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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **3104**

02/11/2020 Authored by Moran, Christensen and Kunesh-Podein  
The bill was read for the first time and referred to the Committee on Health and Human Services Policy  
05/04/2020 Adoption of Report: Placed on the General Register as Amended  
Pursuant to Joint Rule 2.03, re-referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act

1.2 relating to human services; modifying provisions regarding children and family

1.3 services, community supports administration, and civil commitment; establishing

1.4 Cultural and Ethnic Communities Leadership Council; requiring responsible social

1.5 services agencies to coordinate prenatal alcohol exposure screenings for children

1.6 in foster care; extending the corporate adult foster care moratorium exception for

1.7 a fifth bed until 2024; codifying existing session law governing consumer-directed

1.8 community supports; modifying timelines for intensive support service planning;

1.9 permitting license holders to delegate competency evaluations of residents to direct

1.10 support staff; modifying training requirements for direct support staff providing

1.11 licensed home and community-based services; modifying eligibility and per diem

1.12 requirements for psychiatric residential treatment facility services; clarifying the

1.13 excess income standard for medical assistance; restoring a notice requirement

1.14 when MnCHOICES assessments are required for personal care assistance services;

1.15 requiring the commissioner of human services to establish an institutional and

1.16 crisis bed consumer-directed community supports budget exception process in

1.17 home and community-based services waivers; requiring the commissioner to allow

1.18 a shared services option under consumer-directed community supports; modifying

1.19 the procedure for recreational license suspension and reinstatement; clarifying the

1.20 procedure for motions to transfer to tribal court; modifying child welfare provisions;

1.21 reorganizing and clarifying sections regarding child maltreatment and neglect;

1.22 modifying provisions regarding medical assistance covered services for certified

1.23 community behavioral health clinics and officer-involved community-based care

1.24 coordination; expanding who may order home care nursing services, home care

1.25 therapies, and skilled nurse visit services; providing criminal penalties; requiring

1.26 reports; amending Minnesota Statutes 2018, sections 13.32, subdivision 3; 13.3805,

1.27 subdivision 3; 13.43, subdivision 14; 13.82, subdivisions 8, 9, 17; 13.821; 13.84,

1.28 subdivision 9; 13.871, subdivision 6; 13.88; 119B.21; 119B.26; 120B.22,

1.29 subdivision 2; 125A.0942, subdivision 4; 135A.15, subdivision 10; 144.225,

1.30 subdivision 2b; 144.343, subdivision 4; 144.7065, subdivision 10; 144.7068;

1.31 144A.472, subdivision 1; 144A.479, subdivision 6; 144A.4796, subdivision 6;

1.32 144H.16, subdivision 1; 144H.18, subdivision 3; 145.902, subdivision 3; 145.952,

1.33 subdivision 2; 146A.025; 148E.240, subdivision 7; 148F.13, subdivision 12;

1.34 148F.205, subdivision 1; 153B.70; 214.103, subdivision 8; 214.104; 245.4871, by

1.35 adding a subdivision; 245.4885, subdivision 1; 245.8261, subdivision 9; 245A.02,

1.36 subdivision 2c; 245A.04, subdivisions 5, 9; 245A.06, subdivision 8; 245A.07,

1.37 subdivision 5; 245A.08, subdivision 2a; 245A.085; 245A.11, subdivisions 2a, 7b;

1.38 245A.50, as amended; 245C.02, subdivision 5, by adding subdivisions; 245C.04,

2.1 subdivision 1, by adding a subdivision; 245C.05, subdivision 6; 245C.14, by adding  
 2.2 a subdivision; 245C.15, subdivision 4; 245C.16, subdivisions 1, 2; 245C.17,  
 2.3 subdivisions 1, 3, by adding a subdivision; 245C.18; 245C.21, subdivision 2;  
 2.4 245C.24, subdivision 4; 245C.25; 245C.27, subdivisions 1, 2; 245C.28, subdivision  
 2.5 1; 245C.29, subdivision 1; 245C.31, subdivision 1; 245C.32, subdivision 2;  
 2.6 245D.02, subdivision 11, by adding a subdivision; 245D.04, subdivision 3;  
 2.7 245D.06, subdivisions 1, 2, 6; 245D.071, subdivision 3; 245D.081, subdivision  
 2.8 2; 245D.09, subdivisions 4, 4a; 245D.10, subdivision 3a; 245D.32, subdivision 5;  
 2.9 245F.02, subdivisions 7, 14; 245F.04, subdivision 1; 245F.06, subdivision 2;  
 2.10 245F.12, subdivisions 2, 3; 245F.15, subdivisions 3, 5; 245F.16, subdivisions 1,  
 2.11 2; 245F.18; 245G.02, subdivision 2; 245G.03, subdivision 1; 245G.09, subdivision  
 2.12 1; 245G.10, subdivision 3; 245G.11, subdivisions 3, 4; 245G.13, subdivision 2;  
 2.13 253B.02, subdivisions 4b, 7, 8, 9, 10, 13, 16, 17, 18, 19, 21, 22, 23, by adding a  
 2.14 subdivision; 253B.03, subdivisions 1, 2, 3, 4a, 5, 6, 6b, 6d, 7, 10; 253B.04,  
 2.15 subdivisions 1, 1a, 2; 253B.045, subdivisions 2, 3, 5, 6; 253B.06, subdivisions 1,  
 2.16 2, 3; 253B.07, subdivisions 1, 2, 2a, 2b, 2d, 3, 5, 7; 253B.08, subdivisions 1, 2a,  
 2.17 5, 5a; 253B.09, subdivisions 1, 2, 3a, 5; 253B.092; 253B.0921; 253B.095,  
 2.18 subdivision 3; 253B.097, subdivisions 1, 2, 3, 6; 253B.10; 253B.12, subdivisions  
 2.19 1, 3, 4, 7; 253B.13, subdivision 1; 253B.14; 253B.141; 253B.15, subdivisions 1,  
 2.20 1a, 2, 3, 3a, 3b, 3c, 5, 7, 9, 10, by adding a subdivision; 253B.16; 253B.17;  
 2.21 253B.18, subdivisions 1, 2, 3, 4a, 4b, 4c, 5, 5a, 6, 7, 8, 10, 11, 12, 14, 15; 253B.19,  
 2.22 subdivision 2; 253B.20, subdivisions 1, 2, 3, 4, 6; 253B.21, subdivisions 1, 2, 3;  
 2.23 253B.212, subdivisions 1, 1a, 1b, 2; 253B.22, subdivisions 1, 2, 3, 4; 253B.23,  
 2.24 subdivisions 1, 1b, 2; 253B.24; 253D.02, subdivision 6; 253D.07, subdivision 2;  
 2.25 253D.10, subdivision 2; 253D.28, subdivision 2; 254A.09; 256.01, subdivisions  
 2.26 12, 15; 256.0112, subdivision 10; 256.041; 256.045, subdivisions 3, 3b, 4; 256.82,  
 2.27 subdivision 2; 256.87, subdivision 8; 256.975, subdivision 12; 256B.0621,  
 2.28 subdivision 4; 256B.0625, subdivisions 33, 56a; 256B.0652, subdivision 10;  
 2.29 256B.0653, subdivisions 4, 5, 7; 256B.0654, subdivisions 1, 2a; 256B.0941,  
 2.30 subdivisions 1, 3; 256B.0945, subdivision 1; 256B.0949, subdivisions 2, 5, 6, 9,  
 2.31 13, 14, 15, 16; 256B.0951, subdivision 5; 256B.0954; 256B.097, subdivisions 4,  
 2.32 6; 256B.49, subdivision 16; 256B.77, subdivision 17; 256B.85, subdivision 12a;  
 2.33 256D.02, subdivision 17; 256E.21, subdivision 5; 256E.35; 256F.10, subdivisions  
 2.34 1, 4; 256I.03, subdivisions 3, 14; 256I.05, subdivisions 1c, 1n, 8; 256I.06,  
 2.35 subdivision 2, by adding a subdivision; 256J.08, subdivision 73a; 256L.07,  
 2.36 subdivision 4; 256M.10, subdivision 2; 256M.40, subdivision 1; 256M.41,  
 2.37 subdivision 1; 256N.02, subdivision 14a; 256N.21, subdivisions 2, 5; 256N.24,  
 2.38 subdivision 4; 256P.01, by adding a subdivision; 257.0725; 257.0764; 257.70;  
 2.39 260.012; 260.761, subdivision 2; 260B.171, subdivision 6; 260C.007, subdivisions  
 2.40 3, 5, 6, 13, by adding subdivisions; 260C.150, subdivision 3; 260C.157, subdivision  
 2.41 3; 260C.171, subdivision 3; 260C.177; 260C.202; 260C.204; 260C.209, subdivision  
 2.42 2; 260C.212, subdivisions 1, 4a, 12, by adding a subdivision; 260C.219; 260C.221;  
 2.43 260C.227; 260C.4412; 260C.503, subdivision 2, by adding a subdivision; 260D.01;  
 2.44 260D.02, subdivisions 3, 5; 388.051, subdivision 2; 518.005, subdivision 5;  
 2.45 518.165, subdivisions 2, 5; 518A.53, subdivision 11; 518A.68; 518A.685;  
 2.46 524.5-118, subdivision 2; 595.02, subdivisions 1, 2; 609.26, subdivision 7;  
 2.47 609.3457, subdivision 2; 609.379, subdivision 2; 609.507; 609.7495, subdivision  
 2.48 1; 611A.203, subdivision 4; 611A.90, subdivision 1; 626.557, subdivision 9d;  
 2.49 Minnesota Statutes 2019 Supplement, sections 13.46, subdivisions 3, 4; 119B.011,  
 2.50 subdivision 19; 122A.20, subdivision 2; 122A.40, subdivision 13; 122A.41,  
 2.51 subdivision 6; 144A.4796, subdivision 2; 148B.593; 243.166, subdivision 7;  
 2.52 245.4889, subdivision 1; 245.735, subdivision 3; 245A.07, subdivision 3; 245A.145,  
 2.53 subdivision 1; 245A.149; 245A.16, subdivision 1; 245A.40, subdivisions 1, 7;  
 2.54 245C.03, subdivision 1; 245C.05, subdivision 4; 245C.08, subdivision 1; 245C.13,  
 2.55 subdivision 2; 245D.09, subdivision 5; 245G.12; 245G.13, subdivision 1; 245H.11;  
 2.56 254A.03, subdivision 3, as amended; 254B.04, subdivision 1; 254B.05, subdivision  
 2.57 1; 256.01, subdivision 14b; 256B.056, subdivision 5c; 256B.0625, subdivision  
 2.58 5m; 256B.064, subdivision 2; 256B.0711, subdivision 1; 256B.0911, subdivision

3.1 3a; 256B.85, subdivision 10; 256I.04, subdivision 2b; 256S.01, subdivision 6;  
 3.2 256S.19, subdivision 4; 260B.198, subdivision 1; 260C.139, subdivision 3;  
 3.3 260C.178, subdivision 1; 260C.201, subdivision 6; 260C.212, subdivision 2;  
 3.4 299C.093; Laws 2016, chapter 189, article 15, section 29; Laws 2017, First Special  
 3.5 Session chapter 6, article 7, section 33, subdivisions 2, 3; proposing coding for  
 3.6 new law in Minnesota Statutes, chapters 120A; 253B; 256B; 256K; 260; 260C;  
 3.7 518A; proposing coding for new law as Minnesota Statutes, chapter 260E; repealing  
 3.8 Minnesota Statutes 2018, sections 245F.02, subdivision 20; 253B.02, subdivisions  
 3.9 6, 12a; 253B.05, subdivisions 1, 2, 2b, 3, 4; 253B.064; 253B.065; 253B.066;  
 3.10 253B.09, subdivision 3; 253B.12, subdivision 2; 253B.15, subdivision 11; 253B.20,  
 3.11 subdivision 7; 626.556, subdivisions 1, 3, 3a, 3c, 3d, 3f, 4, 4a, 5, 6, 6a, 7, 7a, 8, 9,  
 3.12 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h, 10i, 10j, 10k, 10l, 10m, 10n, 11a, 11b, 11c,  
 3.13 11d, 12, 14, 15, 16; 626.5561; 626.5562; 626.558; 626.559, subdivisions 1, 1a,  
 3.14 1b, 2, 3, 5; 626.5591; 626.561; Minnesota Statutes 2019 Supplement, section  
 3.15 626.556, subdivisions 2, 3b, 3e, 10, 11; Laws 2005, First Special Session chapter  
 3.16 4, article 7, sections 50; 51; Laws 2012, chapter 247, article 4, section 47, as  
 3.17 amended; Laws 2015, chapter 71, article 7, section 54, as amended; Laws 2017,  
 3.18 First Special Session chapter 6, article 1, sections 44, as amended; 45, as amended.

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

## 3.20 ARTICLE 1

### 3.21 CHILDREN AND FAMILY SERVICES

3.22 Section 1. Minnesota Statutes 2019 Supplement, section 119B.011, subdivision 19, is  
 3.23 amended to read:

3.24 Subd. 19. **Provider.** "Provider" means:

3.25 (1) an individual or child care center or facility licensed to provide child care under  
 3.26 chapter 245A when operating within the terms of the license;

3.27 (2) a license-exempt center required to be certified under chapter 245H;

3.28 (3) an individual or child care center or facility that: (i) holds a valid child care license  
 3.29 issued by another state or a tribe; (ii) provides child care services in the licensing state or  
 3.30 in the area under the licensing tribe's jurisdiction; and (iii) is in compliance with federal  
 3.31 health and safety requirements as certified by the licensing state or tribe, or as determined  
 3.32 by receipt of child care development block grant funds in the licensing state; ~~or~~

3.33 (4) a legal nonlicensed child care provider as defined under section 119B.011, subdivision  
 3.34 16, providing legal child care services. A legal nonlicensed child care provider must be at  
 3.35 least 18 years of age, and not a member of the MFIP assistance unit or a member of the  
 3.36 family receiving child care assistance to be authorized under this chapter; or

3.37 (5) an individual or child care center or facility that is operated under the jurisdiction of  
 3.38 the federal government.

3.39 **EFFECTIVE DATE.** This section is effective July 1, 2020.

4.1 Sec. 2. [120A.21] ENROLLMENT OF A STUDENT IN FOSTER CARE.

4.2 A student placed in foster care must remain enrolled in the student's prior school unless  
4.3 it is determined that remaining enrolled in the prior school is not in the student's best interests.  
4.4 If the student does not remain enrolled in the prior school, the student must be enrolled in  
4.5 a new school within seven school days.

4.6 Sec. 3. Minnesota Statutes 2018, section 245A.04, subdivision 9, is amended to read:

4.7 Subd. 9. **Variances.** (a) The commissioner may grant variances to rules that do not affect  
4.8 the health or safety of persons in a licensed program if the following conditions are met:

4.9 (1) the variance must be requested by an applicant or license holder on a form and in a  
4.10 manner prescribed by the commissioner;

4.11 (2) the request for a variance must include the reasons that the applicant or license holder  
4.12 cannot comply with a requirement as stated in the rule and the alternative equivalent measures  
4.13 that the applicant or license holder will follow to comply with the intent of the rule; and

4.14 (3) the request must state the period of time for which the variance is requested.

4.15 The commissioner may grant a permanent variance when conditions under which the  
4.16 variance is requested do not affect the health or safety of persons being served by the licensed  
4.17 program, nor compromise the qualifications of staff to provide services. The permanent  
4.18 variance shall expire as soon as the conditions that warranted the variance are modified in  
4.19 any way. Any applicant or license holder must inform the commissioner of any changes or  
4.20 modifications that have occurred in the conditions that warranted the permanent variance.  
4.21 Failure to advise the commissioner shall result in revocation of the permanent variance and  
4.22 may be cause for other sanctions under sections 245A.06 and 245A.07.

4.23 The commissioner's decision to grant or deny a variance request is final and not subject  
4.24 to appeal under the provisions of chapter 14.

4.25 (b) The commissioner shall consider variances for child care center staff qualification  
4.26 requirements under Minnesota Rules, parts 9503.0032 and 9503.0033, that do not affect  
4.27 the health and safety of children served by the center. A variance request must be submitted  
4.28 to the commissioner in accordance with paragraph (a) and must include a plan for the staff  
4.29 person to gain additional experience, education, or training, as requested by the commissioner.  
4.30 When reviewing a variance request under this section, the commissioner shall consider the  
4.31 staff person's level of professional development, including but not limited to steps completed  
4.32 on the Minnesota career lattice.

5.1 (c) Beginning January 1, 2021, counties shall use a uniform application form developed  
5.2 by the commissioner for variance requests by family child care license holders.

5.3 Sec. 4. Minnesota Statutes 2019 Supplement, section 245A.16, subdivision 1, is amended  
5.4 to read:

5.5 Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private  
5.6 agencies that have been designated or licensed by the commissioner to perform licensing  
5.7 functions and activities under section 245A.04 and background studies for family child care  
5.8 under chapter 245C; to recommend denial of applicants under section 245A.05; to issue  
5.9 correction orders, to issue variances, and recommend a conditional license under section  
5.10 245A.06; or to recommend suspending or revoking a license or issuing a fine under section  
5.11 245A.07, shall comply with rules and directives of the commissioner governing those  
5.12 functions and with this section. The following variances are excluded from the delegation  
5.13 of variance authority and may be issued only by the commissioner:

5.14 (1) dual licensure of family child care and child foster care, dual licensure of child and  
5.15 adult foster care, and adult foster care and family child care;

5.16 (2) adult foster care maximum capacity;

5.17 (3) adult foster care minimum age requirement;

5.18 (4) child foster care maximum age requirement;

5.19 (5) variances regarding disqualified individuals except that, before the implementation  
5.20 of NETStudy 2.0, county agencies may issue variances under section 245C.30 regarding  
5.21 disqualified individuals when the county is responsible for conducting a consolidated  
5.22 reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and  
5.23 (b), of a county maltreatment determination and a disqualification based on serious or  
5.24 recurring maltreatment;

5.25 (6) the required presence of a caregiver in the adult foster care residence during normal  
5.26 sleeping hours;

5.27 (7) variances to requirements relating to chemical use problems of a license holder or a  
5.28 household member of a license holder; and

5.29 (8) variances to section 245A.53 for a time-limited period. If the commissioner grants  
5.30 a variance under this clause, the license holder must provide notice of the variance to all  
5.31 parents and guardians of the children in care.

6.1 Except as provided in section 245A.14, subdivision 4, paragraph (e), a county agency must  
6.2 not grant a license holder a variance to exceed the maximum allowable family child care  
6.3 license capacity of 14 children.

6.4 (b) A county agency that has been designated by the commissioner to issue family child  
6.5 care variances must:

6.6 (1) publish the county agency's policies and criteria for issuing variances on the county's  
6.7 public website and update the policies as necessary; and

6.8 (2) annually distribute the county agency's policies and criteria for issuing variances to  
6.9 all family child care license holders in the county.

6.10 ~~(b)~~ (c) Before the implementation of NETStudy 2.0, county agencies must report  
6.11 information about disqualification reconsiderations under sections 245C.25 and 245C.27,  
6.12 subdivision 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause  
6.13 (5), to the commissioner at least monthly in a format prescribed by the commissioner.

6.14 ~~(e)~~ (d) For family child care programs, the commissioner shall require a county agency  
6.15 to conduct one unannounced licensing review at least annually.

6.16 ~~(d)~~ (e) For family adult day services programs, the commissioner may authorize licensing  
6.17 reviews every two years after a licensee has had at least one annual review.

6.18 ~~(e)~~ (f) A license issued under this section may be issued for up to two years.

6.19 ~~(f)~~ (g) During implementation of chapter 245D, the commissioner shall consider:

6.20 (1) the role of counties in quality assurance;

6.21 (2) the duties of county licensing staff; and

6.22 (3) the possible use of joint powers agreements, according to section 471.59, with counties  
6.23 through which some licensing duties under chapter 245D may be delegated by the  
6.24 commissioner to the counties.

