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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A21-0901**

In the Matter of the Welfare of the Child of: A. M. M. R., Parent.

**Filed January 31, 2022  
Affirmed  
Reilly, Judge**

Jackson County District Court  
File No. 32-JV-21-19

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Considered and decided by Segal, Chief Judge; Reilly, Judge; and Smith, Tracy M.,  
Judge.

**NONPRECEDENTIAL OPINION**

**REILLY, Judge**

Appellant-mother challenges a district court order terminating her parental rights to her minor child and denying her petition to transfer legal and physical custody of the child to the child's maternal grandmother. Because the record supports the district court's determination that a statutory ground for termination exists and termination is in the child's best interests, we affirm. We also affirm the district court's denial of mother's petition to transfer legal and physical custody.

## FACTS

Appellant A.M.M.R. is the biological mother of Child 1, born in 2009, and Child 2, born in 2011, and the adoptive mother of Child 3, born in 2016.<sup>1</sup> In July 2019, respondent Des Moines Valley Health and Human Services (the county) received reports that mother and the children were living in a home with mother's boyfriend, a registered predatory offender with a long history of substance abuse. The county opened an investigation to determine whether it was safe for boyfriend to live in mother's home with the children. During the investigation, the county learned that mother and boyfriend abused substances, including methamphetamine, in front of the children. One time, Child 1 texted her maternal grandmother to report that mother and boyfriend were "going crazy," causing the children to feel scared and unsafe. Grandmother contacted the police. Police officers arrived at the home and discovered that mother was under the influence of methamphetamine and unable to properly care for the children. The county removed the children from the home and placed them in grandmother's care that evening.

The county then filed a petition in October 2019, alleging that the children were in need of protection or services (the CHIPS petition). Mother waived her rights and admitted facts sufficient to establish by clear and convincing evidence that the children were in need of protection or services. The district court transferred legal custody of the children to the county. The county placed Child 1 and Child 2 in the care of their biological father (father)

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<sup>1</sup> Mother adopted Child 3 at birth. Mother's sister is Child 3's biological mother. Child 3's maternal grandmother is his biological grandmother.

and his wife. The county placed Child 3 in relative foster care with his maternal grandmother.<sup>2</sup> The district court adjudicated the children in need of protection or services.

In March 2021, the county filed a petition to involuntarily terminate mother's parental rights (TPR) to Child 3.<sup>3</sup> The county alleged three statutory grounds in support of termination: (1) mother substantially, continuously, or repeatedly refused or neglected to comply with the duties imposed by the parent and child relationship; (2) mother failed to correct the conditions leading to Child 3's out-of-home placement despite reasonable efforts by the county; and (3) Child 3 was neglected in foster care. *See* Minn. Stat. § 260C.301, subd. 1(b)(2), (5), (8) (2020).

The day after the county filed the TPR petition, mother filed a petition to transfer permanent legal and physical custody of Child 3 to grandmother.

The district court held a three-day trial in the spring of 2021 on the county's TPR petition and on mother's petition to transfer legal custody of Child 3 to grandmother. The district court heard testimony from eight witnesses, including the county social worker, mother's drug and alcohol counselor, grandmother, father, Child 3's therapist, mother, Child 3's teacher, and the guardian ad litem (the GAL). The district court found that the county proved the existence of all three statutory grounds for termination by clear and convincing evidence. The district court also determined that termination of mother's

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<sup>2</sup> Because father was not Child 3's biological or adoptive father, the county did not consider him to be a placement option for Child 3 at that time.

<sup>3</sup> Mother voluntarily transferred permanent legal and physical custody of Child 1 and Child 2 to father. The county thus did not recommend terminating mother's parental rights to Child 1 and Child 2. Child 3 is the only subject of this appeal.

parental rights was in Child 3’s best interests. The district court then terminated mother’s parental rights to Child 3 and denied her petition to transfer legal and physical custody of Child 3 to grandmother.

Mother appeals.

