. denied* (Minn. Jan. 6, 2012). A finding is clearly erroneous if it is “manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Children of T.R.*, 750 N.W.2d 656, 660-61 (Minn.2008) (quotation omitted). A district court abuses its discretion when it makes findings of fact that lack evidentiary support, misapplies the law, or resolves discretionary matters in a manner contrary to logic and facts on record. *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022).

A. The termination of father’s parental rights under Minnesota Statutes section 260C.301, subdivision 1(b)(3), is not an abuse of discretion and is supported by substantial evidence in the record.

Father argues that the record does not support the factual findings underlying the district court’s determination that he is palpably unfit to be a party to the parent and child relationship. Thus, father contends, the district court abused its discretion in terminating his parental rights on this ground.

Under Chapter 260C, a district court may terminate parental rights if:

a parent is palpably unfit to be a party to the parent and child relationship because of a consistent pattern of specific conduct before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental, or emotional needs of the child.

Minn. Stat. § 260C.301, subd. 1(b)(3). Chapter 260C also provides that “the best interests of the child must be the paramount consideration, provided that . . . at least one condition in subdivision 1, clause (b) [is] found by the court.” Minn. Stat. § 260C.301, subd. 7.

The district court found that father pled guilty to attempted second-degree murder which is one of the crimes listed in section 260.67, subdivision 2(b), allowing the district court to proceed with termination under section 260C.301. The district court determined that father was palpably unfit under section 260C.301, subdivision 1(b)(3). The district court found that father lacked meaningful engagement with the children prior to and during the proceedings, and that father abused both mother and the children. It reasoned that the “egregious act” of shooting mother—the children’s primary caregiver and sole custodian—

seven times, then fleeing the scene and leaving the children unattended, was “a specific condition that directly relates to the parent-child relationship” that rendered father unable to care for the children’s needs. The district court reviewed father’s psychological assessment and expressed concern over some of father’s behaviors, including a “pattern of explosive anger” and “wish[ing] for revenge for what he may consider past injustices.” It also noted that father stopped attending therapy, despite being required to address his mental health as part of his case plan.

The district court also ruled that termination of father’s parental rights was in the best interests of the children. When evaluating the best interests of a child in a termination proceeding, the district court must consider the child’s interest in preserving the parent-child relationship, the parent’s interest in preserving the parent-child relationship, and any competing interests of the child. *In re Welfare of Child of A.M.C.*, 920 N.W.2d 648, 657 (Minn. App. 2018). The district court found that the children had no interest in preserving their relationship with father, that father did not have an interest in preserving the relationship with the children, and that the child’s safety and stability strongly weighed in favor of terminating father’s parental rights.

The district court’s findings are supported by substantial evidence in the record. At trial, mother testified that father never provided financial support for the children, and that he rarely had contact with them. Mother testified that the children did not ask to see father and did not desire to have a relationship with him. Father’s social worker testified that the children did not have an established relationship with father. Mother also testified about the physical abuse. She described an instance when her oldest child wet the bed. She

explained that father became angry and “strapped [the child] down to his bed.” She also testified that when she was pregnant with her daughter, father “beat[] her, which caused [her] to go into early labor.”

As it relates to his mental health, father needed to complete a psychological evaluation and follow the psychiatrist’s recommendations. According to the psychological evaluation, father was diagnosed with a personality disorder and anxiety disorder. The psychiatrist reported that father’s “explosive anger” may result from “an inability to resolve conflicts with those around him in a productive way.” The evaluator recommended that father participate in individual and group therapy to address his behaviors and diagnoses. His social worker testified that father was active with therapy through October 2025 but had recently learned that father was no longer participating in it.

Accordingly, we conclude that the district court did not abuse its discretion by terminating father’s parental rights under section 260C.301, subdivision 1(b)(3).

B. The termination of father’s parental rights under Minnesota Statutes section 260.67, subdivision 3(a)(2), is not an abuse of discretion and is supported by record evidence.

Father also argues that the record does not support the factual findings underlying the district court’s determination that he is palpably unfit to be a party to the parent and child relationship. Thus, father contends, the district court erred in terminating his parental rights on this ground.

Under MAAFPA, a district court may terminate parental rights based on a showing of palpable unfitness under the same definition as provided in Chapter 260C. Minn. Stat. § 260.67, subd. 3(a)(2). Along with a showing of palpable unfitness, MAAFPA also

requires the district court to ensure that the social services agency “made active efforts to preserve the child’s family” before terminating a parent’s rights. Minn. Stat. § 260.64, subd. 4.

The district court found that father was palpably unfit under MAAFPFA for the same factual reasons described under section 260C.301, subdivision 1(b)(3). The district court found that although father was incarcerated, the county still made active efforts to meet the statutory requirements under Minnesota Statutes section 260.63, subdivision 2. These findings are also supported by the record. The social worker conducted in-person visits with father, facilitated contact with father’s therapist and case manager, ensured that father was attending mental-health programming, and sought an outside provider for father to attend a parenting-education course.

Thus, the district court did not err by terminating father’s parental rights under section 260.67, subdivision 3(a)(2).

DECISION

A district court may terminate the parental rights of a parent of an African American or disproportionately represented child under Minnesota Statutes section 260C.301 if the allegations against a parent involve a serious crime or egregious harm as defined under Minnesota Statutes section 260.67, subdivision 2(b). A district court may also terminate parental rights under Minnesota Statutes section 260.67, subdivision 3(a)(2), even if the children remain with a custodial parent. Accordingly, we conclude that the district court did not err in terminating father’s parental rights under MAAFPFA’s two-path framework.

The district court's determination is supported by the record and reflects a correct application of the law.

Affirmed.