6.25 Any consideration related to this paragraph must meet all of the requirements of the corrective  
6.26 action plan ordered by the federal Centers for Medicare and Medicaid Services.

6.27 ~~(g)~~ (h) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or  
6.28 successor provisions; and section 245D.061 or successor provisions, for family child foster  
6.29 care programs providing out-of-home respite, as identified in section 245D.03, subdivision  
6.30 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and  
6.31 private agencies.

7.1 ~~(h)~~ (i) A county agency shall report to the commissioner, in a manner prescribed by the  
 7.2 commissioner, the following information for a licensed family child care program:

7.3 (1) the results of each licensing review completed, including the date of the review, and  
 7.4 any licensing correction order issued;

7.5 (2) any death, serious injury, or determination of substantiated maltreatment; and

7.6 (3) any fires that require the service of a fire department within 48 hours of the fire. The  
 7.7 information under this clause must also be reported to the state fire marshal within two  
 7.8 business days of receiving notice from a licensed family child care provider.

7.9 **EFFECTIVE DATE.** This section is effective January 1, 2021.

7.10 Sec. 5. Minnesota Statutes 2018, section 256.041, is amended to read:

7.11 **256.041 CULTURAL AND ETHNIC COMMUNITIES LEADERSHIP COUNCIL.**

7.12 Subdivision 1. **Establishment; purpose.** (a) There is hereby established the Cultural  
 7.13 and Ethnic Communities Leadership Council for the Department of Human Services. The  
 7.14 purpose of the council is to advise the commissioner of human services on reducing inequities  
 7.15 and disparities that particularly affect racial and ethnic groups in Minnesota. The legislature  
 7.16 intends for the council to continue its work until racial and ethnic disparities no longer exist  
 7.17 in Minnesota.

7.18 (b) This council is comprised of racially and ethnically diverse community leaders and  
 7.19 American Indians who are residents of Minnesota and may present with compounded  
 7.20 challenges of systemic inequities. Members include people who are refugees, immigrants,  
 7.21 and LGBTQ+; people who may have a disability; and people who live in rural Minnesota.

7.22 Subd. 2. **Members.** (a) The council must consist of:

7.23 (1) the chairs and ranking minority members of the committees in the house of  
 7.24 representatives and the senate with jurisdiction over human services, or their designees; and

7.25 (2) no fewer than 15 and no more than 25 members appointed by and serving at the  
 7.26 pleasure of the commissioner of human services, in consultation with county, tribal, cultural,  
 7.27 and ethnic communities; diverse program participants; and parent representatives from these  
 7.28 communities, and Cultural and Ethnic Communities Leadership Council members.

7.29 (b) In making appointments under this section, the commissioner shall give priority  
 7.30 consideration to public members of the legislative councils of color established under ~~chapter~~  
 7.31 3 section 15.0145.

8.1 (c) Members must be appointed to allow for representation of the following groups:

8.2 (1) racial and ethnic minority groups;

8.3 (2) the American Indian community, which must be represented by two members;

8.4 (3) culturally and linguistically specific advocacy groups and service providers;

8.5 (4) human services program participants;

8.6 (5) public and private institutions;

8.7 (6) parents of human services program participants;

8.8 (7) members of the faith community;

8.9 (8) Department of Human Services employees; and

8.10 (9) any other group the commissioner deems appropriate to facilitate the goals and duties  
8.11 of the council.

8.12 Subd. 3. **Guidelines.** The commissioner shall direct the development of guidelines  
8.13 defining the membership of the council; setting out definitions; and developing duties of  
8.14 the commissioner, the council, and council members regarding racial and ethnic disparities  
8.15 reduction. The guidelines must be developed in consultation with:

8.16 (1) the chairs of relevant committees; and

8.17 (2) county, tribal, and cultural communities and program participants from these  
8.18 communities.

8.19 Subd. 4. **Chair.** The commissioner shall accept recommendations from the council to  
8.20 appoint a chair or chairs.

8.21 ~~Subd. 5. **Terms for first appointees.** The initial members appointed shall serve until~~  
8.22 ~~January 15, 2016.~~

8.23 Subd. 6. **Terms.** A term shall be for two years and appointees may be reappointed to  
8.24 serve two additional terms. The commissioner shall make appointments to replace members  
8.25 vacating their positions by January 15 of each year in a timely manner, no more than three  
8.26 months after the council reviews panel recommendations.

8.27 Subd. 7. **Duties of commissioner.** (a) The commissioner of human services or the  
8.28 commissioner's designee shall:

8.29 (1) maintain and actively engage with the council established in this section;



9.1 (2) supervise and coordinate policies for persons from racial, ethnic, cultural, linguistic,  
9.2 and tribal communities who experience disparities in access and outcomes;

9.3 (3) identify human services rules or statutes affecting persons from racial, ethnic, cultural,  
9.4 linguistic, and tribal communities that may need to be revised;

9.5 (4) investigate and implement ~~cost-effective~~ equitable and culturally responsive models  
9.6 of ~~service delivery such as~~ program implementation, including careful adaptation ~~adoption~~  
9.7 of ~~clinically~~ proven services that constitute one strategy for increasing the number of and  
9.8 culturally relevant services available to currently underserved populations; ~~and~~

9.9 (5) based on recommendations of the council, review identified department policies that  
9.10 maintain racial, ethnic, cultural, linguistic, and tribal disparities, ~~and~~ make adjustments to  
9.11 ensure those disparities are not perpetuated, and advise on progress and accountability  
9.12 measures for addressing inequities;

9.13 (6) in partnership with the council, renew and implement equity policy with action plans  
9.14 and resources necessary to implement the action plans;

9.15 (7) support interagency collaboration to advance equity;

9.16 (8) address the council at least twice annually on the state of equity within the department;  
9.17 and

9.18 (9) support member participation in the council, including participation in educational  
9.19 and community engagement events across Minnesota that address equity in human services.

9.20 (b) The commissioner of human services or the commissioner's designee shall consult  
9.21 with the council and receive recommendations from the council when meeting the  
9.22 requirements in this subdivision.

9.23 Subd. 8. **Duties of council.** The council shall:

9.24 (1) recommend to the commissioner for review ~~identified policies in the~~ Department of  
9.25 Human Services policy, budgetary, and operational decisions and practices that maintain  
9.26 impact racial, ethnic, cultural, linguistic, and tribal disparities;

9.27 (2) with community input, advance legislative proposals to improve racial and health  
9.28 equity outcomes;

9.29 (3) identify issues regarding inequities and disparities by engaging diverse populations  
9.30 in human services programs;

9.31 ~~(3)~~ (4) engage in mutual learning essential for achieving human services parity and  
9.32 optimal wellness for service recipients;

- 10.1 ~~(4)~~ (5) raise awareness about human services disparities to the legislature and media;
- 10.2 ~~(5)~~ (6) provide technical assistance and consultation support to counties, private nonprofit  
10.3 agencies, and other service providers to build their capacity to provide equitable human  
10.4 services for persons from racial, ethnic, cultural, linguistic, and tribal communities who  
10.5 experience disparities in access and outcomes;
- 10.6 ~~(6)~~ (7) provide technical assistance to promote statewide development of culturally and  
10.7 linguistically appropriate, accessible, and cost-effective human services and related policies;
- 10.8 ~~(7)~~ provide ~~(8)~~ recommend and monitor training and outreach to facilitate access to  
10.9 culturally and linguistically appropriate, accessible, and cost-effective human services to  
10.10 prevent disparities;
- 10.11 ~~(8)~~ facilitate culturally appropriate and culturally sensitive admissions, continued services,  
10.12 discharges, and utilization review for human services agencies and institutions;
- 10.13 (9) form work groups to help carry out the duties of the council that include, but are not  
10.14 limited to, persons who provide and receive services and representatives of advocacy groups,  
10.15 and provide the work groups with clear guidelines, standardized parameters, and tasks for  
10.16 the work groups to accomplish;
- 10.17 (10) promote information sharing in the human services community and statewide; ~~and~~
- 10.18 (11) by February 15 ~~each year~~ in the second year of the biennium, prepare and submit  
10.19 to the chairs and ranking minority members of the committees in the house of representatives  
10.20 and the senate with jurisdiction over human services a report that summarizes the activities  
10.21 of the council, identifies the major problems and issues confronting racial and ethnic groups  
10.22 in accessing human services, makes recommendations to address issues, ~~and~~ lists the specific  
10.23 objectives that the council seeks to attain during the next biennium, and provides  
10.24 recommendations to strengthen equity, diversity, and inclusion within the department. The  
10.25 report ~~must also include a list of programs, groups, and grants used to reduce disparities,~~  
10.26 ~~and statistically valid reports of outcomes on the reduction of the disparities.~~ shall identify  
10.27 racial and ethnic groups' difficulty in accessing human services and make recommendations  
10.28 to address the issues. The report must include any updated Department of Human Services  
10.29 equity policy, implementation plans, equity initiatives, and the council's progress.

10.30 Subd. 9. **Duties of council members.** The members of the council shall:

- 10.31 (1) with no more than three absences per year, attend and participate in scheduled  
10.32 meetings and be prepared by reviewing meeting notes;
- 10.33 (2) maintain open communication channels with respective constituencies;

11.1 (3) identify and communicate issues and risks that could impact the timely completion  
11.2 of tasks;

11.3 (4) collaborate on inequity and disparity reduction efforts;

11.4 (5) communicate updates of the council's work progress and status on the Department  
11.5 of Human Services website; ~~and~~

11.6 (6) participate in any activities the council or chair deems appropriate and necessary to  
11.7 facilitate the goals and duties of the council-; and

11.8 (7) participate in work groups to carry out council duties.

11.9 ~~Subd. 10. **Expiration.** The council expires on June 30, 2020.~~

11.10 Sec. 6. Minnesota Statutes 2018, section 256E.35, is amended to read:

11.11 **256E.35 FAMILY ASSETS FOR INDEPENDENCE.**

11.12 Subdivision 1. **Establishment.** The Minnesota family assets for independence initiative  
11.13 is established to provide incentives for low-income families to accrue assets for education,  
11.14 housing, vehicles, and economic development purposes.

11.15 Subd. 2. **Definitions.** (a) The definitions in this subdivision apply to this section.

11.16 (b) "Eligible educational institution" means the following:

11.17 (1) an institution of higher education described in section 101 or 102 of the Higher  
11.18 Education Act of 1965; or

11.19 (2) an area vocational education school, as defined in subparagraph (C) or (D) of United  
11.20 States Code, title 20, chapter 44, section 2302 (3) (the Carl D. Perkins Vocational and  
11.21 Applied Technology Education Act), which is located within any state, as defined in United  
11.22 States Code, title 20, chapter 44, section 2302 (30). This clause is applicable only to the  
11.23 extent section 2302 is in effect on August 1, 2008.

11.24 (c) "Family asset account" means a savings account opened by a household participating  
11.25 in the Minnesota family assets for independence initiative.

11.26 (d) "Fiduciary organization" means:

11.27 (1) a community action agency that has obtained recognition under section 256E.31;

11.28 (2) a federal community development credit union serving the seven-county metropolitan  
11.29 area; or

12.1 (3) a women-oriented economic development agency serving the seven-county  
12.2 metropolitan area.

12.3 (e) "Financial coach" means a person who:

12.4 (1) has completed an intensive financial literacy training workshop that includes  
12.5 curriculum on budgeting to increase savings, debt reduction and asset building, building a  
12.6 good credit rating, and consumer protection;

12.7 (2) participates in ongoing statewide family assets for independence in Minnesota (FAIM)  
12.8 network training meetings under FAIM program supervision; and

12.9 (3) provides financial coaching to program participants under subdivision 4a.

12.10 (f) "Financial institution" means a bank, bank and trust, savings bank, savings association,  
12.11 or credit union, the deposits of which are insured by the Federal Deposit Insurance  
12.12 Corporation or the National Credit Union Administration.

12.13 (g) "Household" means all individuals who share use of a dwelling unit as primary  
12.14 quarters for living and eating separate from other individuals.

12.15 (h) "Permissible use" means:

12.16 (1) postsecondary educational expenses at an eligible educational institution as defined  
12.17 in paragraph (b), including books, supplies, and equipment required for courses of instruction;

12.18 (2) acquisition costs of acquiring, constructing, or reconstructing a residence, including  
12.19 any usual or reasonable settlement, financing, or other closing costs;

12.20 (3) business capitalization expenses for expenditures on capital, plant, equipment, working  
12.21 capital, and inventory expenses of a legitimate business pursuant to a business plan approved  
12.22 by the fiduciary organization; ~~and~~

12.23 (4) acquisition costs of a principal residence within the meaning of section 1034 of the  
12.24 Internal Revenue Code of 1986 which do not exceed 100 percent of the average area purchase  
12.25 price applicable to the residence determined according to section 143(e)(2) and (3) of the  
12.26 Internal Revenue Code of 1986; and

12.27 (5) acquisition costs of a personal vehicle only if approved by the fiduciary organization.

12.28 Subd. 3. **Grants awarded.** The commissioner shall allocate funds to participating  
12.29 fiduciary organizations to provide family asset services. Grant awards must be based on a  
12.30 plan submitted by a statewide organization representing fiduciary organizations. The  
12.31 statewide organization must ensure that any interested unrepresented fiduciary organization  
12.32 have input into the development of the plan. The plan must equitably distribute funds to

13.1 achieve geographic balance and document the capacity of participating fiduciary  
13.2 organizations to manage the program ~~and to raise the private match.~~

13.3 Subd. 4. **Duties.** A participating fiduciary organization must:

13.4 (1) provide separate accounts for the immediate deposit of program funds;

13.5 (2) establish a process to select participants and describe any priorities for participation;

13.6 (3) enter into a family asset agreement with the household to establish the terms of  
13.7 participation;

13.8 (4) provide households with economic literacy education;

13.9 (5) provide households with information on early childhood family education;

13.10 (6) provide matching deposits for participating households;

13.11 (7) coordinate with other related public and private programs; and

13.12 (8) establish a process to appeal and mediate disputes.

13.13 Subd. 4a. **Financial coaching.** A financial coach shall provide the following to program  
13.14 participants:

13.15 (1) financial education relating to budgeting, debt reduction, asset-specific training, and  
13.16 financial stability activities;

13.17 (2) asset-specific training related to buying a home or vehicle, acquiring postsecondary  
13.18 education, or starting or expanding a small business; and

13.19 (3) financial stability education and training to improve and sustain financial security.

13.20 Subd. 5. **Household eligibility; participation.** (a) To be eligible for state or TANF  
13.21 matching funds in the family assets for independence initiative, a household must meet the  
13.22 eligibility requirements of the federal Assets for Independence Act, Public Law 105-285,  
13.23 in Title IV, section 408 of that act.

13.24 (b) Each participating household must sign a family asset agreement that includes the  
13.25 amount of scheduled deposits into its savings account, the proposed use, and the proposed  
13.26 savings goal. A participating household must agree to complete an economic literacy training  
13.27 program.

13.28 (c) Participating households may only deposit money that is derived from household  
13.29 earned income or from state and federal income tax credits.

14.1 Subd. 6. **Withdrawal; matching; permissible uses.** (a) To receive a match, a  
14.2 participating household must transfer funds withdrawn from a family asset account to its  
14.3 matching fund custodial account held by the fiscal agent, according to the family asset  
14.4 agreement. The fiscal agent must determine if the match request is for a permissible use  
14.5 consistent with the household's family asset agreement.

14.6 (b) The fiscal agent must ensure the household's custodial account contains the applicable  
14.7 matching funds to match the balance in the household's account, including interest, on at  
14.8 least a quarterly basis and at the time of an approved withdrawal. Matches must be provided  
14.9 as follows:

14.10 ~~(1) from state grant and TANF funds, a matching contribution of \$1.50~~ \$3 from state  
14.11 grant or TANF funds for every \$1 of funds withdrawn from the family asset account equal  
14.12 to the lesser of \$720 per year or not to exceed a \$3,000 ~~\$6,000 lifetime limit; and.~~

14.13 ~~(2) from nonstate funds, a matching contribution of no less than \$1.50 for every \$1 of~~  
14.14 ~~funds withdrawn from the family asset account equal to the lesser of \$720 per year or a~~  
14.15 ~~\$3,000 lifetime limit.~~

14.16 (c) Notwithstanding paragraph (b), if funds are appropriated for the Federal Assets for  
14.17 Independence Act of 1998, and a participating fiduciary organization is awarded a grant  
14.18 under that act, participating households with that fiduciary organization must be provided  
14.19 matches as follows:

14.20 (1) from state grant and TANF funds, a matching contribution of \$1.50 for every \$1 of  
14.21 funds withdrawn from the family asset account not to exceed a \$3,000 lifetime limit; and

14.22 (2) from nonstate funds, a matching contribution of not less than \$1.50 for every \$1 of  
14.23 funds withdrawn from the family asset account not to exceed a \$3,000 lifetime limit.

14.24 ~~(b)~~ (d) Upon receipt of transferred custodial account funds, the fiscal agent must make  
14.25 a direct payment to the vendor of the goods or services for the permissible use.

14.26 Subd. 7. **Program reporting.** The fiscal agent on behalf of each fiduciary organization  
14.27 participating in a family assets for independence initiative must report quarterly to the  
14.28 commissioner of human services identifying the participants with accounts, the number of  
14.29 accounts, the amount of savings and matches for each participant's account, the uses of the  
14.30 account, and the number of businesses, homes, vehicles, and educational services paid for  
14.31 with money from the account, as well as other information that may be required for the  
14.32 commissioner to administer the program and meet federal TANF reporting requirements.

14.33 **EFFECTIVE DATE.** This section is effective the day following final enactment.

15.1 Sec. 7. Minnesota Statutes 2018, section 257.0725, is amended to read:

15.2 **257.0725 ANNUAL REPORT.**

15.3 The commissioner of human services shall publish an annual report on child maltreatment  
15.4 and on children in out-of-home placement. The commissioner shall confer with counties,  
15.5 child welfare organizations, child advocacy organizations, the courts, and other groups on  
15.6 how to improve the content and utility of the department's annual report. In regard to child  
15.7 maltreatment, the report shall include the number and kinds of maltreatment reports received  
15.8 and any other data that the commissioner determines is appropriate to include in a report  
15.9 on child maltreatment. In regard to children in out-of-home placement, the report shall  
15.10 include, by county and statewide, information on legal status, living arrangement, age, sex,  
15.11 race, accumulated length of time in placement, reason for most recent placement, race of  
15.12 family with whom placed, school enrollments within seven days of placement pursuant to  
15.13 section 120A.21, and other information deemed appropriate on all children in out-of-home  
15.14 placement. Out-of-home placement includes placement in any facility by an authorized  
15.15 child-placing agency.

15.16 Sec. 8. Minnesota Statutes 2018, section 260C.219, is amended to read:

15.17 **260C.219 AGENCY RESPONSIBILITIES FOR PARENTS AND CHILDREN IN**  
15.18 **PLACEMENT.**

15.19 Subdivision 1. Responsibilities for parents; noncustodial parents. (a) When a child  
15.20 is in foster care, the responsible social services agency shall make diligent efforts to identify,  
15.21 locate, and, where appropriate, offer services to both parents of the child.

15.22 ~~(+)~~ (b) The responsible social services agency shall assess whether a noncustodial or  
15.23 nonadjudicated parent is willing and capable of providing for the day-to-day care of the  
15.24 child temporarily or permanently. An assessment under this ~~clause~~ paragraph may include,  
15.25 but is not limited to, obtaining information under section 260C.209. If after assessment, the  
15.26 responsible social services agency determines that a noncustodial or nonadjudicated parent  
15.27 is willing and capable of providing day-to-day care of the child, the responsible social  
15.28 services agency may seek authority from the custodial parent or the court to have that parent  
15.29 assume day-to-day care of the child. If a parent is not an adjudicated parent, the responsible  
15.30 social services agency shall require the nonadjudicated parent to cooperate with paternity  
15.31 establishment procedures as part of the case plan.