## DECISION

Parental rights may only be terminated for “grave and weighty reasons.” *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990). A district court may involuntarily terminate a parent’s parental rights if (1) at least one of the statutory bases for terminating parental rights under Minn. Stat. § 260C.301, subd. 1(b) exists; (2) reasonable efforts toward reunification were either made or were not required; and (3) the proposed termination is in the child’s best interests. *See* Minn. Stat. §§ 260C.301, subds. 1(b), 7, 8 (2020); .317, subd. 1 (2020); *see also In re Welfare of Child. of S.E.P.*, 744 N.W.2d 381, 385 (Minn. 2008). In district court, the county bears the burden of proving these grounds for termination, *In re Welfare of Child of H.G.D.*, 962 N.W.2d 861, 869-70 (Minn. 2021), and must do so by clear and convincing evidence. Minn. R. Juv. Prot. P. 58.03, subd. 2(a). A district court’s decision to terminate parental rights is discretionary with that court. *In re Welfare of Child of R.D.L.*, 853 N.W.2d 127, 136-37 (Minn. 2014).

**I. The district court did not abuse its discretion when it terminated mother’s parental rights after finding that reasonable efforts, under the direction of the court, failed to correct the conditions leading to the child’s out-of-home placement.**

Mother challenges the district court’s determination that the county proved the existence of a statutory basis to terminate her parental rights to Child 3—that “reasonable

efforts, under the direction of the court, have failed to correct the conditions leading to the child's placement" under Minn. Stat. § 260C.301, subd. 1(b)(5). A reviewing court presumes that reasonable efforts have failed if: (1) the "child has resided out of the parental home under court order for a cumulative period of 12 months"; (2) "the court has approved the out-of-home placement plan"; (3) the "conditions leading to the out-of-home placement have not been corrected" as shown by the parent not "substantially [complying] with the court's orders and a reasonable case plan"; and (4) "reasonable efforts have been made by the social services agency to rehabilitate the parent and reunite the family." *Id.*, subd. 1(b)(5)(i)-(iv). Only the third and fourth elements are at issue in this appeal.

"We review the termination of parental rights to determine whether the district court's findings address the statutory criteria and whether the district court's findings are supported by substantial evidence and are not clearly erroneous[,]" and, in doing so, "closely inquire into the sufficiency of the evidence to determine whether it was clear and convincing." *S.E.P.*, 744 N.W.2d at 385. We also "review the district court's findings of the underlying or basic facts for clear error, but we review its determination of whether a particular statutory basis for involuntarily terminating parental rights is present for an abuse of discretion." *In re Welfare of Child. 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 either manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Welfare of Child. of T.R.*, 750 N.W.2d 656, 660-61 (Minn. 2008) (quotation omitted).

***Mother failed to correct conditions leading to Child 3's out-of-home placement.***

As for the third element, the district court found that reasonable efforts failed to correct the conditions leading to Child 3's out-of-home placement because mother failed to comply with her court-ordered case plan. As explained below, the record supports this finding. The county became involved with the family in July 2019. Mother's boyfriend registered his address as mother's address. The county began to investigate whether it was safe for boyfriend to live in mother's home with the children because he is required to register as a predatory offender. The county learned that mother and boyfriend were abusing substances, including methamphetamine, in front of the children. Child 1 and Child 2 were "afraid" of boyfriend and uncomfortable with him moving into the home. The county also received reports that mother failed to supervise the children due to her substance use and left the children home alone. On one such occasion, Child 1 texted grandmother that she was scared and did not feel safe. Grandmother contacted the police. Police officers arrived at the home and discovered that mother was under the influence of methamphetamine, "very much out of it," and unable to properly care for the children.

Following the CHIPS adjudication, the county filed a case plan with the district court. The district court ordered mother to comply with this case plan. The case plan required mother to receive chemical-dependency treatment, attend counseling and medication-management appointments, and maintain safe, sober, clean, and stable housing. The case plan also addressed requirements for boyfriend if he continued to live with mother. Boyfriend was not permitted to be the sole caregiver for the children. Although

the children were not living in mother's home then, during visits with mother, boyfriend was not permitted to be alone with the children.

The district court heard testimony during the TPR hearing that mother failed to comply with her court-ordered case plan. Mother tested positive for methamphetamine in October 2019 and November 2019. Mother began treatment and participated in her first course of chemical-dependency treatment from December 2019 to June 2020. Mother was initially "very successful" in treatment. Following her first course of treatment, the district court permitted the children to have a trial home visit with mother in June 2020. But the county ended the home visit a week later after receiving reports that boyfriend was acting as the children's sole caregiver and drove the children in his vehicle without a valid license. The children returned for a second trial home visit on August 25, 2020. Although mother tested positive for methamphetamine on both December 3 and December 4, 2020, the county did not end the trial home visit. Instead, the district court ordered mother to complete an updated chemical-dependency evaluation. Mother did not begin outpatient treatment until several months later. Her drug and alcohol counselor testified that mother was less engaged during her second course of treatment. The counselor believed that mother was at "a moderate risk of relapse" based on her "lack of consistent behavior, low motivation to change her behaviors and her passive involvement in treatment."

In January 2021, the county ended the second trial home visit because boyfriend was still living in the home and mother reported that boyfriend assaulted her. The county also learned that in January, mother left the children unattended in her car for over an hour

while she was in a casino. Child 2 became frightened and called her mother 22 times in one hour, but mother did not answer her phone from the casino.

In March 2021, police officers stopped mother for a traffic violation in Iowa. Boyfriend's minor daughter was in the car with mother. Officers discovered alcohol, marijuana, and a pipe in the car. During the police investigation, boyfriend's daughter stated that boyfriend and mother were living together, and that mother was helping hide boyfriend from the authorities. Mother denied that boyfriend was part of her life. But later that month, police officers in Iowa stopped boyfriend's vehicle and identified mother as a passenger in his vehicle.<sup>4</sup>

Mother claims she corrected the conditions leading to Child 3's out-of-home placement because she participated in treatment and stopped interacting with boyfriend. The district court acknowledged that mother was at first "very successful in treatment" from December 2019 to June 2020. But the district court noted that mother tested positive for methamphetamine twice in December 2020, after her first course of treatment. The district court also concluded that mother continued to deny responsibility for her actions and displayed an unwillingness to internalize the lessons presented during treatment. The district court found that mother "continues to deny any [substance] use in December 2020," despite two positive methamphetamine tests. The district court determined that mother's "denial and her compliance as a defense have slowed her progression through the current treatment." The district court determined that mother "will not have completed the

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<sup>4</sup> Mother moved to Spirit Lake, Iowa, in April 2021, one month before the beginning of her TPR trial.



program and does not appear to be taking what she is learning and applying it to her daily life.” The district court found that the county facilitated two trial home visits but terminated both visits because mother allowed boyfriend to supervise the children by himself, boyfriend assaulted mother, and mother left the children in a car at a casino for over an hour and ignored 22 calls from Child 2. The district court determined that despite the county’s efforts, “the conditions leading to the out of home placement . . . have continued.”

The record supports the district court’s findings that mother failed to abide by her case plan and correct the conditions leading to Child 3’s out-of-home placement. The social worker testified that mother “complied with some of the recommendations in some of the plans,” but that mother’s compliance was not “substantial[] or continuous[].” Mother had “numerous positive [urinalysis tests]” since the children were removed from the home. Mother also tested positive twice for methamphetamine in December 2020. Mother tested positive for alcohol in June 2021, during her TPR trial. Mother’s alcohol and drug counselor testified that mother succeeded during the first course of chemical dependency treatment but seemed “more guarded” and “strained” during her second course of treatment. The counselor considered this “significant” because mother seemed to be “just kind of complying, but not really taking in the experience.” The counselor does not believe mother is motivated to change. The counselor testified that mother continues to deny that she tested positive for drugs, despite her positive test results. The counselor assessed mother as being at a “moderate” risk of relapse because of her inconsistent behaviors, lack of motivation to change, and passive involvement in treatment. The social worker also expressed concerns that mother continued to deny having a substance-abuse problem.

The social worker testified that another “big problem” throughout the case was mother’s relationship with boyfriend. The social worker noted that mother spent a lot of time around “individuals who are not sober,” including boyfriend, which is “a huge factor for relapse.” Additionally, although boyfriend was not permitted to supervise the children alone, mother allowed boyfriend to be alone with the children throughout the case.

The social worker testified that mother continuously denied that boyfriend was part of her life. That said, both of mother’s trial home visits were terminated, in part, because mother continued to allow boyfriend to be alone with the children. And while mother denied at trial that she was still in contact with boyfriend, police officers in Iowa conducted a traffic stop of boyfriend’s vehicle in March 2021—two months before the TPR trial—and identified mother as a passenger in his vehicle. Boyfriend had a criminal court hearing in April 2021. Boyfriend asked the court to amend his release conditions to permit him to reside with mother until he could get into a drug-treatment program. Mother was present for that court hearing also and asked the court overseeing boyfriend’s case to allow boyfriend to stay at her home.