15.32 ~~(2)~~ (c) If, after assessment, the responsible social services agency determines that the  
15.33 child cannot be in the day-to-day care of either parent, the agency shall:

16.1 ~~(i)~~ (1) prepare an out-of-home placement plan addressing the conditions that each parent  
16.2 must meet before the child can be in that parent's day-to-day care; and

16.3 ~~(ii)~~ (2) provide a parent who is the subject of a background study under section 260C.209  
16.4 15 days' notice that it intends to use the study to recommend against putting the child with  
16.5 that parent, and the court shall afford the parent an opportunity to be heard concerning the  
16.6 study.

16.7 The results of a background study of a noncustodial parent shall not be used by the agency  
16.8 to determine that the parent is incapable of providing day-to-day care of the child unless  
16.9 the agency reasonably believes that placement of the child into the home of that parent  
16.10 would endanger the child's health, safety, or welfare.

16.11 ~~(3)~~ (d) If, after the provision of services following an out-of-home placement plan under  
16.12 this ~~section~~ subdivision, the child cannot return to the care of the parent from whom the  
16.13 child was removed or who had legal custody at the time the child was placed in foster care,  
16.14 the agency may petition on behalf of a noncustodial parent to establish legal custody with  
16.15 that parent under section 260C.515, subdivision 4. If paternity has not already been  
16.16 established, it may be established in the same proceeding in the manner provided for under  
16.17 chapter 257.

16.18 ~~(4)~~ (e) The responsible social services agency may be relieved of the requirement to  
16.19 locate and offer services to both parents by the juvenile court upon a finding of good cause  
16.20 after the filing of a petition under section 260C.141.

16.21 Subd. 2. Notice to parent or guardian. ~~(b)~~ The responsible social services agency shall  
16.22 give notice to the parent or guardian of each child in foster care, other than a child in  
16.23 voluntary foster care for treatment under chapter 260D, of the following information:

16.24 (1) that the child's placement in foster care may result in termination of parental rights  
16.25 or an order permanently placing the child out of the custody of the parent, but only after  
16.26 notice and a hearing as required under this chapter and the juvenile court rules;

16.27 (2) time limits on the length of placement and of reunification services, including the  
16.28 date on which the child is expected to be returned to and safely maintained in the home of  
16.29 the parent or parents or placed for adoption or otherwise permanently removed from the  
16.30 care of the parent by court order;

16.31 (3) the nature of the services available to the parent;

16.32 (4) the consequences to the parent and the child if the parent fails or is unable to use  
16.33 services to correct the circumstances that led to the child's placement;



- 17.1 (5) the first consideration for placement with relatives;
- 17.2 (6) the benefit to the child in getting the child out of foster care as soon as possible,  
17.3 preferably by returning the child home, but if that is not possible, through a permanent legal  
17.4 placement of the child away from the parent;
- 17.5 (7) when safe for the child, the benefits to the child and the parent of maintaining  
17.6 visitation with the child as soon as possible in the course of the case and, in any event,  
17.7 according to the visitation plan under this section; and
- 17.8 (8) the financial responsibilities and obligations, if any, of the parent or parents for the  
17.9 support of the child during the period the child is in foster care.
- 17.10 **Subd. 3. Information for a parent considering voluntary placement.** ~~(e)~~ The  
17.11 responsible social services agency shall inform a parent considering voluntary placement  
17.12 of a child under section 260C.227 of the following information:
- 17.13 (1) the parent and the child each has a right to separate legal counsel before signing a  
17.14 voluntary placement agreement, but not to counsel appointed at public expense;
- 17.15 (2) the parent is not required to agree to the voluntary placement, and a parent who enters  
17.16 a voluntary placement agreement may at any time request that the agency return the child.  
17.17 If the parent so requests, the child must be returned within 24 hours of the receipt of the  
17.18 request;
- 17.19 (3) evidence gathered during the time the child is voluntarily placed may be used at a  
17.20 later time as the basis for a petition alleging that the child is in need of protection or services  
17.21 or as the basis for a petition seeking termination of parental rights or other permanent  
17.22 placement of the child away from the parent;
- 17.23 (4) if the responsible social services agency files a petition alleging that the child is in  
17.24 need of protection or services or a petition seeking the termination of parental rights or other  
17.25 permanent placement of the child away from the parent, the parent would have the right to  
17.26 appointment of separate legal counsel and the child would have a right to the appointment  
17.27 of counsel and a guardian ad litem as provided by law, and that counsel will be appointed  
17.28 at public expense if they are unable to afford counsel; and
- 17.29 (5) the timelines and procedures for review of voluntary placements under section  
17.30 260C.212, subdivision 3, and the effect the time spent in voluntary placement on the  
17.31 scheduling of a permanent placement determination hearing under sections 260C.503 to  
17.32 260C.521.

18.1 Subd. 4. Medical examinations. ~~(d)~~ When an agency accepts a child for placement, the  
18.2 agency shall determine whether the child has had a physical examination by or under the  
18.3 direction of a licensed physician within the 12 months immediately preceding the date when  
18.4 the child came into the agency's care. If there is documentation that the child has had an  
18.5 examination within the last 12 months, the agency is responsible for seeing that the child  
18.6 has another physical examination within one year of the documented examination and  
18.7 annually in subsequent years. If the agency determines that the child has not had a physical  
18.8 examination within the 12 months immediately preceding placement, the agency shall ensure  
18.9 that the child has an examination within 30 days of coming into the agency's care and once  
18.10 a year in subsequent years.

18.11 Subd. 5. Children reaching age of majority; copies of records. ~~(e)~~ Whether under  
18.12 state guardianship or not, if a child leaves foster care by reason of having attained the age  
18.13 of majority under state law, the child must be given at no cost a copy of the child's social  
18.14 and medical history, as defined in section 259.43, and education report.

18.15 Subd. 6. Initial foster care phone call. (a) When a child enters foster care or moves to  
18.16 a new foster care placement, the responsible social services agency should attempt to  
18.17 coordinate a phone call between the foster parent or facility and the child's parent or legal  
18.18 guardian to establish a connection and encourage ongoing information sharing between the  
18.19 child's parent or legal guardian and the foster parent or facility; and to provide an opportunity  
18.20 to share any information regarding the child, the child's needs, or the child's care that would  
18.21 facilitate the child's adjustment to the foster home, promote stability, reduce the risk of  
18.22 trauma, or otherwise improve the quality of the child's care.

18.23 (b) The responsible social services agency should attempt to coordinate the phone call  
18.24 in paragraph (a) as soon as practicable after the child arrives at the placement but no later  
18.25 than 72 hours after the child's placement. If the responsible social services agency determines  
18.26 that the phone call is not in the child's best interests, or if the agency is unable to identify,  
18.27 locate, or contact the child's parent or legal guardian despite reasonable efforts, or despite  
18.28 active efforts if the child is an American Indian child, the agency may delay the phone call  
18.29 until up to 48 hours after the agency determines that the phone call is in the child's best  
18.30 interests, or up to 48 hours after the child's parent or legal guardian is located or becomes  
18.31 available for the phone call. The responsible social services agency is not required to attempt  
18.32 to coordinate the phone call if placing the phone call poses a danger to the mental or physical  
18.33 health of the child or foster parent.

18.34 (c) The responsible social services agency shall document the date and time of the phone  
18.35 call in paragraph (a), its efforts to coordinate the phone call, its efforts to identify, locate,

19.1 or find availability for the child's parent or legal guardian, any determination of whether  
19.2 the phone call is in the child's best interests, and any reasons that the phone call did not  
19.3 occur, including any danger to the child's or foster parent's mental or physical health.

19.4 Subd. 7. Prenatal alcohol exposure screening. (a) The responsible social services  
19.5 agency shall coordinate a prenatal alcohol exposure screening for any child who enters  
19.6 foster care as soon as practicable but no later than 45 days after the removal of the child  
19.7 from the child's home, if the agency has determined that the child has not previously been  
19.8 screened or identified as prenatally exposed to alcohol.

19.9 (b) The responsible social services agency shall ensure that the screening is conducted  
19.10 in accordance with:

19.11 (1) existing prenatal alcohol exposure screening best practice guidelines; and

19.12 (2) the criteria developed and provided to the responsible social services agency by the  
19.13 statewide organization that focuses solely on prevention and intervention with fetal alcohol  
19.14 spectrum disorder and that receives funding under the appropriation for fetal alcohol spectrum  
19.15 disorder in Laws 2007, chapter 147, article 19, section 4, subdivision 2.

19.16 **EFFECTIVE DATE.** This section is effective for children who enter foster care on or  
19.17 after August 1, 2020, except subdivision 6 is effective for children entering out-of-home  
19.18 placement or moving between placements on or after November 1, 2020.

19.19 Sec. 9. Laws 2016, chapter 189, article 15, section 29, is amended to read:

19.20 **Sec. 29. DIRECTION TO COMMISSIONERS; INCOME AND ASSET EXCLUSION.**

19.21 (a) The commissioner of human services shall not count payments made to families by  
19.22 the income and child development in the first three years of life demonstration project as  
19.23 income or assets for purposes of determining or redetermining eligibility for child care  
19.24 assistance programs under Minnesota Statutes, chapter 119B; the Minnesota family  
19.25 investment program, work benefit program, or diversionary work program under Minnesota  
19.26 Statutes, chapter 256J, during the duration of the demonstration.

19.27 (b) The commissioner of human services shall not count payments made to families by  
19.28 the income and child development in the first three years of life demonstration project as  
19.29 income for purposes of determining or redetermining eligibility for medical assistance under  
19.30 Minnesota Statutes, chapter 256B, and MinnesotaCare under Minnesota Statutes, chapter  
19.31 256L.

20.1 (c) For the purposes of this section, "income and child development in the first three  
20.2 years of life demonstration project" means a demonstration project funded by the United  
20.3 States Department of Health and Human Services National Institutes of Health to evaluate  
20.4 whether the unconditional cash payments have a causal effect on the cognitive,  
20.5 socioemotional, and brain development of infants and toddlers.

20.6 (d) This section shall only be implemented if Minnesota is chosen as a site for the child  
20.7 development in the first three years of life demonstration project, and expires January 1,  
20.8 ~~2022~~ 2026.

20.9 (e) The commissioner of human services shall provide a report to the chairs and ranking  
20.10 minority members of the legislative committees having jurisdiction over human services  
20.11 issues by January 1, ~~2023~~ 2027, informing the legislature on the progress and outcomes of  
20.12 the demonstration under this section.

20.13 Sec. 10. Laws 2017, First Special Session chapter 6, article 7, section 33, subdivision 2,  
20.14 is amended to read:

20.15 Subd. 2. **Pilot design and goals.** The pilot will establish five key developmental milestone  
20.16 markers from birth to age eight. ~~Enrollees in the Pilot program~~ participants will be  
20.17 developmentally assessed and tracked by a technology solution that tracks developmental  
20.18 milestones along the established developmental continuum. If a ~~child's pilot program~~  
20.19 participant's progress falls below established milestones ~~and the weighted scoring~~, the  
20.20 coordinated service system will focus on identified areas of concern, ~~mobilize appropriate~~  
20.21 ~~supportive services~~, and offer referrals or services to ~~identified children and their families~~  
20.22 pilot program participants.

20.23 **EFFECTIVE DATE.** This section is effective the day following final enactment.

20.24 Sec. 11. Laws 2017, First Special Session chapter 6, article 7, section 33, subdivision 3,  
20.25 is amended to read:

20.26 Subd. 3. **Program participants in ~~phase 1~~ target population.** Pilot program participants  
20.27 must opt in and provide parental or guardian consent to participate and be enrolled or engaged  
20.28 in one or more of the following:

20.29 (1) ~~be enrolled in~~ a Women's Infant & Children (WIC) program;

20.30 (2) ~~be participating in~~ a family home visiting program; or ~~nurse family practice, or~~  
20.31 ~~Healthy Families America (HFA)~~ Follow Along Program;

21.1 (3) ~~be children and families qualifying for and participating in early language learners~~  
 21.2 ~~(ELL) in the school district in which they reside; and a school's early childhood screening;~~  
 21.3 or

21.4 (4) ~~opt in and provide parental consent to participate in the pilot project~~ any other Dakota  
 21.5 County or school program that is determined as useful for identifying children at risk of  
 21.6 falling below established guidelines.

21.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

21.8 Sec. 12. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES;**  
 21.9 **UNIFORM FAMILY CHILD CARE VARIANCE APPLICATION FORM**  
 21.10 **DEVELOPED BY THE COMMISSIONER.**

21.11 By October 1, 2020, the commissioner of human services, after consultation with county  
 21.12 licensors and family child care providers, including those serving on the Family Child Care  
 21.13 Task Force, shall issue to counties a uniform application form for family child care variance  
 21.14 requests. The commissioner shall also issue any necessary training or guidance for counties  
 21.15 to use the form.

21.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

21.17 Sec. 13. **DIRECTION TO COMMISSIONER; INITIAL FOSTER CARE PHONE**  
 21.18 **CALL TRAINING.**

21.19 By August 1, 2020, the commissioner of human services shall issue written guidance to  
 21.20 county social services agencies, foster parents, and facilities to fully implement the initial  
 21.21 foster care phone call procedures in Minnesota Statutes, section 260C.219, subdivision 6.

21.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.

21.23 **ARTICLE 2**  
 21.24 **COMMUNITY SUPPORTS ADMINISTRATION**

21.25 Section 1. Minnesota Statutes 2019 Supplement, section 245.735, subdivision 3, is amended  
 21.26 to read:

21.27 Subd. 3. **Certified community behavioral health clinics.** (a) The commissioner shall  
 21.28 establish a state certification process for certified community behavioral health clinics  
 21.29 (CCBHCs). Entities that choose to be CCBHCs must:

22.1 (1) comply with the CCBHC criteria published by the United States Department of  
22.2 Health and Human Services;

22.3 (2) employ or contract for clinic staff who have backgrounds in diverse disciplines,  
22.4 including licensed mental health professionals and licensed alcohol and drug counselors,  
22.5 and staff who are culturally and linguistically trained to meet the needs of the population  
22.6 the clinic serves;

22.7 (3) ensure that clinic services are available and accessible to individuals and families of  
22.8 all ages and genders and that crisis management services are available 24 hours per day;

22.9 (4) establish fees for clinic services for individuals who are not enrolled in medical  
22.10 assistance using a sliding fee scale that ensures that services to patients are not denied or  
22.11 limited due to an individual's inability to pay for services;

22.12 (5) comply with quality assurance reporting requirements and other reporting  
22.13 requirements, including any required reporting of encounter data, clinical outcomes data,  
22.14 and quality data;

22.15 (6) provide crisis mental health and substance use services, withdrawal management  
22.16 services, emergency crisis intervention services, and stabilization services; screening,  
22.17 assessment, and diagnosis services, including risk assessments and level of care  
22.18 determinations; person- and family-centered treatment planning; outpatient mental health  
22.19 and substance use services; targeted case management; psychiatric rehabilitation services;  
22.20 peer support and counselor services and family support services; and intensive  
22.21 community-based mental health services, including mental health services for members of  
22.22 the armed forces and veterans;

22.23 (7) provide coordination of care across settings and providers to ensure seamless  
22.24 transitions for individuals being served across the full spectrum of health services, including  
22.25 acute, chronic, and behavioral needs. Care coordination may be accomplished through  
22.26 partnerships or formal contracts with:

22.27 (i) counties, health plans, pharmacists, pharmacies, rural health clinics, federally qualified  
22.28 health centers, inpatient psychiatric facilities, substance use and detoxification facilities, or  
22.29 community-based mental health providers; and

22.30 (ii) other community services, supports, and providers, including schools, child welfare  
22.31 agencies, juvenile and criminal justice agencies, Indian health services clinics, tribally  
22.32 licensed health care and mental health facilities, urban Indian health clinics, Department of

23.1 Veterans Affairs medical centers, outpatient clinics, drop-in centers, acute care hospitals,  
23.2 and hospital outpatient clinics;

23.3 (8) be certified as mental health clinics under section 245.69, subdivision 2;

23.4 (9) comply with standards relating to mental health services in Minnesota Rules, parts  
23.5 9505.0370 to 9505.0372, and section 256B.0671;

23.6 (10) be licensed to provide substance use disorder treatment under chapter 245G;

23.7 (11) be certified to provide children's therapeutic services and supports under section  
23.8 256B.0943;

23.9 (12) be certified to provide adult rehabilitative mental health services under section  
23.10 256B.0623;

23.11 (13) be enrolled to provide mental health crisis response services under sections  
23.12 256B.0624 and 256B.0944;

23.13 (14) be enrolled to provide mental health targeted case management under section  
23.14 256B.0625, subdivision 20;

23.15 (15) comply with standards relating to mental health case management in Minnesota  
23.16 Rules, parts 9520.0900 to 9520.0926;

23.17 (16) provide services that comply with the evidence-based practices described in  
23.18 paragraph (e); and

23.19 (17) comply with standards relating to peer services under sections 256B.0615,  
23.20 256B.0616, and 245G.07, subdivision 1, paragraph (a), clause (5), as applicable when peer  
23.21 services are provided.

23.22 (b) If an entity is unable to provide one or more of the services listed in paragraph (a),  
23.23 clauses (6) to (17), the commissioner may certify the entity as a CCBHC, if the entity has  
23.24 a current contract with another entity that has the required authority to provide that service  
23.25 and that meets federal CCBHC criteria as a designated collaborating organization, or, to  
23.26 the extent allowed by the federal CCBHC criteria, the commissioner may approve a referral  
23.27 arrangement. The CCBHC must meet federal requirements regarding the type and scope of  
23.28 services to be provided directly by the CCBHC.

23.29 (c) Notwithstanding any other law that requires a county contract or other form of county  
23.30 approval for certain services listed in paragraph (a), clause (6), a clinic that otherwise meets  
23.31 CCBHC requirements may receive the prospective payment under section 256B.0625,  
23.32 subdivision 5m, for those services without a county contract or county approval. ~~There is~~

24.1 ~~no county share when medical assistance pays the CCBHC prospective payment.~~ As part  
24.2 of the certification process in paragraph (a), the commissioner shall require a letter of support  
24.3 from the CCBHC's host county confirming that the CCBHC and the county or counties it  
24.4 serves have an ongoing relationship to facilitate access and continuity of care, especially  
24.5 for individuals who are uninsured or who may go on and off medical assistance.

24.6 (d) When the standards listed in paragraph (a) or other applicable standards conflict or  
24.7 address similar issues in duplicative or incompatible ways, the commissioner may grant  
24.8 variances to state requirements if the variances do not conflict with federal requirements.  
24.9 If standards overlap, the commissioner may substitute all or a part of a licensure or  
24.10 certification that is substantially the same as another licensure or certification. The  
24.11 commissioner shall consult with stakeholders, as described in subdivision 4, before granting  
24.12 variances under this provision. For the CCBHC that is certified but not approved for  
24.13 prospective payment under section 256B.0625, subdivision 5m, the commissioner may  
24.14 grant a variance under this paragraph if the variance does not increase the state share of  
24.15 costs.

24.16 (e) The commissioner shall issue a list of required evidence-based practices to be  
24.17 delivered by CCBHCs, and may also provide a list of recommended evidence-based practices.  
24.18 The commissioner may update the list to reflect advances in outcomes research and medical  
24.19 services for persons living with mental illnesses or substance use disorders. The commissioner  
24.20 shall take into consideration the adequacy of evidence to support the efficacy of the practice,  
24.21 the quality of workforce available, and the current availability of the practice in the state.  
24.22 At least 30 days before issuing the initial list and any revisions, the commissioner shall  
24.23 provide stakeholders with an opportunity to comment.

24.24 (f) The commissioner shall recertify CCBHCs at least every three years. The  
24.25 commissioner shall establish a process for decertification and shall require corrective action,  
24.26 medical assistance repayment, or decertification of a CCBHC that no longer meets the  
24.27 requirements in this section or that fails to meet the standards provided by the commissioner  
24.28 in the application and certification process.