The GAL echoed the social worker’s concerns about mother’s inability or unwillingness to change her behavior. The GAL testified that “as soon as we’re out of the courtroom,” mother allows boyfriend back in her life and exhibits behaviors that are “inconsistent” with her case plan. The GAL did not believe mother was able to place Child 3’s needs above her own. The GAL supported terminating her parental rights.

And mother’s own testimony supports the district court’s findings on this element. At trial, counsel asked mother: “You agree, would you not, that because you’re making a

request that [Child 3] be placed permanently either with [grandmother] or with [father and his wife] that by making those recommendations, you're acknowledging [Child 3] can't be returned to you, correct?" Mother responded, "I am acknowledging that." We appreciate mother's candor about her inability to care for Child 3 at that time. But her inability to have the child returned to her care 18 months after his removal from her home in October 2019 supports the district court's factual findings that Child 3 cannot be returned to her care.

We therefore determine that the evidence supports the district court's findings that mother has not corrected the conditions that led to Child 3's out-of-home placement.

***The county made reasonable efforts to rehabilitate mother and reunify the family.***

As to the fourth element, the district court found that the county made reasonable efforts to rehabilitate mother and reunite the family. Before a district court may terminate parental rights, the county must either make reasonable efforts at reunification or be excused from doing so. Minn. Stat. § 260.012(a) (2020); *T.R.*, 750 N.W.2d at 664. Reasonable efforts are "services that go beyond mere matters of form so as to include real, genuine assistance." *In re Welfare of Child. of S.W.*, 727 N.W.2d 144, 150 (Minn. App. 2007) (quotations omitted), *rev. denied* (Minn. Mar. 28, 2007). The district court considers whether the services offered were: (1) relevant to the safety and protection of the child; (2) adequate to meet the needs of the child and family; (3) culturally appropriate; (4) available and accessible; (5) consistent and timely; and (6) realistic under the circumstances. Minn. Stat. § 260.012(h) (2020). Finally, the district court must consider "the length of the time the county was involved and the quality of effort given." *In re*

*Welfare of H.K.*, 455 N.W.2d 529, 532 (Minn. App. 1990), *rev. denied* (Minn. July 6, 1990).

The district court made detailed findings of fact about the county's efforts to alleviate the conditions that gave rise to the need for Child 3's out-of-home placement. The district court determined that the services offered by the county "were relevant to the safety and protection of [Child 3], adequate to meet the needs of the child and family, culturally appropriate, available and accessible, consistent and timely, and realistic under the circumstances." These services included: chemical-health services for mother, individual therapy for mother, play therapy for Child 3, medication management, diagnostic assessments for mother and the children, intensive family-based therapy, regular urinalysis tests, couples counseling for mother and boyfriend, and supervised visits. Despite these efforts, the district court found that "the conditions leading to the out of home placement . . . have continued."

The record supports the district court's reasonable-efforts findings. The social worker testified about two courses of chemical-dependency treatment and that the county offered "intensive family-based therapy as a whole family unit," including mother, grandmother, father, and all three children. Yet the social worker testified that by September 2020, mother was "kind of just done" with family therapy. Mother admitted she did not complete family-based therapy. In addition, mother acknowledged that both attempts to return the children to her home failed. The county arranged two trial home visits at mother's home to reunify the family. But both visits were terminated because mother failed to comply with her court-ordered case plan.

Mother argues the county did not help her find programs. Mother claims the county did not help her find services for her chemical use and that she had to seek out these services on her own. The record betrays this claim. At trial, the attorney asked mother's counselor how he first became acquainted with mother. The counselor testified that he began working with mother during her first course of chemical-dependency treatment when "[s]he was referred by . . . Des Moines Valley Health and Human Services." The attorney later asked the counselor how mother "came into . . . programming for a second time," whether through "a self-referral by [mother] or . . . an external referral from elsewhere." The counselor responded that the social worker referred mother for the second course of chemical-dependency treatment.<sup>5</sup>

The district court determined that the county established by clear and convincing evidence that it made reasonable efforts to reunify mother and Child 3. The evidentiary record supports the district court's factual findings, and the factual findings support the district court's legal conclusion, that the county made reasonable efforts to reunify the family under the fourth element.