24.29 Sec. 2. Minnesota Statutes 2018, section 245A.11, subdivision 2a, is amended to read:

24.30 Subd. 2a. **Adult foster care and community residential setting license capacity.** (a)  
24.31 The commissioner shall issue adult foster care and community residential setting licenses  
24.32 with a maximum licensed capacity of four beds, including nonstaff roomers and boarders,  
24.33 except that the commissioner may issue a license with a capacity of five beds, including  
24.34 roomers and boarders, according to paragraphs (b) to (g).



25.1 (b) The license holder may have a maximum license capacity of five if all persons in  
25.2 care are age 55 or over and do not have a serious and persistent mental illness or a  
25.3 developmental disability.

25.4 (c) The commissioner may grant variances to paragraph (b) to allow a facility with a  
25.5 licensed capacity of up to five persons to admit an individual under the age of 55 if the  
25.6 variance complies with section 245A.04, subdivision 9, and approval of the variance is  
25.7 recommended by the county in which the licensed facility is located.

25.8 (d) The commissioner may grant variances to paragraph (a) to allow the use of an  
25.9 additional bed, up to five, for emergency crisis services for a person with serious and  
25.10 persistent mental illness or a developmental disability, regardless of age, if the variance  
25.11 complies with section 245A.04, subdivision 9, and approval of the variance is recommended  
25.12 by the county in which the licensed facility is located.

25.13 (e) The commissioner may grant a variance to paragraph (b) to allow for the use of an  
25.14 additional bed, up to five, for respite services, as defined in section 245A.02, for persons  
25.15 with disabilities, regardless of age, if the variance complies with sections 245A.03,  
25.16 subdivision 7, and 245A.04, subdivision 9, and approval of the variance is recommended  
25.17 by the county in which the licensed facility is located. Respite care may be provided under  
25.18 the following conditions:

25.19 (1) staffing ratios cannot be reduced below the approved level for the individuals being  
25.20 served in the home on a permanent basis;

25.21 (2) no more than two different individuals can be accepted for respite services in any  
25.22 calendar month and the total respite days may not exceed 120 days per program in any  
25.23 calendar year;

25.24 (3) the person receiving respite services must have his or her own bedroom, which could  
25.25 be used for alternative purposes when not used as a respite bedroom, and cannot be the  
25.26 room of another person who lives in the facility; and

25.27 (4) individuals living in the facility must be notified when the variance is approved. The  
25.28 provider must give 60 days' notice in writing to the residents and their legal representatives  
25.29 prior to accepting the first respite placement. Notice must be given to residents at least two  
25.30 days prior to service initiation, or as soon as the license holder is able if they receive notice  
25.31 of the need for respite less than two days prior to initiation, each time a respite client will  
25.32 be served, unless the requirement for this notice is waived by the resident or legal guardian.

26.1 (f) The commissioner may issue an adult foster care or community residential setting  
26.2 license with a capacity of five adults if the fifth bed does not increase the overall statewide  
26.3 capacity of licensed adult foster care or community residential setting beds in homes that  
26.4 are not the primary residence of the license holder, as identified in a plan submitted to the  
26.5 commissioner by the county, when the capacity is recommended by the county licensing  
26.6 agency of the county in which the facility is located and if the recommendation verifies  
26.7 that:

26.8 (1) the facility meets the physical environment requirements in the adult foster care  
26.9 licensing rule;

26.10 (2) the five-bed living arrangement is specified for each resident in the resident's:

26.11 (i) individualized plan of care;

26.12 (ii) individual service plan under section 256B.092, subdivision 1b, if required; or

26.13 (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105,  
26.14 subpart 19, if required;

26.15 (3) the license holder obtains written and signed informed consent from each resident  
26.16 or resident's legal representative documenting the resident's informed choice to remain  
26.17 living in the home and that the resident's refusal to consent would not have resulted in  
26.18 service termination; and

26.19 (4) the facility was licensed for adult foster care before March 1, ~~2014~~ 2016.

26.20 (g) The commissioner shall not issue a new adult foster care license under paragraph (f)  
26.21 after ~~June 30~~ December 31, 2019 2020. The commissioner shall allow a facility with an  
26.22 adult foster care license issued under paragraph (f) before ~~June 30~~ December 31, 2019 2020,  
26.23 to continue with a capacity of five adults if the license holder continues to comply with the  
26.24 requirements in paragraph (f).

26.25 Sec. 3. Minnesota Statutes 2018, section 245D.02, is amended by adding a subdivision to  
26.26 read:

26.27 Subd. 32a. **Sexual violence.** "Sexual violence" means the use of sexual actions or words  
26.28 that are unwanted or harmful to another person.

27.1 Sec. 4. Minnesota Statutes 2018, section 245D.071, subdivision 3, is amended to read:

27.2 Subd. 3. **Assessment and initial service planning.** (a) Within 15 days of service initiation  
27.3 the license holder must complete a preliminary coordinated service and support plan  
27.4 addendum based on the coordinated service and support plan.

27.5 (b) Within the scope of services, the license holder must, at a minimum, complete  
27.6 assessments in the following areas before the 45-day planning meeting:

27.7 (1) the person's ability to self-manage health and medical needs to maintain or improve  
27.8 physical, mental, and emotional well-being, including, when applicable, allergies, seizures,  
27.9 choking, special dietary needs, chronic medical conditions, self-administration of medication  
27.10 or treatment orders, preventative screening, and medical and dental appointments;

27.11 (2) the person's ability to self-manage personal safety to avoid injury or accident in the  
27.12 service setting, including, when applicable, risk of falling, mobility, regulating water  
27.13 temperature, community survival skills, water safety skills, and sensory disabilities; and

27.14 (3) the person's ability to self-manage symptoms or behavior that may otherwise result  
27.15 in an incident as defined in section 245D.02, subdivision 11, clauses (4) to (7), suspension  
27.16 or termination of services by the license holder, or other symptoms or behaviors that may  
27.17 jeopardize the health and welfare of the person or others.

27.18 Assessments must produce information about the person that describes the person's overall  
27.19 strengths, functional skills and abilities, and behaviors or symptoms. Assessments must be  
27.20 based on the person's status within the last 12 months at the time of service initiation.

27.21 Assessments based on older information must be documented and justified. Assessments  
27.22 must be conducted annually at a minimum or within 30 days of a written request from the  
27.23 person or the person's legal representative or case manager. The results must be reviewed  
27.24 by the support team or expanded support team as part of a service plan review.

27.25 (c) Within 45 days of service initiation or within 60 calendar days of  
27.26 service initiation, whichever is shorter, the license holder must meet with the person, the  
27.27 person's legal representative, the case manager, ~~and~~ other members of the support team or  
27.28 expanded support team, and other people as identified by the person or the person's legal  
27.29 representative to determine the following based on information obtained from the assessments  
27.30 identified in paragraph (b), the person's identified needs in the coordinated service and  
27.31 support plan, and the requirements in subdivision 4 and section 245D.07, subdivision 1a:

27.32 (1) the scope of the services to be provided to support the person's daily needs and  
27.33 activities;

28.1 (2) the person's desired outcomes and the supports necessary to accomplish the person's  
28.2 desired outcomes;

28.3 (3) the person's preferences for how services and supports are provided, including how  
28.4 the provider will support the person to have control of the person's schedule;

28.5 (4) whether the current service setting is the most integrated setting available and  
28.6 appropriate for the person; ~~and~~

28.7 (5) opportunities to develop and maintain essential and life-enriching skills, abilities,  
28.8 strengths, interests, and preferences;

28.9 (6) opportunities for community access, participation, and inclusion in preferred  
28.10 community activities;

28.11 (7) opportunities to develop and strengthen personal relationships with other persons of  
28.12 the person's choice in the community;

28.13 (8) opportunities to seek competitive employment and work at competitively paying  
28.14 jobs in the community; and

28.15 ~~(5)~~ (9) how services must be coordinated across other providers licensed under this  
28.16 chapter serving the person and members of the support team or expanded support team to  
28.17 ensure continuity of care and coordination of services for the person.

28.18 (d) A discussion of how technology might be used to meet the person's desired outcomes  
28.19 must be included in the 45-day planning meeting. The coordinated service and support plan  
28.20 or support plan addendum must include a summary of this discussion. The summary must  
28.21 include a statement regarding any decision that is made regarding the use of technology  
28.22 and a description of any further research that needs to be completed before a decision  
28.23 regarding the use of technology can be made. Nothing in this paragraph requires that the  
28.24 coordinated service and support plan include the use of technology for the provision of  
28.25 services.

28.26 Sec. 5. Minnesota Statutes 2018, section 245D.081, subdivision 2, is amended to read:

28.27 Subd. 2. **Coordination and evaluation of individual service delivery.** (a) Delivery  
28.28 and evaluation of services provided by the license holder must be coordinated by a designated  
28.29 staff person. Except as provided in clause (3), the designated coordinator must provide  
28.30 supervision, support, and evaluation of activities that include:

28.31 (1) oversight of the license holder's responsibilities assigned in the person's coordinated  
28.32 service and support plan and the coordinated service and support plan addendum;

29.1 (2) taking the action necessary to facilitate the accomplishment of the outcomes according  
29.2 to the requirements in section 245D.07;

29.3 (3) instruction and assistance to direct support staff implementing the coordinated service  
29.4 and support plan and the service outcomes, including direct observation of service delivery  
29.5 sufficient to assess staff competency. The designated coordinator may delegate the direct  
29.6 observation and competency assessment of the service delivery activities of direct support  
29.7 staff to an individual whom the designated coordinator has previously deemed competent  
29.8 in those activities; and

29.9 (4) evaluation of the effectiveness of service delivery, methodologies, and progress on  
29.10 the person's outcomes based on the measurable and observable criteria for identifying when  
29.11 the desired outcome has been achieved according to the requirements in section 245D.07.

29.12 (b) The license holder must ensure that the designated coordinator is competent to  
29.13 perform the required duties identified in paragraph (a) through education, training, and work  
29.14 experience relevant to the primary disability of persons served by the license holder and  
29.15 the individual persons for whom the designated coordinator is responsible. The designated  
29.16 coordinator must have the skills and ability necessary to develop effective plans and to  
29.17 design and use data systems to measure effectiveness of services and supports. The license  
29.18 holder must verify and document competence according to the requirements in section  
29.19 245D.09, subdivision 3. The designated coordinator must minimally have:

29.20 (1) a baccalaureate degree in a field related to human services, and one year of full-time  
29.21 work experience providing direct care services to persons with disabilities or persons age  
29.22 65 and older;

29.23 (2) an associate degree in a field related to human services, and two years of full-time  
29.24 work experience providing direct care services to persons with disabilities or persons age  
29.25 65 and older;

29.26 (3) a diploma in a field related to human services from an accredited postsecondary  
29.27 institution and three years of full-time work experience providing direct care services to  
29.28 persons with disabilities or persons age 65 and older; or

29.29 (4) a minimum of 50 hours of education and training related to human services and  
29.30 disabilities; and

29.31 (5) four years of full-time work experience providing direct care services to persons  
29.32 with disabilities or persons age 65 and older under the supervision of a staff person who  
29.33 meets the qualifications identified in clauses (1) to (3).

30.1 Sec. 6. Minnesota Statutes 2018, section 245D.09, subdivision 4, is amended to read:

30.2 Subd. 4. **Orientation to program requirements.** Except for a license holder who does  
30.3 not supervise any direct support staff, within 60 calendar days of hire, unless stated otherwise,  
30.4 the license holder must provide and ensure completion of orientation sufficient to create  
30.5 staff competency for direct support staff that combines supervised on-the-job training with  
30.6 review of and instruction in the following areas:

30.7 (1) the job description and how to complete specific job functions, including:

30.8 (i) responding to and reporting incidents as required under section 245D.06, subdivision  
30.9 1; and

30.10 (ii) following safety practices established by the license holder and as required in section  
30.11 245D.06, subdivision 2;

30.12 (2) the license holder's current policies and procedures required under this chapter,  
30.13 including their location and access, and staff responsibilities related to implementation of  
30.14 those policies and procedures;

30.15 (3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal  
30.16 Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff  
30.17 responsibilities related to complying with data privacy practices;

30.18 (4) the service recipient rights and staff responsibilities related to ensuring the exercise  
30.19 and protection of those rights according to the requirements in section 245D.04;

30.20 (5) sections 245A.65, 245A.66, 626.556, and 626.557, governing maltreatment reporting  
30.21 and service planning for children and vulnerable adults, and staff responsibilities related to  
30.22 protecting persons from maltreatment and reporting maltreatment. This orientation must be  
30.23 provided within 72 hours of first providing direct contact services and annually thereafter  
30.24 according to section 245A.65, subdivision 3;

30.25 (6) the principles of person-centered service planning and delivery as identified in section  
30.26 245D.07, subdivision 1a, and how they apply to direct support service provided by the staff  
30.27 person;

30.28 (7) the safe and correct use of manual restraint on an emergency basis according to the  
30.29 requirements in section 245D.061 or successor provisions, and what constitutes the use of  
30.30 restraints, time out, and seclusion, including chemical restraint;

31.1 (8) staff responsibilities related to prohibited procedures under section 245D.06,  
31.2 subdivision 5, or successor provisions, why such procedures are not effective for reducing  
31.3 or eliminating symptoms or undesired behavior, and why such procedures are not safe;

31.4 (9) basic first aid; ~~and~~

31.5 (10) strategies to minimize the risk of sexual violence, including concepts of healthy  
31.6 relationships, consent, and bodily autonomy of people with disabilities; and

31.7 (11) other topics as determined necessary in the person's coordinated service and support  
31.8 plan by the case manager or other areas identified by the license holder.

31.9 Sec. 7. Minnesota Statutes 2018, section 245D.09, subdivision 4a, is amended to read:

31.10 Subd. 4a. **Orientation to individual service recipient needs.** (a) Before having  
31.11 unsupervised direct contact with a person served by the program, or for whom the staff  
31.12 person has not previously provided direct support, or any time the plans or procedures  
31.13 identified in paragraphs (b) to (f) are revised, the staff person must review and receive  
31.14 instruction on the requirements in paragraphs (b) to (f) as they relate to the staff person's  
31.15 job functions for that person.

31.16 (b) For community residential services, training and competency evaluations must include  
31.17 the following, if identified in the coordinated service and support plan:

31.18 (1) appropriate and safe techniques in personal hygiene and grooming, including hair  
31.19 care; bathing; care of teeth, gums, and oral prosthetic devices; and other activities of daily  
31.20 living (ADLs) as defined under section 256B.0659, subdivision 1;

31.21 (2) an understanding of what constitutes a healthy diet according to data from the Centers  
31.22 for Disease Control and Prevention and the skills necessary to prepare that diet; and

31.23 (3) skills necessary to provide appropriate support in instrumental activities of daily  
31.24 living (IADLs) as defined under section 256B.0659, subdivision 1.

31.25 (c) The staff person must review and receive instruction on the person's coordinated  
31.26 service and support plan or coordinated service and support plan addendum as it relates to  
31.27 the responsibilities assigned to the license holder, and when applicable, the person's individual  
31.28 abuse prevention plan, to achieve and demonstrate an understanding of the person as a  
31.29 unique individual, and how to implement those plans.

31.30 (d) The staff person must review and receive instruction on medication setup, assistance,  
31.31 or administration procedures established for the person when assigned to the license holder  
31.32 according to section 245D.05, subdivision 1, paragraph (b). Unlicensed staff may perform

32.1 medication setup or medication administration only after successful completion of a  
32.2 medication setup or medication administration training, from a training curriculum developed  
32.3 by a registered nurse or appropriate licensed health professional. The training curriculum  
32.4 must incorporate an observed skill assessment conducted by the trainer to ensure unlicensed  
32.5 staff demonstrate the ability to safely and correctly follow medication procedures.

32.6 Medication administration must be taught by a registered nurse, clinical nurse specialist,  
32.7 certified nurse practitioner, physician assistant, or physician if, at the time of service initiation  
32.8 or any time thereafter, the person has or develops a health care condition that affects the  
32.9 service options available to the person because the condition requires:

32.10 (1) specialized or intensive medical or nursing supervision; and

32.11 (2) nonmedical service providers to adapt their services to accommodate the health and  
32.12 safety needs of the person.

32.13 (e) The staff person must review and receive instruction on the safe and correct operation  
32.14 of medical equipment used by the person to sustain life or to monitor a medical condition  
32.15 that could become life-threatening without proper use of the medical equipment, including  
32.16 but not limited to ventilators, feeding tubes, or endotracheal tubes. The training must be  
32.17 provided by a licensed health care professional or a manufacturer's representative and  
32.18 incorporate an observed skill assessment to ensure staff demonstrate the ability to safely  
32.19 and correctly operate the equipment according to the treatment orders and the manufacturer's  
32.20 instructions.

32.21 (f) The staff person must review and receive instruction on mental health crisis response,  
32.22 de-escalation techniques, and suicide intervention when providing direct support to a person  
32.23 with a serious mental illness.

32.24 (g) In the event of an emergency service initiation, the license holder must ensure the  
32.25 training required in this subdivision occurs within 72 hours of the direct support staff person  
32.26 first having unsupervised contact with the person receiving services. The license holder  
32.27 must document the reason for the unplanned or emergency service initiation and maintain  
32.28 the documentation in the person's service recipient record.

32.29 (h) License holders who provide direct support services themselves must complete the  
32.30 orientation required in subdivision 4, clauses (3) to ~~(10)~~ (11).



33.1 Sec. 8. Minnesota Statutes 2019 Supplement, section 245D.09, subdivision 5, is amended  
33.2 to read:

33.3 Subd. 5. **Annual training.** A license holder must provide annual training to direct support  
33.4 staff on the topics identified in subdivision 4, clauses (3) to ~~(10)~~ (11). If the direct support  
33.5 staff has a first aid certification, annual training under subdivision 4, clause (9), is not  
33.6 required as long as the certification remains current.

33.7 Sec. 9. Minnesota Statutes 2018, section 256.975, subdivision 12, is amended to read:

33.8 Subd. 12. **Self-directed caregiver grants.** Beginning on July 1, 2019, the Minnesota  
33.9 Board on Aging shall, in consultation with area agencies on aging and other community  
33.10 caregiver stakeholders, administer self-directed caregiver grants to support at-risk family  
33.11 caregivers of older adults or others eligible under the Older Americans Act of 1965, United  
33.12 States Code, title 42, chapter 35, sections 3001 to 3058ff, to sustain family caregivers in  
33.13 the caregivers' roles so older adults can remain at home longer. ~~The board shall give priority~~  
33.14 ~~to consumers referred under section 256.975, subdivision 7, paragraph (d).~~ The board shall  
33.15 submit by January 15, 2022, and each January thereafter, a progress report on the self-directed  
33.16 caregiver grants program to the chairs and ranking minority members of the senate and  
33.17 house of representatives committees and divisions with jurisdiction over human services.  
33.18 The progress report must include metrics on the use of the program.

33.19 Sec. 10. Minnesota Statutes 2019 Supplement, section 256B.056, subdivision 5c, is  
33.20 amended to read:

33.21 Subd. 5c. **Excess income standard.** (a) The excess income standard for parents and  
33.22 caretaker relatives, pregnant women, infants, and children ages two through 20 is the standard  
33.23 specified in subdivision 4, paragraph (b).

33.24 (b) The excess income standard for a person whose eligibility is based on blindness,  
33.25 disability, or age of 65 or more years shall equal:

33.26 (1) 81 percent of the federal poverty guidelines; and

33.27 (2) effective July 1, 2022, ~~100 percent of the federal poverty guidelines~~ the standard  
33.28 specified in subdivision 4, paragraph (a).