Upon review of the four elements in subdivision 1(b)(5), we determine that the record supports the district court's determinations that the county made reasonable efforts

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<sup>5</sup> Mother also argues that the county failed to provide adequate family therapy services because the original program identified by the county would not accept Child 3 due to his age and the county failed to identify another program. Mother failed to allege sufficient facts to support this argument and we are unable to address it. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (deeming arguments forfeited on appeal that are unsupported by facts in record).

to rehabilitate mother and reunify the family, and that, despite those reasonable efforts, mother failed to correct the conditions leading to Child 3's placement out of the home.<sup>6</sup>

## **II. Termination of mother's parental rights is in the child's best interests.**

Even if a statutory basis for termination exists, the child's best interests are the "paramount consideration" in a termination proceeding. Minn. Stat. § 260C.301, subd. 7 (2020); *see also* Minn. Stat. § 260C.001, subd. 2(a) (2020). The district court balances three factors in a best-interests analysis: (1) the child's interest in preserving the parent-child relationship; (2) the parent's interest in preserving the parent-child relationship; and (3) any competing interests of the child. Minn. R. Juv. Prot. P. 58.04(c)(2)(ii); *see also* *J.R.B.*, 805 N.W.2d at 905 ("Competing interests [of the child] include such things as a stable environment, health considerations and the child's preferences." (quotation omitted)). We review a district court's best-interests determination for an abuse of discretion. *J.R.B.*, 805 N.W.2d at 905. "[D]etermination of a child's best interests is generally not susceptible to an appellate court's global review of a record, and . . . an appellate court's combing through the record to determine best interests is inappropriate because it involves credibility determinations." *In re Welfare of Child of D.L.D.*, 771 N.W.2d 538, 546 (Minn. App. 2009).

The district court thoroughly and thoughtfully weighed the statutory best-interests factors. First, the district court considered Child 3's interest in preserving the relationship

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<sup>6</sup> Because we affirm on this ground, we need not address the remaining two grounds for termination. *See In re Welfare of Child. of R.W.*, 678 N.W.2d 49, 55 & n.2 (Minn. 2004) (recognizing that only one statutory ground must be proven to support termination of parental rights).

with mother. The district court recognized that mother and Child 3 “have a connection and bond,” and that “[v]isits between the two go well.” The district court found that Child 3 has connections with his extended biological family, including grandmother. The district court also acknowledged testimony from the social worker and the GAL “that these relationships are important” and that mother “will have some role or part of [Child 3’s] life going forward.”

Second, the district court also found that mother has an interest in preserving the parent-child relationship. The district court found that mother loves Child 3 “and has a bond with him.” The district court noted that mother wants to continue to have a relationship with Child 3 and that father agreed to facilitate visits between mother and Child 3, provided mother remains sober. Mother argues that while father is willing to allow mother to have contact with Child 3, “there is no guarantee under law that this relationship will be allowed.” We acknowledge that upon termination of mother’s parental rights, “all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support existing between the child and parent shall be severed.” Minn. Stat. § 260C.317, subd. 1 (2020). But the district court credited testimony from father and the social worker that it was in Child 3’s best interests to have contact with mother so long as she remained sober and agreed to facilitate those visits.

Finally, the district court considered the competing interests of the child. The district court found that Child 3 has an interest in living in a stable, secure home, free from chemical use, and in an environment where his caregivers prioritize his needs. The district court found that “[i]t is this supervision and stability of [mother’s] home that has been a

concern through the child protection proceedings.” The district court noted that mother “admits she is unable to provide such an environment for [Child 3] at the current time.”

Based on these findings, the district court found it was in Child 3’s best interests to terminate mother’s parental rights. The district court’s best-interests findings are amply supported by the record. Mother did not provide a safe and stable home for Child 3. Mother used methamphetamine while Child 3 was in her care. She allowed boyfriend to supervise the children alone. She left the children alone in a car in January while she was inside at a casino. The county tried to reunite mother and Child 3 twice, but then terminated both visits. The social worker testified that she did not believe it was in Child 3’s best interests to be returned to mother because it would not be safe to do so. The GAL agreed it was in Child 3’s best interests to terminate mother’s parental rights and permit Child 3 to find stability in “a forever home.” The district court credited this testimony and concluded that Child 3 had an interest in achieving a safe and stable permanent home free from drug use, which mother could not provide.