34.1 Sec. 11. Minnesota Statutes 2019 Supplement, section 256B.0625, subdivision 5m, is  
34.2 amended to read:

34.3 Subd. 5m. **Certified community behavioral health clinic services.** (a) Medical  
34.4 assistance covers certified community behavioral health clinic (CCBHC) services that meet  
34.5 the requirements of section 245.735, subdivision 3.

34.6 (b) The commissioner shall establish standards and methodologies for a prospective  
34.7 payment system for medical assistance payments for services delivered by a CCBHC, in  
34.8 accordance with guidance issued by the Centers for Medicare and Medicaid Services. The  
34.9 commissioner shall include a quality bonus payment in the prospective payment system  
34.10 based on federal criteria. There is no county share when medical assistance pays the CCBHC  
34.11 prospective payment.

34.12 ~~(c) To the extent allowed by federal law, the commissioner may limit the number of~~  
34.13 ~~CCBHCs for the prospective payment system in paragraph (b) to ensure that the projected~~  
34.14 ~~claims do not exceed the money appropriated for this purpose. The commissioner shall~~  
34.15 ~~apply the following priorities, in the order listed, to give preference to clinics that:~~

34.16 ~~(1) provide a comprehensive range of services and evidence-based practices for all age~~  
34.17 ~~groups, with services being fully coordinated and integrated;~~

34.18 ~~(2) are certified as CCBHCs during the federal section 223 CCBHC demonstration~~  
34.19 ~~period;~~

34.20 ~~(3) receive CCBHC grants from the United States Department of Health and Human~~  
34.21 ~~Services; or~~

34.22 ~~(4) focus on serving individuals in tribal areas and other underserved communities.~~

34.23 ~~(d)~~ (c) Unless otherwise indicated in applicable federal requirements, the prospective  
34.24 payment system must continue to be based on the federal instructions issued for the federal  
34.25 section 223 CCBHC demonstration, except:

34.26 (1) the commissioner shall rebase CCBHC rates at least every three years;

34.27 (2) the commissioner shall provide for a 60-day appeals process of the rebasing;

34.28 (3) the prohibition against inclusion of new facilities in the demonstration does not apply  
34.29 after the demonstration ends;

34.30 (4) the prospective payment rate under this section does not apply to services rendered  
34.31 by CCBHCs to individuals who are dually eligible for Medicare and medical assistance

35.1 when Medicare is the primary payer for the service. An entity that receives a prospective  
35.2 payment system rate that overlaps with the CCBHC rate is not eligible for the CCBHC rate;

35.3 (5) payments for CCBHC services to individuals enrolled in managed care shall be  
35.4 coordinated with the state's phase-out of CCBHC wrap payments;

35.5 (6) initial prospective payment rates for CCBHCs certified after July 1, 2019, shall be  
35.6 based on rates for comparable CCBHCs. If no comparable provider exists, the commissioner  
35.7 shall compute a CCBHC-specific rate based upon the CCBHC's audited costs adjusted for  
35.8 changes in the scope of services; ~~and~~

35.9 (7) the prospective payment rate for each CCBHC shall be adjusted annually by the  
35.10 Medicare Economic Index as defined for the federal section 223 CCBHC demonstration;  
35.11 and

35.12 (8) the commissioner shall seek federal approval for a CCBHC rate methodology that  
35.13 allows for rate modifications based on changes in scope for an individual CCBHC, including  
35.14 changes to the type, intensity, or duration of services. Upon federal approval, a CCBHC  
35.15 may submit a change of scope request to the commissioner if the change in scope would  
35.16 result in a change of 2.5 percent or more in the prospective payment system rate currently  
35.17 received by the CCBHC. CCBHC change of scope requests must be according to a format  
35.18 and timeline to be determined by the commissioner in consultation with CCBHCs.

35.19 (d) Managed care plans and county-based purchasing plans shall reimburse CCBHC  
35.20 providers at the prospective payment rate. The commissioner shall monitor the effect of  
35.21 this requirement on the rate of access to the services delivered by CCBHC providers. If, for  
35.22 any contract year, federal approval is not received due to the provisions of this paragraph,  
35.23 the commissioner must adjust the capitation rates paid to managed care plans and  
35.24 county-based purchasing plans for that contract year to reflect the removal of this provision.  
35.25 Contracts between managed care plans and county-based purchasing plans and providers  
35.26 to whom this paragraph applies must allow recovery of payments from those providers if  
35.27 capitation rates are adjusted in accordance with this paragraph. Payment recoveries must  
35.28 not exceed the amount equal to any increase in rates that results from this provision. If  
35.29 federal approval is not received at any time due to the provisions of this paragraph, this  
35.30 paragraph will expire.

36.1 Sec. 12. Minnesota Statutes 2018, section 256B.0625, subdivision 56a, is amended to  
36.2 read:

36.3 Subd. 56a. ~~Post-arrest~~ Officer-involved community-based service care  
36.4 coordination. (a) Medical assistance covers ~~post-arrest~~ officer-involved community-based  
36.5 service care coordination for an individual who:

36.6 (1) has ~~been identified as having~~ screened positive for benefiting from treatment for a  
36.7 mental illness or substance use disorder using a screening tool approved by the commissioner;

36.8 (2) does not require the security of a public detention facility and is not considered an  
36.9 inmate of a public institution as defined in Code of Federal Regulations, title 42, section  
36.10 435.1010;

36.11 (3) meets the eligibility requirements in section 256B.056; and

36.12 (4) has agreed to participate in ~~post-arrest~~ officer-involved community-based service  
36.13 care coordination through a diversion contract in lieu of incarceration.

36.14 (b) ~~Post-arrest~~ Officer-involved community-based service care coordination means  
36.15 navigating services to address a client's mental health, chemical health, social, economic,  
36.16 and housing needs, or any other activity targeted at reducing the incidence of jail utilization  
36.17 and connecting individuals with existing covered services available to them, including, but  
36.18 not limited to, targeted case management, waiver case management, or care coordination.

36.19 (c) ~~Post-arrest~~ Officer-involved community-based service care coordination must be  
36.20 provided by an individual who is an employee of a ~~county~~ or is under contract with a county,  
36.21 or is an employee of or under contract with an Indian health service facility or facility owned  
36.22 and operated by a tribe or a tribal organization operating under Public Law 93-638 as a 638  
36.23 facility to provide ~~post-arrest~~ officer-involved community-based care coordination and is  
36.24 qualified under one of the following criteria:

36.25 (1) a licensed mental health professional as defined in section 245.462, subdivision 18,  
36.26 clauses (1) to (6);

36.27 (2) a mental health practitioner as defined in section 245.462, subdivision 17, working  
36.28 under the clinical supervision of a mental health professional; ~~or~~

36.29 (3) a certified peer specialist under section 256B.0615, working under the clinical  
36.30 supervision of a mental health professional;

36.31 (4) an individual qualified as an alcohol and drug counselor under section 245G.11,  
36.32 subdivision 5; or

37.1 (5) a recovery peer qualified under section 245G.11, subdivision 8, working under the  
37.2 supervision of an individual qualified as an alcohol and drug counselor under section  
37.3 245G.11, subdivision 5.

37.4 (d) Reimbursement is allowed for up to 60 days following the initial determination of  
37.5 eligibility.

37.6 (e) Providers of ~~post-arrest~~ officer-involved community-based ~~service care~~ care coordination  
37.7 shall annually report to the commissioner on the number of individuals served, and number  
37.8 of the community-based services that were accessed by recipients. The commissioner shall  
37.9 ensure that services and payments provided under ~~post-arrest~~ officer-involved  
37.10 community-based ~~service care~~ care coordination do not duplicate services or payments provided  
37.11 under section 256B.0625, subdivision 20, 256B.0753, 256B.0755, or 256B.0757.

37.12 (f) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of cost for  
37.13 ~~post-arrest~~ officer-involved community-based ~~service care~~ care coordination services shall be  
37.14 provided by the county providing the services, from sources other than federal funds or  
37.15 funds used to match other federal funds.

37.16 Sec. 13. Minnesota Statutes 2018, section 256B.0653, subdivision 4, is amended to read:

37.17 Subd. 4. **Skilled nurse visit services.** (a) Skilled nurse visit services must be provided  
37.18 by a registered nurse or a licensed practical nurse under the supervision of a registered nurse,  
37.19 according to the written plan of care and accepted standards of medical and nursing practice  
37.20 according to chapter 148. Skilled nurse visit services must be ordered by a physician,  
37.21 ~~advanced practice registered nurse practitioner, clinical nurse specialist, certified nurse~~  
37.22 midwife, or physician assistant and documented in a plan of care that is reviewed and  
37.23 approved by the ordering ~~physician, advanced practice registered nurse, or physician assistant~~  
37.24 practitioner at least once every 60 days. All skilled nurse visits must be medically necessary  
37.25 and provided in the recipient's home residence or in the community where normal life  
37.26 activities take the recipient, except as allowed under section 256B.0625, subdivision 6a.

37.27 (b) Skilled nurse visits include face-to-face and telehomecare visits with a limit of up  
37.28 to two visits per day per recipient. All visits must be based on assessed needs.

37.29 (c) Telehomecare skilled nurse visits are allowed when the recipient's health status can  
37.30 be accurately measured and assessed without a need for a face-to-face, hands-on encounter.  
37.31 All telehomecare skilled nurse visits must have authorization and are paid at the same  
37.32 allowable rates as face-to-face skilled nurse visits.

38.1 (d) The provision of telehomecare must be made via live, two-way interactive audiovisual  
38.2 technology and may be augmented by utilizing store-and-forward technologies. Individually  
38.3 identifiable patient data obtained through real-time or store-and-forward technology must  
38.4 be maintained as health records according to sections 144.291 to 144.298. If the video is  
38.5 used for research, training, or other purposes unrelated to the care of the patient, the identity  
38.6 of the patient must be concealed.

38.7 (e) Authorization for skilled nurse visits must be completed under section 256B.0652.  
38.8 A total of nine face-to-face skilled nurse visits per calendar year do not require authorization.  
38.9 All telehomecare skilled nurse visits require authorization.

38.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

38.11 Sec. 14. Minnesota Statutes 2018, section 256B.0653, subdivision 5, is amended to read:

38.12 Subd. 5. **Home care therapies.** (a) Home care therapies include the following: physical  
38.13 therapy, occupational therapy, respiratory therapy, and speech and language pathology  
38.14 therapy services.

38.15 (b) Home care therapies must be:

38.16 (1) provided in the recipient's residence or in the community where normal life activities  
38.17 take the recipient after it has been determined the recipient is unable to access outpatient  
38.18 therapy;

38.19 (2) prescribed, ordered, or referred by a physician, nurse practitioner, clinical nurse  
38.20 specialist, certified nurse midwife, or physician assistant, and documented in a plan of care  
38.21 and reviewed, according to Minnesota Rules, part 9505.0390;

38.22 (3) assessed by an appropriate therapist; and

38.23 (4) provided by a Medicare-certified home health agency enrolled as a Medicaid provider  
38.24 agency.

38.25 (c) Restorative and specialized maintenance therapies must be provided according to  
38.26 Minnesota Rules, part 9505.0390. Physical and occupational therapy assistants may be used  
38.27 as allowed under Minnesota Rules, part 9505.0390, subpart 1, item B.

38.28 (d) For both physical and occupational therapies, the therapist and the therapist's assistant  
38.29 may not both bill for services provided to a recipient on the same day.

38.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.

39.1 Sec. 15. Minnesota Statutes 2018, section 256B.0653, subdivision 7, is amended to read:

39.2 Subd. 7. **Face-to-face encounter.** (a) A face-to-face encounter by a qualifying provider  
39.3 must be completed for all home health services regardless of the need for prior authorization,  
39.4 except when providing a onetime perinatal visit by skilled nursing. The face-to-face encounter  
39.5 may occur through telemedicine as defined in section 256B.0625, subdivision 3b. The  
39.6 encounter must be related to the primary reason the recipient requires home health services  
39.7 and must occur within the 90 days before or the 30 days after the start of services. The  
39.8 face-to-face encounter may be conducted by one of the following practitioners, licensed in  
39.9 Minnesota:

39.10 (1) a physician;

39.11 (2) a nurse practitioner or clinical nurse specialist;

39.12 (3) a certified nurse midwife; or

39.13 (4) a physician assistant.

39.14 (b) The allowed ~~nonphysician~~ practitioner, as described in this subdivision, performing  
39.15 the face-to-face encounter but who is not the ordering practitioner must communicate the  
39.16 clinical findings of that face-to-face encounter to the ordering ~~physician~~ practitioner. ~~These~~  
39.17 The clinical findings of that face-to-face encounter must be incorporated into a written or  
39.18 electronic document included in the recipient's medical record. To assure clinical correlation  
39.19 between the face-to-face encounter and the associated home health services, the ~~physician~~  
39.20 practitioner responsible for ordering the services must:

39.21 (1) document that the face-to-face encounter, which is related to the primary reason the  
39.22 recipient requires home health services, occurred within the required time period; and

39.23 (2) indicate the practitioner who conducted the encounter and the date of the encounter.

39.24 (c) For home health services requiring authorization, including prior authorization, home  
39.25 health agencies must retain the qualifying documentation of a face-to-face encounter as part  
39.26 of the recipient health service record, and submit the qualifying documentation to the  
39.27 commissioner or the commissioner's designee upon request.

39.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

39.29 Sec. 16. Minnesota Statutes 2018, section 256B.0654, subdivision 1, is amended to read:

39.30 Subdivision 1. **Definitions.** (a) "Complex home care nursing" means home care nursing  
39.31 services provided to recipients who meet the criteria for regular home care nursing and  
39.32 require life-sustaining interventions to reduce the risk of long-term injury or death.

40.1 (b) "Home care nursing" means ongoing ~~physician-ordered~~ hourly nursing services  
40.2 ordered by a physician, nurse practitioner, clinical nurse specialist, certified nurse midwife,  
40.3 or physician assistant, performed by a registered nurse or licensed practical nurse within  
40.4 the scope of practice as defined by the Minnesota Nurse Practice Act under sections 148.171  
40.5 to 148.285, in order to maintain or restore a person's health.

40.6 (c) "Home care nursing agency" means a medical assistance enrolled provider licensed  
40.7 under chapter 144A to provide home care nursing services.

40.8 (d) "Regular home care nursing" means home care nursing provided because:

40.9 (1) the recipient requires more individual and continuous care than can be provided  
40.10 during a skilled nurse visit; or

40.11 (2) the cares are outside of the scope of services that can be provided by a home health  
40.12 aide or personal care assistant.

40.13 (e) "Shared home care nursing" means the provision of home care nursing services by  
40.14 a home care nurse to two recipients at the same time and in the same setting.

40.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.

40.16 Sec. 17. Minnesota Statutes 2018, section 256B.0654, subdivision 2a, is amended to read:

40.17 Subd. 2a. **Home care nursing services.** (a) Home care nursing services must be used:

40.18 (1) in the recipient's home or outside the home when normal life activities require;

40.19 (2) when the recipient requires more individual and continuous care than can be provided  
40.20 during a skilled nurse visit; and

40.21 (3) when the care required is outside of the scope of services that can be provided by a  
40.22 home health aide or personal care assistant.

40.23 (b) Home care nursing services must be:

40.24 (1) assessed by a registered nurse on a form approved by the commissioner;

40.25 (2) ordered by a physician, nurse practitioner, clinical nurse specialist, certified nurse  
40.26 midwife, or physician assistant, and documented in a plan of care that is reviewed by the  
40.27 physician ordering practitioner at least once every 60 days; and

40.28 (3) authorized by the commissioner under section 256B.0652.

40.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.



41.1 Sec. 18. Minnesota Statutes 2019 Supplement, section 256B.0711, subdivision 1, is  
41.2 amended to read:

41.3 Subdivision 1. **Definitions.** For purposes of this section:

41.4 (a) "Commissioner" means the commissioner of human services unless otherwise  
41.5 indicated.

41.6 (b) "Covered program" means a program to provide direct support services funded in  
41.7 whole or in part by the state of Minnesota, including the community first services and  
41.8 supports program under section 256B.85, subdivision 2, paragraph (e); ~~consumer directed~~  
41.9 consumer-directed community supports ~~services~~ and extended state plan personal care  
41.10 assistance services available under programs established pursuant to home and  
41.11 community-based service waivers authorized under section 1915(c) of the Social Security  
41.12 Act, and Minnesota Statutes, including, but not limited to, chapter 256S and sections  
41.13 256B.092 and 256B.49, and under the alternative care program, ~~as offered pursuant to~~ under  
41.14 section 256B.0913; the personal care assistance choice program, ~~as established pursuant to~~  
41.15 under section 256B.0659, subdivisions 18 to 20; and any similar program that may provide  
41.16 similar services in the future.

41.17 (c) "Direct support services" means personal care assistance services covered by medical  
41.18 assistance under section 256B.0625, subdivisions 19a and 19c; assistance with activities of  
41.19 daily living as defined in section 256B.0659, subdivision 1, paragraph (b), and instrumental  
41.20 activities of daily living as defined in section 256B.0659, subdivision 1, paragraph (i); and  
41.21 other similar, in-home, nonprofessional long-term services and supports provided to an  
41.22 elderly person or person with a disability by the person's employee or the employee of the  
41.23 person's representative to meet such person's daily living needs and ensure that such person  
41.24 may adequately function in the person's home and have safe access to the community.

41.25 (d) "Individual provider" means an individual selected by and working under the direction  
41.26 of a participant in a covered program, or a participant's representative, to provide direct  
41.27 support services to the participant, but does not include an employee of a provider agency,  
41.28 subject to the agency's direction and control commensurate with agency employee status.

41.29 (e) "Participant" means a person who receives direct support services through a covered  
41.30 program.

41.31 (f) "Participant's representative" means a participant's legal guardian or an individual  
41.32 having the authority and responsibility to act on behalf of a participant with respect to the  
41.33 provision of direct support services through a covered program.

42.1 Sec. 19. Minnesota Statutes 2019 Supplement, section 256B.0911, subdivision 3a, is  
42.2 amended to read:

42.3 Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services  
42.4 planning, or other assistance intended to support community-based living, including persons  
42.5 who need assessment in order to determine waiver or alternative care program eligibility,  
42.6 must be visited by a long-term care consultation team within 20 calendar days after the date  
42.7 on which an assessment was requested or recommended. Upon statewide implementation  
42.8 of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person  
42.9 requesting personal care assistance services. The commissioner shall provide at least a  
42.10 90-day notice to lead agencies prior to the effective date of this requirement. Face-to-face  
42.11 assessments must be conducted according to paragraphs (b) to (i).

42.12 (b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified  
42.13 assessors to conduct the assessment. For a person with complex health care needs, a public  
42.14 health or registered nurse from the team must be consulted.

42.15 (c) The MnCHOICES assessment provided by the commissioner to lead agencies must  
42.16 be used to complete a comprehensive, conversation-based, person-centered assessment.  
42.17 The assessment must include the health, psychological, functional, environmental, and  
42.18 social needs of the individual necessary to develop a community support plan that meets  
42.19 the individual's needs and preferences.

42.20 (d) The assessment must be conducted in a face-to-face conversational interview with  
42.21 the person being assessed. The person's legal representative must provide input during the  
42.22 assessment process and may do so remotely if requested. At the request of the person, other  
42.23 individuals may participate in the assessment to provide information on the needs, strengths,  
42.24 and preferences of the person necessary to develop a community support plan that ensures  
42.25 the person's health and safety. Except for legal representatives or family members invited  
42.26 by the person, persons participating in the assessment may not be a provider of service or  
42.27 have any financial interest in the provision of services. For persons who are to be assessed  
42.28 for elderly waiver customized living or adult day services under chapter 256S, with the  
42.29 permission of the person being assessed or the person's designated or legal representative,  
42.30 the client's current or proposed provider of services may submit a copy of the provider's  
42.31 nursing assessment or written report outlining its recommendations regarding the client's  
42.32 care needs. The person conducting the assessment must notify the provider of the date by  
42.33 which this information is to be submitted. This information shall be provided to the person  
42.34 conducting the assessment prior to the assessment. For a person who is to be assessed for  
42.35 waiver services under section 256B.092 or 256B.49, with the permission of the person being

43.1 assessed or the person's designated legal representative, the person's current provider of  
43.2 services may submit a written report outlining recommendations regarding the person's care  
43.3 needs the person completed in consultation with someone who is known to the person and  
43.4 has interaction with the person on a regular basis. The provider must submit the report at  
43.5 least 60 days before the end of the person's current service agreement. The certified assessor  
43.6 must consider the content of the submitted report prior to finalizing the person's assessment  
43.7 or reassessment.

43.8 (e) The certified assessor and the individual responsible for developing the coordinated  
43.9 service and support plan must complete the community support plan and the coordinated  
43.10 service and support plan no more than 60 calendar days from the assessment visit. The  
43.11 person or the person's legal representative must be provided with a written community  
43.12 support plan within the timelines established by the commissioner, regardless of whether  
43.13 the person is eligible for Minnesota health care programs.

43.14 (f) For a person being assessed for elderly waiver services under chapter 256S, a provider  
43.15 who submitted information under paragraph (d) shall receive the final written community  
43.16 support plan when available and the Residential Services Workbook.

43.17 (g) The written community support plan must include:

43.18 (1) a summary of assessed needs as defined in paragraphs (c) and (d);

43.19 (2) the individual's options and choices to meet identified needs, including all available  
43.20 options for case management services and providers, including service provided in a  
43.21 non-disability-specific setting;

43.22 (3) identification of health and safety risks and how those risks will be addressed,  
43.23 including personal risk management strategies;

43.24 (4) referral information; and

43.25 (5) informal caregiver supports, if applicable.

43.26 For a person determined eligible for state plan home care under subdivision 1a, paragraph  
43.27 (b), clause (1), the person or person's representative must also receive a copy of the home  
43.28 care service plan developed by the certified assessor.

43.29 (h) A person may request assistance in identifying community supports without  
43.30 participating in a complete assessment. Upon a request for assistance identifying community  
43.31 support, the person must be transferred or referred to long-term care options counseling  
43.32 services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for  
43.33 telephone assistance and follow up.

44.1 (i) The person has the right to make the final decision between institutional placement  
44.2 and community placement after the recommendations have been provided, except as provided  
44.3 in section 256.975, subdivision 7a, paragraph (d).

44.4 (j) The lead agency must give the person receiving assessment or support planning, or  
44.5 the person's legal representative, materials, and forms supplied by the commissioner  
44.6 containing the following information:

44.7 (1) written recommendations for community-based services and consumer-directed  
44.8 options;

44.9 (2) documentation that the most cost-effective alternatives available were offered to the  
44.10 individual. For purposes of this clause, "cost-effective" means community services and  
44.11 living arrangements that cost the same as or less than institutional care. For an individual  
44.12 found to meet eligibility criteria for home and community-based service programs under  
44.13 chapter 256S or section 256B.49, "cost-effectiveness" has the meaning found in the federally  
44.14 approved waiver plan for each program;

44.15 (3) the need for and purpose of preadmission screening conducted by long-term care  
44.16 options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects  
44.17 nursing facility placement. If the individual selects nursing facility placement, the lead  
44.18 agency shall forward information needed to complete the level of care determinations and  
44.19 screening for developmental disability and mental illness collected during the assessment  
44.20 to the long-term care options counselor using forms provided by the commissioner;

44.21 (4) the role of long-term care consultation assessment and support planning in eligibility  
44.22 determination for waiver and alternative care programs, and state plan home care, case  
44.23 management, and other services as defined in subdivision 1a, paragraphs (a), clause (6),  
44.24 and (b);

44.25 (5) information about Minnesota health care programs;

44.26 (6) the person's freedom to accept or reject the recommendations of the team;

44.27 (7) the person's right to confidentiality under the Minnesota Government Data Practices  
44.28 Act, chapter 13;

44.29 (8) the certified assessor's decision regarding the person's need for institutional level of  
44.30 care as determined under criteria established in subdivision 4e and the certified assessor's  
44.31 decision regarding eligibility for all services and programs as defined in subdivision 1a,  
44.32 paragraphs (a), clause (6), and (b); and

45.1 (9) the person's right to appeal the certified assessor's decision regarding eligibility for  
45.2 all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and  
45.3 (8), and (b), and incorporating the decision regarding the need for institutional level of care  
45.4 or the lead agency's final decisions regarding public programs eligibility according to section  
45.5 256.045, subdivision 3. The certified assessor must verbally communicate this appeal right  
45.6 to the person and must visually point out where in the document the right to appeal is stated.

45.7 (k) Face-to-face assessment completed as part of eligibility determination for the  
45.8 alternative care, elderly waiver, developmental disabilities, community access for disability  
45.9 inclusion, community alternative care, and brain injury waiver programs under chapter 256S  
45.10 and sections 256B.0913, 256B.092, and 256B.49 is valid to establish service eligibility for  
45.11 no more than 60 calendar days after the date of assessment.

45.12 (l) The effective eligibility start date for programs in paragraph (k) can never be prior  
45.13 to the date of assessment. If an assessment was completed more than 60 days before the  
45.14 effective waiver or alternative care program eligibility start date, assessment and support  
45.15 plan information must be updated and documented in the department's Medicaid Management  
45.16 Information System (MMIS). Notwithstanding retroactive medical assistance coverage of  
45.17 state plan services, the effective date of eligibility for programs included in paragraph (k)  
45.18 cannot be prior to the date the most recent updated assessment is completed.

45.19 (m) If an eligibility update is completed within 90 days of the previous face-to-face  
45.20 assessment and documented in the department's Medicaid Management Information System  
45.21 (MMIS), the effective date of eligibility for programs included in paragraph (k) is the date  
45.22 of the previous face-to-face assessment when all other eligibility requirements are met.

45.23 (n) At the time of reassessment, the certified assessor shall assess each person receiving  
45.24 waiver services currently residing in a community residential setting, or licensed adult foster  
45.25 care home that is not the primary residence of the license holder, or in which the license  
45.26 holder is not the primary caregiver, to determine if that person would prefer to be served in  
45.27 a community-living setting as defined in section 256B.49, subdivision 23. The certified  
45.28 assessor shall offer the person, through a person-centered planning process, the option to  
45.29 receive alternative housing and service options.

45.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.

45.31 Sec. 20. Minnesota Statutes 2018, section 256B.0941, subdivision 1, is amended to read:

45.32 Subdivision 1. **Eligibility.** (a) An individual who is eligible for mental health treatment  
45.33 services in a psychiatric residential treatment facility must meet all of the following criteria:

46.1 (1) before admission, services are determined to be medically necessary ~~by the state's~~  
46.2 ~~medical review agent~~ according to Code of Federal Regulations, title 42, section 441.152;

46.3 (2) is younger than 21 years of age at the time of admission. Services may continue until  
46.4 the individual meets criteria for discharge or reaches 22 years of age, whichever occurs  
46.5 first;

46.6 (3) has a mental health diagnosis as defined in the most recent edition of the Diagnostic  
46.7 and Statistical Manual for Mental Disorders, as well as clinical evidence of severe aggression,  
46.8 or a finding that the individual is a risk to self or others;

46.9 (4) has functional impairment and a history of difficulty in functioning safely and  
46.10 successfully in the community, school, home, or job; an inability to adequately care for  
46.11 one's physical needs; or caregivers, guardians, or family members are unable to safely fulfill  
46.12 the individual's needs;

46.13 (5) requires psychiatric residential treatment under the direction of a physician to improve  
46.14 the individual's condition or prevent further regression so that services will no longer be  
46.15 needed;

46.16 (6) utilized and exhausted other community-based mental health services, or clinical  
46.17 evidence indicates that such services cannot provide the level of care needed; and

46.18 (7) was referred for treatment in a psychiatric residential treatment facility by a qualified  
46.19 mental health professional licensed as defined in section 245.4871, subdivision 27, clauses  
46.20 (1) to (6).

46.21 ~~(b) A mental health professional making a referral shall submit documentation to the~~  
46.22 ~~state's medical review agent containing all information necessary to determine medical~~  
46.23 ~~necessity, including a standard diagnostic assessment completed within 180 days of the~~  
46.24 ~~individual's admission. Documentation shall include evidence of family participation in the~~  
46.25 ~~individual's treatment planning and signed consent for services.~~

46.26 (b) The commissioner shall provide oversight and conduct utilization reviews of referrals  
46.27 to and admitted clients in psychiatric residential treatment facilities to ensure that eligibility  
46.28 criteria, clinical services, and treatment planning are reflective of clinical, state, and federal  
46.29 standards for psychiatric residential treatment facility level of care. The commissioner shall  
46.30 coordinate a statewide list of children and youth who meet the medical necessity criteria  
46.31 for psychiatric residential treatment facility level of care and who are awaiting admission.  
46.32 The statewide list must not be used to direct admission of children and youth in specific  
46.33 facilities.

47.1 Sec. 21. Minnesota Statutes 2018, section 256B.0941, subdivision 3, is amended to read:

47.2 Subd. 3. **Per diem rate.** (a) The commissioner ~~shall~~ must establish ~~a statewide one~~ per  
47.3 diem rate per provider for psychiatric residential treatment facility services for individuals  
47.4 21 years of age or younger. The rate for a provider must not exceed the rate charged by that  
47.5 provider for the same service to other payers. Payment must not be made to more than one  
47.6 entity for each individual for services provided under this section on a given day. The  
47.7 commissioner ~~shall~~ must set rates prospectively for the annual rate period. The commissioner  
47.8 ~~shall~~ must require providers to submit annual cost reports on a uniform cost reporting form  
47.9 and ~~shall~~ must use submitted cost reports to inform the rate-setting process. The cost reporting  
47.10 ~~shall~~ must be done according to federal requirements for Medicare cost reports.

47.11 (b) The following are included in the rate:

47.12 (1) costs necessary for licensure and accreditation, meeting all staffing standards for  
47.13 participation, meeting all service standards for participation, meeting all requirements for  
47.14 active treatment, maintaining medical records, conducting utilization review, meeting  
47.15 inspection of care, and discharge planning. The direct services costs must be determined  
47.16 using the actual cost of salaries, benefits, payroll taxes, and training of direct services staff  
47.17 and service-related transportation; and

47.18 (2) payment for room and board provided by facilities meeting all accreditation and  
47.19 licensing requirements for participation.

47.20 (c) A facility may submit a claim for payment outside of the per diem for professional  
47.21 services arranged by and provided at the facility by an appropriately licensed professional  
47.22 who is enrolled as a provider with Minnesota health care programs. Arranged services ~~must~~  
47.23 ~~be billed by the facility on a separate claim, and the facility shall be responsible for payment~~  
47.24 ~~to the provider~~ may be billed by either the facility or the licensed professional. These services  
47.25 must be included in the individual plan of care and are subject to prior authorization ~~by the~~  
47.26 ~~state's medical review agent.~~

47.27 (d) Medicaid ~~shall~~ must reimburse for concurrent services as approved by the  
47.28 commissioner to support continuity of care and successful discharge from the facility.  
47.29 "Concurrent services" means services provided by another entity or provider while the  
47.30 individual is admitted to a psychiatric residential treatment facility. Payment for concurrent  
47.31 services may be limited and these services are subject to prior authorization by the state's  
47.32 medical review agent. Concurrent services may include targeted case management, assertive  
47.33 community treatment, clinical care consultation, team consultation, and treatment planning.

48.1 (e) Payment rates under this subdivision ~~shall~~ must not include the costs of providing  
48.2 the following services:

48.3 (1) educational services;

48.4 (2) acute medical care or specialty services for other medical conditions;

48.5 (3) dental services; and

48.6 (4) pharmacy drug costs.

48.7 (f) For purposes of this section, "actual cost" means costs that are allowable, allocable,  
48.8 reasonable, and consistent with federal reimbursement requirements in Code of Federal  
48.9 Regulations, title 48, chapter 1, part 31, relating to for-profit entities, and the Office of  
48.10 Management and Budget Circular Number A-122, relating to nonprofit entities.

48.11 Sec. 22. Minnesota Statutes 2018, section 256B.49, subdivision 16, is amended to read:

48.12 Subd. 16. **Services and supports.** (a) Services and supports included in the home and  
48.13 community-based waivers for persons with disabilities ~~shall~~ must meet the requirements  
48.14 set out in United States Code, title 42, section 1396n. The services and supports, which are  
48.15 offered as alternatives to institutional care, ~~shall~~ must promote consumer choice, community  
48.16 inclusion, self-sufficiency, and self-determination.

48.17 (b) ~~Beginning January 1, 2003,~~ The commissioner ~~shall~~ must simplify and improve  
48.18 access to home and community-based waived services, to the extent possible, through the  
48.19 establishment of a common service menu that is available to eligible recipients regardless  
48.20 of age, disability type, or waiver program.

48.21 (c) ~~Consumer directed community support services shall~~ Consumer-directed community  
48.22 supports must be offered as an option to all persons eligible for services under subdivision  
48.23 11, ~~by January 1, 2002.~~

48.24 (d) Services and supports ~~shall~~ must be arranged and provided consistent with  
48.25 individualized written plans of care for eligible waiver recipients.

48.26 (e) A transitional supports allowance ~~shall~~ must be available to all persons under a home  
48.27 and community-based waiver who are moving from a licensed setting to a community  
48.28 setting. "Transitional supports allowance" means a onetime payment of up to \$3,000, to  
48.29 cover the costs, not covered by other sources, associated with moving from a licensed setting  
48.30 to a community setting. Covered costs include:

48.31 (1) lease or rent deposits;



- 49.1 (2) security deposits;
- 49.2 (3) utilities setup costs, including telephone;
- 49.3 (4) essential furnishings and supplies; and
- 49.4 (5) personal supports and transports needed to locate and transition to community settings.
- 49.5 (f) The state of Minnesota and county agencies that administer home and
- 49.6 community-based waived services for persons with disabilities, ~~shall~~ must not be liable
- 49.7 for damages, injuries, or liabilities sustained through the purchase of supports by the
- 49.8 individual, the individual's family, legal representative, or the authorized representative
- 49.9 with funds received through ~~the~~ consumer-directed community ~~support service~~ supports
- 49.10 under this section. Liabilities include but are not limited to: workers' compensation liability,
- 49.11 the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act
- 49.12 (FUTA).

49.13 **Sec. 23. [256B.4911] CONSUMER-DIRECTED COMMUNITY SUPPORTS.**

49.14 Subdivision 1. Federal authority. Consumer-directed community supports, as referenced

49.15 in sections 256B.0913, subdivision 5, clause (17); 256B.092, subdivision 1b, clause (4);

49.16 256B.49, subdivision 16, paragraph (c); and chapter 256S are governed, in whole, by the

49.17 federally-approved waiver plans for home and community-based services.

49.18 Subd. 2. Costs associated with physical activities. The expenses allowed for adults

49.19 under the consumer-directed community supports option must include the costs at the lowest

49.20 rate available considering daily, monthly, semiannual, annual, or membership rates, including

49.21 transportation, associated with physical exercise or other physical activities to maintain or

49.22 improve the person's health and functioning.

49.23 Subd. 3. Expansion and increase of budget exceptions. (a) The commissioner of human

49.24 services must provide up to 30 percent more funds for either:

49.25 (1) consumer-directed community supports participants under sections 256B.092 and

49.26 256B.49 who have a coordinated service and support plan which identifies the need for

49.27 more services or supports under consumer-directed community supports than the amount

49.28 the participants are currently receiving under the consumer-directed community supports

49.29 budget methodology to:

49.30 (i) increase the amount of time a person works or otherwise improves employment

49.31 opportunities;

50.1 (ii) plan a transition to, move to, or live in a setting described in section 256D.44,  
50.2 subdivision 5, paragraph (g), clause (1), item (iii); or

50.3 (iii) develop and implement a positive behavior support plan; or

50.4 (2) home and community-based waiver participants under sections 256B.092 and 256B.49  
50.5 who are currently using licensed providers for: (i) employment supports or services during  
50.6 the day; or (ii) residential services, either of which cost more annually than the person would  
50.7 spend under a consumer-directed community supports plan for any or all of the supports  
50.8 needed to meet a goal identified in clause (1), item (i), (ii), or (iii).

50.9 (b) The exception under paragraph (a), clause (1), is limited to persons who can  
50.10 demonstrate that they will have to discontinue using consumer-directed community supports  
50.11 and accept other non-self-directed waiver services because their supports needed for a goal  
50.12 described in paragraph (a), clause (1), item (i), (ii), or (iii), cannot be met within the  
50.13 consumer-directed community supports budget limits.

50.14 (c) The exception under paragraph (a), clause (2), is limited to persons who can  
50.15 demonstrate that, upon choosing to become a consumer-directed community supports  
50.16 participant, the total cost of services, including the exception, will be less than the cost of  
50.17 current waiver services.

50.18 **Subd. 4. Budget exception for persons leaving institutions and crisis residential**  
50.19 **settings.** (a) The commissioner must establish an institutional and crisis bed  
50.20 consumer-directed community supports budget exception process in the home and  
50.21 community-based services waivers under sections 256B.092 and 256B.49. This budget  
50.22 exception process must be available for any individual who:

50.23 (1) is not offered available and appropriate services within 60 days since approval for  
50.24 discharge from the individual's current institutional setting; and

50.25 (2) requires services that are more expensive than appropriate services provided in a  
50.26 noninstitutional setting using the consumer-directed community supports option.

50.27 (b) Institutional settings for purposes of this exception include intermediate care facilities  
50.28 for persons with developmental disabilities; nursing facilities; acute care hospitals; Anoka  
50.29 Metro Regional Treatment Center; Minnesota Security Hospital; and crisis beds.

50.30 (c) The budget exception must be limited to no more than the amount of appropriate  
50.31 services provided in a noninstitutional setting as determined by the lead agency managing  
50.32 the individual's home and community-based services waiver. The lead agency must notify  
50.33 the Department of Human Services of the budget exception.

51.1 Subd. 5. Shared services. (a) Medical assistance payments for shared services under  
51.2 consumer-directed community supports are limited to this subdivision.

51.3 (b) For purposes of this subdivision, "shared services" means services provided at the  
51.4 same time by the same direct care worker for individuals who have entered into an agreement  
51.5 to share consumer-directed community support services.

51.6 (c) Shared services may include services in the personal assistance category as outlined  
51.7 in the consumer-directed community supports community support plan and shared services  
51.8 agreement, except:

51.9 (1) services for more than three individuals provided by one worker at one time;

51.10 (2) use of more than one worker for the shared services; and

51.11 (3) a child care program licensed under chapter 245A or operated by a local school  
51.12 district or private school.

51.13 (d) The individuals, or as needed the individuals' representatives, must develop the plan  
51.14 for shared services when developing or amending the consumer-directed community supports  
51.15 plan, and must follow the consumer-directed community supports process for approval of  
51.16 the plan by the lead agency. The plan for shared services in an individual's consumer-directed  
51.17 community supports plan must include the intention to utilize shared services based on  
51.18 individuals' needs and preferences.

51.19 (e) Individuals sharing services must use the same financial management services  
51.20 provider.