In its discussion of Child 3’s best interests, the district court also considered the county’s recommendation to permanently place Child 3 with father and his wife. Mother claims the district court improperly considered whether Child 3’s best interests would be served by living with father. We acknowledge that the TPR statute “does not require assessment of a child’s adoptability.” *In re Welfare of J.M.*, 574 N.W.2d 717, 724 (Minn. 1998). Once a parent’s parental rights have been terminated, however, *J.M.* does not prohibit a district court from considering a child’s adoptability. *Id.* Moreover, even if the



district court improperly considered, and made findings on, the county's placement options, the outcome of the termination decision did not turn on these findings.

The district court did not abuse its discretion by considering Child 3's need for a stable home, which *is* a proper consideration in a best-interests analysis. The district court balanced the competing interest of Child 3 for a safe, sober, and stable living environment against mother's interest in maintaining a relationship with him and determined that this balance favored termination of mother's parental rights. The record supports the district court's underlying findings on the best-interests factors, and, given that these findings are supported, we cannot say that the district court abused its discretion in concluding that those factors balanced in favor of terminating mother's parental rights. Thus, the paramount consideration of Child 3's best interests supported terminating mother's parental rights.<sup>7</sup>

In sum, because at least one statutory ground for termination is supported by clear and convincing evidence and termination is in Child 3's best interests, the district court did not abuse its discretion by terminating mother's parental rights to Child 3.

### **III. The district court did not abuse its discretion when it denied mother's transfer-of-legal-custody petition.**

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<sup>7</sup> Mother also claims the district court erred because it should have placed Child 3 in the same legal position as his siblings. Mother does not support this argument with legal authority, and we decline to address it. *See State, Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to address an inadequately briefed question); *In re Child of P.T.*, 657 N.W.2d 577, 586 n.1 (Minn. App. 2003) (applying *Wintz* in TPR appeal); *see also Melina*, 327 N.W.2d at 20. We note, however, that mother's briefing to this court did not fully explain what she meant by putting Child 3 in the same legal position as his siblings. Thus, even if we were inclined to address her claim on the point, our ability to do so would be limited, at best.

Mother challenges the district court’s denial of her petition to transfer permanent legal and physical custody of Child 3 to grandmother. We review a district court’s decision on whether to transfer custody for an abuse of discretion. *In re Welfare of Child. of A.I.*, 779 N.W.2d 886, 895 (Minn. App. 2010), *rev. dismissed* (Minn. Apr. 20, 2010).

Transferring legal custody to a fit and willing relative is one of several permanency dispositions a district court may order in a child-protection proceeding. Minn. Stat. §§ 260C.513, .515 (2020). Under the permanency statute, “[t]ermination of parental rights and adoption, or guardianship to the commissioner of human services through a consent to adopt, are preferred permanency options for a child who cannot return home.” Minn. Stat. § 260C.513(a). But “[i]f the court finds that termination of parental rights and guardianship to the commissioner is not in the child’s best interests, the court may transfer permanent legal and physical custody of the child to a relative when that order is in the child’s best interests.” *Id.* The permanency statute carries a presumption that a TPR is preferred to transferring legal custody. *See id.* Minnesota law also recognizes the importance of placing siblings together. Minn. Stat. § 260C.212, subd. 2(d) (2020) (“Siblings should be placed together for foster care and adoption at the earliest possible time . . . .”). Thus, under a plain reading of the statute, a district court need not consider a transfer-of-custody petition if termination of parental rights is appropriate.

The supreme court recognizes that the “termination of parental rights is always discretionary with the juvenile court,” and the district court “is not required to grant or to deny” any petition. *In re Welfare of Child. of J.D.T.*, 946 N.W.2d 321, 328 (Minn. 2020) (quotation omitted). In *J.D.T.*, the court considered whether a parent’s petition for an

alternative permanency option “would automatically supplant an earlier-filed involuntary petition” to terminate parental rights. *Id.* The supreme court determined that it did not:

A district court presented with petitions for both voluntary and involuntary termination of parental rights may therefore use its discretion to grant one, both, or neither under the termination statute, keeping the best interests of the child as the paramount consideration.

*Id.* at 328-29. *J.D.T.* involved competing petitions for an involuntary TPR and a voluntary TPR, while this case involves a TPR petition and a transfer-of-custody petition. *Id.* at 325. But the principle remains that a district court has wide latitude to exercise its discretion in permanency matters in a way that serves the best interests of the child, when faced with competing placement alternatives. *Id.* at 328-29.

Here, the district court found that “[i]n considering what is in [Child 3’s] best interest, the stability provided by adoption is in [his] best interest.” The district court provided a thorough explanation to support its determination and the record supports this decision. Father lives with his wife, Child 1, Child 2, and two other children. Father and his wife are willing to take Child 3 into their home and incorporate him into their family. Father is also willing to work with grandmother and mother to facilitate contact with the children. The county considers father’s home to be a fitting placement for Child 3. The social worker noted that father and Child 3 “have always known each other,” and Child 3 “appears really comfortable” with father and views him as a “father figure.” The social worker observed Child 3 in father’s home and noticed that he “played nicely.” The GAL also observed Child 3 in father’s home and stated that “he was very comfortable in that

setting.” Father and his wife have been cooperating with the foster care licensing and the adoption-home-study process.

Mother testified in support of her petition to transfer custody of Child 3 to grandmother. Mother is concerned that she and grandmother will not see Child 3 as often if father and his wife adopt him. Grandmother claimed Child 3 did not like to go to father’s home and wanted to stay with her. Grandmother testified that at first she “got along great” with father and his wife and that everyone went “the extra mile” to allow the siblings to see one another. But grandmother testified that the relationship became strained when the county filed the permanency petition. Grandmother believes this tension arises from differing discipline styles and an incident in which grandmother snuck a cell phone to 4-year-old Child 3 against father’s wishes.

The GAL considered grandmother’s statements about father and his wife to be “inconsistent” with her own observations. And the GAL is concerned about Child 3 remaining permanently in grandmother’s care. The GAL believes Child 3 has a right to be raised with his siblings and have “a forever home” where he can establish roots and be part of a family.

Both the GAL and the social worker were concerned about grandmother getting Child 3 to school. The GAL testified that Child 3 will get a more consistent educational experience with father and his wife, with fewer disruptions to his school year. By contrast, the GAL did not believe grandmother was “vested in that education.” The record shows that Child 3 “missed a lot of schooling” while he was living with grandmother. And the social worker testified that several of these absences did not seem to be for “legitimate

reasons.” The social worker was concerned that living with grandmother could hinder Child 3’s schooling.

Grandmother disagreed with the county’s contention that she did not get Child 3 to school regularly. Child 3’s teacher testified that Child 3 missed school often, but she did not believe these absences were illegitimate. But the social worker testified that she had concerns that grandmother was not meeting Child 3’s educational needs. The social worker testified that grandmother did not believe children of his age should be in preschool. The social worker stated that grandmother did not take Child 3 to school when the roads were icy, when it was too cold, or when the temperatures dropped below zero. The social worker stressed that “school [is] still in session” during cold days, and Child 3 was “still expected to be there.” The social worker estimated that Child 3 missed between 20 and 30 school days during the school year. By contrast, the social worker testified that father and his wife “get the kids to school” and will meet Child 3’s educational needs.

The GAL testified that Child 3’s emotional needs will be better met with father. The GAL stated that in her opinion, Child 3 should be “allowed to be adopted, with his siblings.” The social worker similarly testified that she believes Child 3’s best interests will be served by terminating mother’s parental rights and “then, adoption of [Child 3] by [father and his wife] into the home where his two sisters live.” The social worker did not believe transfer of custody to grandmother would be in Child 3’s best interests. The district court’s decision reflects that it found the testimony of these witnesses credible, and we defer to these credibility determinations. *See In re Welfare of L.A.F.*, 554 N.W.2d 393,

396 (Minn. 1996) (“Considerable deference is due to the district court’s decision because a district court is in a superior position to assess the credibility of witnesses.”).

On review, we determine that the district court’s decision adheres to the permanency statute and controlling caselaw. As a result, we discern no abuse of discretion in the district court’s determination that the best interests of the child supported an involuntary termination of mother’s parental rights and did not support a transfer of legal and physical custody.

**Affirmed.**