51.21 (f) Individuals whose consumer-directed community supports community support plans  
51.22 include an intent to utilize shared services must jointly develop, with the support of the  
51.23 individuals' representatives as needed, a shared services agreement. This agreement must  
51.24 include:

51.25 (1) the names of the individuals receiving shared services;

51.26 (2) the individuals' representative, if identified in their consumer-directed community  
51.27 supports plans, and their duties;

51.28 (3) the names of the case managers;

51.29 (4) the financial management services provider;

51.30 (5) the shared services that must be provided;

51.31 (6) the schedule for shared services;

- 52.1 (7) the location where shared services must be provided;
- 52.2 (8) the training specific to each individual served;
- 52.3 (9) the training specific to providing shared services to the individuals identified in the
- 52.4 agreement;
- 52.5 (10) instructions to follow all required documentation for time and services provided;
- 52.6 (11) a contingency plan for each individual that accounts for service provision and billing
- 52.7 in the absence of one of the individuals in a shared services setting due to illness or other
- 52.8 circumstances;
- 52.9 (12) signatures of all parties involved in the shared services; and
- 52.10 (13) agreement by each individual who is sharing services on the number of shared hours
- 52.11 for services provided.
- 52.12 (g) Any individual or any individual's representative may withdraw from participating
- 52.13 in a shared services agreement at any time.
- 52.14 (h) The lead agency for each individual must authorize the use of the shared services
- 52.15 option based on the criteria that the shared service is appropriate to meet the needs, health,
- 52.16 and safety of each individual for whom they provide case management or care coordination.
- 52.17 (i) This subdivision must not be construed to reduce the total authorized
- 52.18 consumer-directed community supports budget for an individual.
- 52.19 (j) No later than September 30, 2019, the commissioner of human services must:
- 52.20 (1) submit an amendment to the Centers for Medicare and Medicaid Services for the
- 52.21 home and community-based services waivers authorized under sections 256B.0913,
- 52.22 256B.092, and 256B.49, and chapter 256S, to allow for a shared services option under
- 52.23 consumer-directed community supports; and
- 52.24 (2) with stakeholder input, develop guidance for shared services in consumer-directed
- 52.25 community supports within the community-based services manual. Guidance must include:
- 52.26 (i) recommendations for negotiating payment for one-to-two and one-to-three services;
- 52.27 and
- 52.28 (ii) a template of the shared services agreement.
- 52.29 **EFFECTIVE DATE.** This section is effective the day following final enactment, except
- 52.30 for subdivision 5, paragraphs (a) to (i), which are effective the day following final enactment

53.1 or upon federal approval, whichever occurs later. The commissioner of human services  
53.2 must notify the revisor of statutes when federal approval is obtained.

53.3 Sec. 24. Minnesota Statutes 2019 Supplement, section 256S.01, subdivision 6, is amended  
53.4 to read:

53.5 Subd. 6. **Immunity; consumer-directed community supports.** The state of Minnesota,  
53.6 or a county, managed care plan, county-based purchasing plan, or tribal government under  
53.7 contract to administer the elderly waiver, is not liable for damages, injuries, or liabilities  
53.8 sustained as a result of the participant, the participant's family, or the participant's authorized  
53.9 representatives purchasing direct supports or goods with funds received through  
53.10 consumer-directed community ~~support services~~ supports under the elderly waiver. Liabilities  
53.11 include, but are not limited to, workers' compensation liability, Federal Insurance  
53.12 Contributions Act under United States Code, title 26, subtitle c, chapter 21, or Federal  
53.13 Unemployment Tax Act under Internal Revenue Code, chapter 23.

53.14 Sec. 25. Minnesota Statutes 2019 Supplement, section 256S.19, subdivision 4, is amended  
53.15 to read:

53.16 Subd. 4. **Calculation of monthly conversion budget cap with consumer-directed**  
53.17 **community supports.** For the elderly waiver monthly conversion budget cap for the cost  
53.18 of elderly waiver services with consumer-directed community ~~support services~~ supports,  
53.19 the nursing facility case mix adjusted total payment rate used under subdivision 3 to calculate  
53.20 the monthly conversion budget cap for elderly waiver services without consumer-directed  
53.21 community supports must be reduced by a percentage equal to the percentage difference  
53.22 between the consumer-directed ~~services~~ community supports budget limit that would be  
53.23 assigned according to the elderly waiver plan and the corresponding monthly case mix  
53.24 budget cap under this chapter, but not to exceed 50 percent.

53.25 Sec. 26. **TREATMENT OF PREVIOUSLY OBTAINED FEDERAL APPROVALS.**

53.26 This act must not be construed to require the commissioner to seek federal approval for  
53.27 provisions for which the commissioner has already received federal approval. Federal  
53.28 approvals the commissioner previously obtained for provisions repealed in section 27 survive  
53.29 and apply to the corresponding subdivisions of Minnesota Statutes, section 256B.4911.

53.30 **EFFECTIVE DATE.** This section is effective the day following final enactment.

54.1 Sec. 27. **REPEALER.**54.2 (a) Laws 2005, First Special Session chapter 4, article 7, section 50, is repealed.54.3 (b) Laws 2005, First Special Session chapter 4, article 7, section 51, is repealed.54.4 (c) Laws 2012, chapter 247, article 4, section 47, as amended by Laws 2014, chapter  
54.5 312, article 27, section 72, Laws 2015, chapter 71, article 7, section 58, Laws 2016, chapter  
54.6 144, section 1, Laws 2017, First Special Session chapter 6, article 1, section 43, Laws 2017,  
54.7 First Special Session chapter 6, article 1, section 54, is repealed.54.8 (d) Laws 2015, chapter 71, article 7, section 54, as amended by Laws 2017, First Special  
54.9 Session chapter 6, article 1, section 54, is repealed.54.10 (e) Laws 2017, First Special Session chapter 6, article 1, section 44, as amended by  
54.11 Laws 2019, First Special Session chapter 9, article 5, section 80, is repealed.54.12 (f) Laws 2017, First Special Session chapter 6, article 1, section 45, as amended by Laws  
54.13 2019, First Special Session chapter 9, article 5, section 81, is repealed.54.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.54.15 **ARTICLE 3**54.16 **DEPARTMENT OF HUMAN SERVICES POLICY PROPOSALS**

54.17 Section 1. Minnesota Statutes 2018, section 119B.21, is amended to read:

54.18 **119B.21 CHILD CARE SERVICES GRANTS.**54.19 Subdivision 1. **Distribution of grant funds.** (a) The commissioner shall distribute funds  
54.20 to the child care resource and referral programs designated under ~~section~~ sections 119B.189  
54.21 and 119B.19, subdivision 1a, for child care services grants to ~~centers under subdivision 5~~  
54.22 and family child care programs based upon the following factors improve child care quality,  
54.23 support start-up of new programs, and expand existing programs.54.24 (b) Up to ten percent of funds appropriated for grants under this section may be used by  
54.25 the commissioner for statewide child care development initiatives, training initiatives,  
54.26 collaboration programs, and research and data collection. The commissioner shall develop  
54.27 eligibility guidelines and a process to distribute funds under this paragraph.54.28 (c) At least 90 percent of funds appropriated for grants under this section may be  
54.29 distributed by the commissioner to child care resource and referral programs under ~~section~~  
54.30 sections 119B.189 and 119B.19, subdivision 1a, ~~for child care center grants and family~~  
54.31 child care grants based on the following factors:

55.1 (1) the number of children under 13 years of age needing child care in the region;

55.2 (2) the region served by the program;

55.3 (3) the ratio of children under 13 years of age needing child care to the number of licensed  
55.4 spaces in the region;

55.5 (4) the number of licensed child care providers and school-age care programs in the  
55.6 region; and

55.7 (5) other related factors determined by the commissioner.

55.8 (d) Child care resource and referral programs must award child care ~~center grants and~~  
55.9 ~~family child care~~ services grants based on the recommendation of the child care district  
55.10 proposal review committees under subdivision 3.

55.11 (e) The commissioner may distribute funds under this section for a two-year period.

55.12 Subd. 1a. Eligible programs. A child care resource and referral program designated  
55.13 under sections 119B.189 and 119B.19, subdivision 1a, may award child care services grants  
55.14 to:

55.15 (1) a child care center licensed under Minnesota Rules, chapter 9503, or in the process  
55.16 of becoming licensed;

55.17 (2) a family or group family child care home licensed under Minnesota Rules, chapter  
55.18 9502, or in the process of becoming licensed;

55.19 (3) corporations or public agencies that develop or provide child care services;

55.20 (4) a school-age care program;

55.21 (5) a tribally licensed child care program;

55.22 (6) legal nonlicensed or family, friend, and neighbor child care providers; or

55.23 (7) other programs as determined by the commissioner.

55.24 **Subd. 3. Child care district proposal review committees.** (a) Child care district proposal  
55.25 review committees review applications for ~~family child care grants and child care center~~  
55.26 ~~services grants~~ grants under this section and make funding recommendations to the child care  
55.27 resource and referral program designated under ~~section~~ sections 119B.189 and 119B.19,  
55.28 subdivision 1a. Each region within a district must be represented on the review committee.  
55.29 The child care district proposal review committees must complete their reviews and forward  
55.30 their recommendations to the child care resource and referral district programs by the date  
55.31 specified by the commissioner.

56.1 (b) A child care resource and referral district program shall establish a process to select  
56.2 members of the child care district proposal review committee. Members must reflect a broad  
56.3 cross-section of the community, and may include the following constituent groups: family  
56.4 child care providers, child care center providers, school-age care providers, parents who  
56.5 use child care services, health services, social services, public schools, Head Start, employers,  
56.6 representatives of cultural and ethnic communities, and other citizens with demonstrated  
56.7 interest in child care issues. Members of the proposal review committee with a direct financial  
56.8 interest in a pending grant proposal may not provide a recommendation or participate in  
56.9 the ranking of that grant proposal.

56.10 (c) The child care resource and referral district program may ~~reimburse committee~~  
56.11 ~~members for their actual travel, child care, and child care provider substitute expenses for~~  
56.12 ~~up to two committee meetings per year. The program may also pay offer~~ a stipend to ~~parent~~  
56.13 ~~representatives~~ proposal review committee members for participating in ~~two meetings per~~  
56.14 ~~year~~ the grant review process.

56.15 Subd. 5. **Child care services grants.** (a) A child care resource and referral program  
56.16 designated under ~~section~~ sections 119B.189 and 119B.19, subdivision 1a, may award child  
56.17 care services grants for:

56.18 (1) creating new licensed child care facilities and expanding existing facilities, including,  
56.19 but not limited to, supplies, equipment, facility renovation, and remodeling;

56.20 (2) ~~improving licensed child care facility programs~~ facility improvements, including but  
56.21 not limited to, improvements to meet licensing requirements;

56.22 (3) staff training and development services including, but not limited to, in-service  
56.23 training, curriculum development, accreditation, certification, consulting, resource centers,  
56.24 program and resource materials, supporting effective teacher-child interactions, child-focused  
56.25 teaching, and content-driven classroom instruction;

56.26 (4) capacity building through the purchase of appropriate technology to create, enhance,  
56.27 and maintain business management systems;

56.28 (5) emergency assistance for child care programs;

56.29 (6) new programs or projects for the creation, expansion, or improvement of programs  
56.30 that serve ethnic immigrant and refugee communities; ~~and~~

56.31 (7) targeted recruitment initiatives to expand and build the capacity of the child care  
56.32 system and to improve the quality of care provided by legal nonlicensed child care providers;  
56.33 and



57.1 (8) other uses as approved by the commissioner.

57.2 (b) A child care resource and referral organization designated under ~~section~~ sections  
57.3 119B.189 and 119B.19, subdivision 1a, may award child care services grants of up to \$1,000  
57.4 to family child care providers. ~~These grants may be used for:~~ eligible programs in amounts  
57.5 up to a maximum determined by the commissioner for each type of eligible program.

57.6 ~~(1) facility improvements, including, but not limited to, improvements to meet licensing~~  
57.7 ~~requirements;~~

57.8 ~~(2) improvements to expand a child care facility or program;~~

57.9 ~~(3) toys and equipment;~~

57.10 ~~(4) technology and software to create, enhance, and maintain business management~~  
57.11 ~~systems;~~

57.12 ~~(5) start-up costs;~~

57.13 ~~(6) staff training and development; and~~

57.14 ~~(7) other uses approved by the commissioner.~~

57.15 ~~(c) A child care resource and referral program designated under section 119B.19,~~  
57.16 ~~subdivision 1a, may award child care services grants to:~~

57.17 ~~(1) licensed providers;~~

57.18 ~~(2) providers in the process of being licensed;~~

57.19 ~~(3) corporations or public agencies that develop or provide child care services;~~

57.20 ~~(4) school-age care programs;~~

57.21 ~~(5) legal nonlicensed or family, friend, and neighbor care providers; or~~

57.22 ~~(6) any combination of clauses (1) to (5).~~

57.23 ~~(d) A child care center that is a recipient of a child care services grant for facility~~  
57.24 ~~improvements or staff training and development must provide a 25 percent local match. A~~  
57.25 ~~local match is not required for grants to family child care providers.~~

57.26 ~~(e) Beginning July 1, 2009, grants to child care centers under this subdivision shall be~~  
57.27 ~~increasingly awarded for activities that improve provider quality, including activities under~~  
57.28 ~~paragraph (a), clauses (1) to (3) and (6). Grants to family child care providers shall be~~  
57.29 ~~increasingly awarded for activities that improve provider quality, including activities under~~  
57.30 ~~paragraph (b), clauses (1), (3), and (6).~~

58.1 Sec. 2. Minnesota Statutes 2018, section 119B.26, is amended to read:

58.2 **119B.26 AUTHORITY TO WAIVE REQUIREMENTS DURING DISASTER**  
58.3 **PERIODS.**

58.4 The commissioner may waive requirements under this chapter for up to nine months  
58.5 after the disaster in areas where a federal disaster has been declared under United States  
58.6 Code, title 42, section 5121, et seq., or the governor has exercised authority under chapter  
58.7 12. The commissioner may waive requirements retroactively from the date of the disaster.  
58.8 The commissioner shall notify the chairs of the house of representatives and senate  
58.9 committees with jurisdiction over this chapter and the house of representatives Ways and  
58.10 Means Committee ~~ten days before the effective date of any waiver granted~~ within five  
58.11 business days after the commissioner grants a waiver under this section.

58.12 Sec. 3. Minnesota Statutes 2018, section 245.4871, is amended by adding a subdivision  
58.13 to read:

58.14 Subd. 32a. **Responsible social services agency.** "Responsible social services agency"  
58.15 is defined in section 260C.007, subdivision 27a.

58.16 **EFFECTIVE DATE.** This section is effective September 30, 2021.

58.17 Sec. 4. Minnesota Statutes 2018, section 245.4885, subdivision 1, is amended to read:

58.18 Subdivision 1. **Admission criteria.** (a) Prior to admission or placement, except in the  
58.19 case of an emergency admission, all children referred for treatment of severe emotional  
58.20 disturbance in a treatment foster care setting, residential treatment facility, or informally  
58.21 admitted to a regional treatment center shall undergo an assessment to determine the  
58.22 appropriate level of care if public funds are used to pay for the services.

58.23 (b) The ~~county board~~ responsible social services agency shall determine the appropriate  
58.24 level of care for a child when county-controlled funds are used to pay for the child's services  
58.25 or placement in a qualified residential treatment facility under chapter 260C and licensed  
58.26 by the commissioner under chapter 245A. In accordance with section 260C.157, a juvenile  
58.27 treatment screening team shall conduct a screening before the team may recommend whether  
58.28 to place a child in a qualified residential treatment program as defined in section 260C.007,  
58.29 subdivision 26d. When a social services agency does not have responsibility for a child's  
58.30 placement and the child is enrolled in a prepaid health program under section 256B.69, the  
58.31 enrolled child's contracted health plan must determine the appropriate level of care. When  
58.32 Indian Health Services funds or funds of a tribally owned facility funded under the Indian

59.1 Self-Determination and Education Assistance Act, Public Law 93-638, are to be used, the  
59.2 Indian Health Services or 638 tribal health facility must determine the appropriate level of  
59.3 care. When more than one entity bears responsibility for coverage, the entities shall  
59.4 coordinate level of care determination activities to the extent possible.

59.5 (c) The responsible social services agency must make the level of care determination  
59.6 shall available to the juvenile treatment screening team, as permitted under chapter 13. The  
59.7 level of care determination shall inform the juvenile treatment screening team process and  
59.8 the assessment in section 260C.704 when considering whether to place the child in a qualified  
59.9 residential treatment program. When the responsible social services agency is not involved  
59.10 in determining a child's placement, the child's level of care determination shall determine  
59.11 whether the proposed treatment:

59.12 (1) is necessary;

59.13 (2) is appropriate to the child's individual treatment needs;

59.14 (3) cannot be effectively provided in the child's home; and

59.15 (4) provides a length of stay as short as possible consistent with the individual child's  
59.16 need.

59.17 (d) When a level of care determination is conducted, the responsible social services  
59.18 agency or other entity may not determine that a screening under section 260C.157 or referral  
59.19 or admission to a treatment foster care setting or residential treatment facility is not  
59.20 appropriate solely because services were not first provided to the child in a less restrictive  
59.21 setting and the child failed to make progress toward or meet treatment goals in the less  
59.22 restrictive setting. The level of care determination must be based on a diagnostic assessment  
59.23 that includes a functional assessment which evaluates family, school, and community living  
59.24 situations; and an assessment of the child's need for care out of the home using a validated  
59.25 tool which assesses a child's functional status and assigns an appropriate level of care. The  
59.26 validated tool must be approved by the commissioner of human services. If a diagnostic  
59.27 assessment including a functional assessment has been completed by a mental health  
59.28 professional within the past 180 days, a new diagnostic assessment need not be completed  
59.29 unless in the opinion of the current treating mental health professional the child's mental  
59.30 health status has changed markedly since the assessment was completed. The child's parent  
59.31 shall be notified if an assessment will not be completed and of the reasons. A copy of the  
59.32 notice shall be placed in the child's file. Recommendations developed as part of the level  
59.33 of care determination process shall include specific community services needed by the child

60.1 and, if appropriate, the child's family, and shall indicate whether or not these services are  
60.2 available and accessible to the child and family.

60.3 (e) During the level of care determination process, the child, child's family, or child's  
60.4 legal representative, as appropriate, must be informed of the child's eligibility for case  
60.5 management services and family community support services and that an individual family  
60.6 community support plan is being developed by the case manager, if assigned.

60.7 (f) ~~The level of care determination shall comply with section 260C.212. The parent shall~~  
60.8 ~~be consulted in the process, unless clinically detrimental to the child.~~ When the responsible  
60.9 social services agency has authority, the agency must engage the child's parents in case  
60.10 planning under sections 260C.212 and 260C.708 unless a court terminates the parent's rights  
60.11 or court orders restrict the parent from participating in case planning, visitation, or parental  
60.12 responsibilities.

60.13 (g) The level of care determination, and placement decision, and recommendations for  
60.14 mental health services must be documented in the child's record, as required in chapters  
60.15 260C.

60.16 **EFFECTIVE DATE.** This section is effective September 30, 2021.

60.17 Sec. 5. Minnesota Statutes 2019 Supplement, section 245.4889, subdivision 1, is amended  
60.18 to read:

60.19 Subdivision 1. **Establishment and authority.** (a) The commissioner is authorized to  
60.20 make grants from available appropriations to assist:

60.21 (1) counties;

60.22 (2) Indian tribes;

60.23 (3) children's collaboratives under section 124D.23 or 245.493; or

60.24 (4) mental health service providers.

60.25 (b) The following services are eligible for grants under this section:

60.26 (1) services to children with emotional disturbances as defined in section 245.4871,  
60.27 subdivision 15, and their families;

60.28 (2) transition services under section 245.4875, subdivision 8, for young adults under  
60.29 age 21 and their families;

- 61.1 (3) respite care services for children with emotional disturbances or severe emotional  
61.2 disturbances who are at risk of out-of-home placement. A child is not required to have case  
61.3 management services to receive respite care services;
- 61.4 (4) children's mental health crisis services;
- 61.5 (5) mental health services for people from cultural and ethnic minorities;
- 61.6 (6) children's mental health screening and follow-up diagnostic assessment and treatment;
- 61.7 (7) services to promote and develop the capacity of providers to use evidence-based  
61.8 practices in providing children's mental health services;
- 61.9 (8) school-linked mental health services under section 245.4901;
- 61.10 (9) building evidence-based mental health intervention capacity for children birth to age  
61.11 five;
- 61.12 (10) suicide prevention and counseling services that use text messaging statewide;
- 61.13 (11) mental health first aid training;
- 61.14 (12) training for parents, collaborative partners, and mental health providers on the  
61.15 impact of adverse childhood experiences and trauma and development of an interactive  
61.16 website to share information and strategies to promote resilience and prevent trauma;
- 61.17 (13) transition age services to develop or expand mental health treatment and supports  
61.18 for adolescents and young adults 26 years of age or younger;
- 61.19 (14) early childhood mental health consultation;
- 61.20 (15) evidence-based interventions for youth at risk of developing or experiencing a first  
61.21 episode of psychosis, and a public awareness campaign on the signs and symptoms of  
61.22 psychosis;
- 61.23 (16) psychiatric consultation for primary care practitioners; and
- 61.24 (17) providers to begin operations and meet program requirements when establishing a  
61.25 new children's mental health program. These may be start-up grants.
- 61.26 (c) Services under paragraph (b) must be designed to help each child to function and  
61.27 remain with the child's family in the community and delivered consistent with the child's  
61.28 treatment plan. Transition services to eligible young adults under this paragraph must be  
61.29 designed to foster independent living in the community.
- 61.30 (d) As a condition of receiving grant funds, a grantee shall obtain all available third-party  
61.31 reimbursement sources, if applicable.

62.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

62.2 Sec. 6. Minnesota Statutes 2018, section 245A.02, subdivision 2c, is amended to read:

62.3 Subd. 2c. **Annual or annually; family child care training requirements.** For the  
62.4 purposes of ~~section 245A.50, subdivisions 1 to 9~~ sections 245A.50 to 245A.53, "annual"  
62.5 or "annually" means the 12-month period beginning on the license effective date or the  
62.6 annual anniversary of the effective date and ending on the day prior to the annual anniversary  
62.7 of the license effective date.

62.8 **EFFECTIVE DATE.** This section is effective September 30, 2020.

62.9 Sec. 7. Minnesota Statutes 2019 Supplement, section 245A.149, is amended to read:

62.10 **245A.149 SUPERVISION OF FAMILY CHILD CARE LICENSE HOLDER'S**  
62.11 **OWN CHILD.**

62.12 (a) Notwithstanding Minnesota Rules, part 9502.0365, subpart 5, and with the license  
62.13 holder's consent, an individual may be present in the licensed space, may supervise the  
62.14 family child care license holder's own child both inside and outside of the licensed space,  
62.15 and is exempt from the training and supervision requirements of this chapter and Minnesota  
62.16 Rules, chapter 9502, if the individual:

62.17 (1) is related to the license holder or to the license holder's child, as defined in section  
62.18 245A.02, subdivision 13, or is a household member who the license holder has reported to  
62.19 the county agency;

62.20 (2) is not a designated caregiver, helper, or substitute for the licensed program;

62.21 (3) is involved only in the care of the license holder's own child; and

62.22 (4) does not have direct, unsupervised contact with any nonrelative children receiving  
62.23 services.

62.24 (b) If the individual in paragraph (a) is not a household member, the individual is also  
62.25 exempt from background study requirements under chapter 245C.

62.26 **EFFECTIVE DATE.** This section is effective September 30, 2020.

63.1 Sec. 8. Minnesota Statutes 2019 Supplement, section 245A.40, subdivision 7, is amended  
63.2 to read:

63.3 Subd. 7. **In-service.** (a) A license holder must ensure that the center director, staff  
63.4 persons, substitutes, and unsupervised volunteers complete in-service training each calendar  
63.5 year.

63.6 (b) The center director and staff persons who work more than 20 hours per week must  
63.7 complete 24 hours of in-service training each calendar year. Staff persons who work 20  
63.8 hours or less per week must complete 12 hours of in-service training each calendar year.  
63.9 Substitutes and unsupervised volunteers must complete the requirements of paragraphs ~~(e)~~  
63.10 ~~to (h)~~ (d) to (g) and do not otherwise have a minimum number of hours of training to  
63.11 complete.

63.12 (c) The number of in-service training hours may be prorated for individuals not employed  
63.13 for an entire year.

63.14 (d) Each year, in-service training must include:

63.15 (1) the center's procedures for maintaining health and safety according to section 245A.41  
63.16 and Minnesota Rules, part 9503.0140, and handling emergencies and accidents according  
63.17 to Minnesota Rules, part 9503.0110;

63.18 (2) the reporting responsibilities under section 626.556 and Minnesota Rules, part  
63.19 9503.0130;

63.20 (3) at least one-half hour of training on the standards under section 245A.1435 and on  
63.21 reducing the risk of sudden unexpected infant death as required under subdivision 5, if  
63.22 applicable; and

63.23 (4) at least one-half hour of training on the risk of abusive head trauma from shaking  
63.24 infants and young children as required under subdivision 5a, if applicable.

63.25 (e) Each year, or when a change is made, whichever is more frequent, in-service training  
63.26 must be provided on: (1) the center's risk reduction plan under section 245A.66, subdivision  
63.27 2; and (2) a child's individual child care program plan as required under Minnesota Rules,  
63.28 part 9503.0065, subpart 3.

63.29 (f) At least once every two calendar years, the in-service training must include:

63.30 (1) child development and learning training under subdivision 2;

63.31 (2) pediatric first aid that meets the requirements of subdivision 3;

64.1 (3) pediatric cardiopulmonary resuscitation training that meets the requirements of  
64.2 subdivision 4;

64.3 (4) cultural dynamics training to increase awareness of cultural differences; and

64.4 (5) disabilities training to increase awareness of differing abilities of children.

64.5 (g) At least once every five years, in-service training must include child passenger  
64.6 restraint training that meets the requirements of subdivision 6, if applicable.

64.7 (h) The remaining hours of the in-service training requirement must be met by completing  
64.8 training in the following content areas of the Minnesota Knowledge and Competency  
64.9 Framework:

64.10 (1) Content area I: child development and learning;

64.11 (2) Content area II: developmentally appropriate learning experiences;

64.12 (3) Content area III: relationships with families;

64.13 (4) Content area IV: assessment, evaluation, and individualization;

64.14 (5) Content area V: historical and contemporary development of early childhood  
64.15 education;

64.16 (6) Content area VI: professionalism;

64.17 (7) Content area VII: health, safety, and nutrition; and

64.18 (8) Content area VIII: application through clinical experiences.

64.19 (i) For purposes of this subdivision, the following terms have the meanings given them.

64.20 (1) "Child development and learning training" means training in understanding how  
64.21 children develop physically, cognitively, emotionally, and socially and learn as part of the  
64.22 children's family, culture, and community.

64.23 (2) "Developmentally appropriate learning experiences" means creating positive learning  
64.24 experiences, promoting cognitive development, promoting social and emotional development,  
64.25 promoting physical development, and promoting creative development.

64.26 (3) "Relationships with families" means training on building a positive, respectful  
64.27 relationship with the child's family.

64.28 (4) "Assessment, evaluation, and individualization" means training in observing,  
64.29 recording, and assessing development; assessing and using information to plan; and assessing  
64.30 and using information to enhance and maintain program quality.



65.1 (5) "Historical and contemporary development of early childhood education" means  
65.2 training in past and current practices in early childhood education and how current events  
65.3 and issues affect children, families, and programs.

65.4 (6) "Professionalism" means training in knowledge, skills, and abilities that promote  
65.5 ongoing professional development.

65.6 (7) "Health, safety, and nutrition" means training in establishing health practices, ensuring  
65.7 safety, and providing healthy nutrition.

65.8 (8) "Application through clinical experiences" means clinical experiences in which a  
65.9 person applies effective teaching practices using a range of educational programming models.

65.10 (j) The license holder must ensure that documentation, as required in subdivision 10,  
65.11 includes the number of total training hours required to be completed, name of the training,  
65.12 the Minnesota Knowledge and Competency Framework content area, number of hours  
65.13 completed, and the director's approval of the training.

65.14 (k) In-service training completed by a staff person that is not specific to that child care  
65.15 center is transferable upon a staff person's change in employment to another child care  
65.16 program.

65.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

65.18 Sec. 9. Minnesota Statutes 2018, section 245A.50, as amended by Laws 2019, First Special  
65.19 Session chapter 9, article 2, section 53, is amended to read:

65.20 **245A.50 FAMILY CHILD CARE TRAINING REQUIREMENTS.**

65.21 Subdivision 1. **Initial training.** (a) License holders, adult caregivers, and substitutes  
65.22 must comply with the training requirements in this section.

65.23 (b) Helpers who assist with care on a regular basis must complete six hours of training  
65.24 within one year after the date of initial employment.

65.25 (c) Training requirements established under this section that must be completed prior  
65.26 to initial licensure must be satisfied only by a newly licensed child care provider or by a  
65.27 child care provider who has not held an active child care license in Minnesota in the previous  
65.28 12 months. A child care provider who voluntarily cancels a license or allows the license to  
65.29 lapse for a period of less than 12 months and who seeks reinstatement of the lapsed or  
65.30 canceled license within 12 months of the lapse or cancellation must satisfy the annual,  
65.31 ongoing training requirements, and is not required to satisfy the training requirements that  
65.32 must be completed prior to initial licensure. A child care provider who relocates within the

66.1 state must (1) satisfy the annual, ongoing training requirements according to the schedules  
66.2 established in this section and (2) not be required to satisfy the training requirements under  
66.3 this section that the child care provider completed prior to initial licensure. If a licensed  
66.4 provider moves to a new county, the new county is prohibited from requiring the provider  
66.5 to complete any orientation class or training for new providers.

66.6 (d) Before an adult caregiver or substitute cares for a child or assists in the care of a  
66.7 child, the license holder must train the adult caregiver or substitute on:

66.8 (1) the emergency preparedness plan required under section 245A.51, subdivision 3;  
66.9 and

66.10 (2) allergy prevention and response required under section 245A.51, subdivision 1.

66.11 Subd. 1a. **Definitions and general provisions.** (a) For the purposes of this section, the  
66.12 following terms have the meanings given:

66.13 (1) "adult caregiver" means an adult other than the license holder who supervises children  
66.14 for a cumulative total of more than 500 hours annually;

66.15 (2) "helper" means a minor, ages 13 to 17, who assists in caring for children; and

66.16 (3) "substitute" means an adult who assumes responsibility for a provider for a cumulative  
66.17 total of not more than 500 hours annually.

66.18 (b) Notwithstanding other requirements of this section, courses within the identified  
66.19 knowledge and competency areas that are specific to child care centers or legal nonlicensed  
66.20 providers do not fulfill the requirements of this section.

66.21 Subd. 2. **Child development and learning and behavior guidance training.** (a) For  
66.22 purposes of family and group family child care, the license holder and each adult caregiver  
66.23 who provides care in the licensed setting for more than 30 days in any 12-month period  
66.24 shall complete and document at least four hours of child growth and learning and behavior  
66.25 guidance training prior to initial licensure, and before caring for children. For purposes of  
66.26 this subdivision, "child development and learning training" means training in understanding  
66.27 how children develop physically, cognitively, emotionally, and socially and learn as part  
66.28 of the children's family, culture, and community. "Behavior guidance training" means  
66.29 training in the understanding of the functions of child behavior and strategies for managing  
66.30 challenging situations. At least two hours of child development and learning or behavior  
66.31 guidance training must be repeated annually. Training curriculum shall be developed or  
66.32 approved by the commissioner of human services. This requirement must be met by  
66.33 completing one of the following:

67.1 (1) two hours in Knowledge and Competency Area I: Child Development and Learning  
67.2 or Knowledge, and two hours in Knowledge and Competency Area II-C: Promoting Social  
67.3 and Emotional Development; or

67.4 (2) four hours in Knowledge and Competency Area II-C; or

67.5 (3) one four-hour course in both Knowledge and Competency Area I and Knowledge  
67.6 and Competency Area II-C.

67.7 Training curriculum shall be developed or approved by the commissioner of human services.

67.8 (b) Notwithstanding initial child development and learning and behavior guidance  
67.9 training requirements in paragraph (a), individuals are exempt from this requirement if they:

67.10 (1) have taken a three-credit course on early childhood development within the past five  
67.11 years;

67.12 (2) have received a baccalaureate or master's degree in early childhood education or  
67.13 school-age child care within the past five years;

67.14 (3) are licensed in Minnesota as a prekindergarten teacher, an early childhood educator,  
67.15 a kindergarten to grade 6 teacher with a prekindergarten specialty, an early childhood special  
67.16 education teacher, or an elementary teacher with a kindergarten endorsement; or

67.17 (4) have received a baccalaureate degree with a Montessori certificate within the past  
67.18 five years.

67.19 (c) The license holder and adult caregivers must annually take at least two hours of child  
67.20 development and learning or behavior guidance training. This annual training must be  
67.21 fulfilled by completing any course in Knowledge and Competency Area I: Child Development  
67.22 and Learning or Knowledge and Competency Area II-C: Promoting Social and Emotional  
67.23 Development. Training curriculum shall be developed or approved by the commissioner of  
67.24 human services.

67.25 (d) A three-credit course about early childhood development meets the requirements of  
67.26 paragraph (c).

67.27 Subd. 3. **First aid.** (a) ~~When children are present in a family child care home governed~~  
67.28 ~~by Minnesota Rules, parts 9502.0315 to 9502.0445, at least one staff person must be present~~  
67.29 ~~in the home who has been trained in first aid~~ Before initial licensure and before caring for  
67.30 a child, license holders, adult caregivers, and substitutes must be trained in pediatric first  
67.31 aid. The first aid training must have been provided by an individual approved to provide  
67.32 first aid instruction. First aid training may be less than eight hours and persons qualified to

68.1 provide first aid training include individuals approved as first aid instructors. ~~First aid~~  
68.2 ~~training must be repeated~~ License holders, adult caregivers, and substitutes must repeat  
68.3 pediatric first aid training every two years.

68.4 ~~(b) A family child care provider is exempt from the first aid training requirements under~~  
68.5 ~~this subdivision related to any substitute caregiver who provides less than 30 hours of care~~  
68.6 ~~during any 12-month period.~~

68.7 ~~(e)~~ (b) Video training reviewed and approved by the county licensing agency satisfies  
68.8 the training requirement of this subdivision.

68.9 Subd. 4. **Cardiopulmonary resuscitation.** ~~(a) When children are present in a family~~  
68.10 ~~child care home governed by Minnesota Rules, parts 9502.0315 to 9502.0445, at least one~~  
68.11 ~~caregiver must be present in the home who has been trained in cardiopulmonary resuscitation~~  
68.12 ~~(CPR)~~ Before initial licensure and before caring for a child, license holders, adult caregivers,  
68.13 and substitutes must be trained in pediatric cardiopulmonary resuscitation (CPR), including  
68.14 CPR techniques for infants and children, and in the treatment of obstructed airways. The  
68.15 CPR training must have been provided by an individual approved to provide CPR instruction;  
68.16 License holders, adult caregivers, and substitutes must be repeated repeat pediatric CPR  
68.17 training at least once every two years, and it must be documented in the caregiver's license  
68.18 holder's records.

68.19 ~~(b) A family child care provider is exempt from the CPR training requirement in this~~  
68.20 ~~subdivision related to any substitute caregiver who provides less than 30 hours of care during~~  
68.21 ~~any 12-month period.~~

68.22 ~~(e)~~ (b) Persons providing CPR training must use CPR training that has been developed:

68.23 (1) by the American Heart Association or the American Red Cross and incorporates  
68.24 psychomotor skills to support the instruction; or

68.25 (2) using nationally recognized, evidence-based guidelines for CPR training and  
68.26 incorporates psychomotor skills to support the instruction.

68.27 Subd. 5. **Sudden unexpected infant death and abusive head trauma training.** (a)  
68.28 License holders must ensure and document that before ~~staff persons~~ the license holder, adult  
68.29 caregivers, substitutes, and helpers assist in the care of infants, they are instructed on the  
68.30 standards in section 245A.1435 and receive training on reducing the risk of sudden  
68.31 unexpected infant death. In addition, license holders must ensure and document that before  
68.32 ~~staff persons~~ the license holder, adult caregivers, substitutes, and helpers assist in the care  
68.33 of infants and children under school age, they receive training on reducing the risk of abusive

69.1 head trauma from shaking infants and young children. The training in this subdivision may  
69.2 be provided as initial training under subdivision 1 or ongoing annual training under  
69.3 subdivision 7.

69.4 (b) Sudden unexpected infant death reduction training required under this subdivision  
69.5 must, at a minimum, address the risk factors related to sudden unexpected infant death,  
69.6 means of reducing the risk of sudden unexpected infant death in child care, and license  
69.7 holder communication with parents regarding reducing the risk of sudden unexpected infant  
69.8 death.

69.9 (c) Abusive head trauma training required under this subdivision must, at a minimum,  
69.10 address the risk factors related to shaking infants and young children, means of reducing  
69.11 the risk of abusive head trauma in child care, and license holder communication with parents  
69.12 regarding reducing the risk of abusive head trauma.

69.13 (d) Training for family and group family child care providers must be developed by the  
69.14 commissioner in conjunction with the Minnesota Sudden Infant Death Center and approved  
69.15 by the Minnesota Center for Professional Development. Sudden unexpected infant death  
69.16 reduction training and abusive head trauma training may be provided in a single course of  
69.17 no more than two hours in length.

69.18 (e) Sudden unexpected infant death reduction training and abusive head trauma training  
69.19 required under this subdivision must be completed in person or as allowed under subdivision  
69.20 10, clause (1) or (2), at least once every two years. On the years when the ~~license holder~~  
69.21 person receiving training is not receiving training in person or as allowed under subdivision  
69.22 10, clause (1) or (2), the ~~license holder~~ person receiving training in accordance with this  
69.23 subdivision must receive sudden unexpected infant death reduction training and abusive  
69.24 head trauma training through a video of no more than one hour in length. The video must  
69.25 be developed or approved by the commissioner.

69.26 (f) An individual who is related to the license holder as defined in section 245A.02,  
69.27 subdivision 13, and who is involved only in the care of the license holder's own infant or  
69.28 child under school age and who is not designated to be a an adult caregiver, helper, or  
69.29 substitute, as defined in Minnesota Rules, part 9502.0315, for the licensed program, is  
69.30 exempt from the sudden unexpected infant death and abusive head trauma training.

69.31 **Subd. 6. Child passenger restraint systems; training requirement.** (a) A license  
69.32 holder must comply with all seat belt and child passenger restraint system requirements  
69.33 under section 169.685.

70.1 (b) Family and group family child care programs licensed by the Department of Human  
70.2 Services that serve a child or children under nine years of age must document training that  
70.3 fulfills the requirements in this subdivision.

70.4 (1) Before a license holder, ~~staff person,~~ adult caregiver, substitute, or helper transports  
70.5 a child or children under age nine in a motor vehicle, the person placing the child or children  
70.6 in a passenger restraint must satisfactorily complete training on the proper use and installation  
70.7 of child restraint systems in motor vehicles. Training completed under this subdivision may  
70.8 be used to meet initial training under subdivision 1 or ongoing training under subdivision  
70.9 7.

70.10 (2) Training required under this subdivision must be at least one hour in length, completed  
70.11 at initial training, and repeated at least once every five years. At a minimum, the training  
70.12 must address the proper use of child restraint systems based on the child's size, weight, and  
70.13 age, and the proper installation of a car seat or booster seat in the motor vehicle used by the  
70.14 license holder to transport the child or children.

70.15 (3) Training under this subdivision must be provided by individuals who are certified  
70.16 and approved by the Department of Public Safety, Office of Traffic Safety. License holders  
70.17 may obtain a list of certified and approved trainers through the Department of Public Safety  
70.18 website or by contacting the agency.

70.19 (c) Child care providers that only transport school-age children as defined in section  
70.20 245A.02, subdivision 19, paragraph (f), in child care buses as defined in section 169.448,  
70.21 subdivision 1, paragraph (e), are exempt from this subdivision.

70.22 **Subd. 7. Training requirements for family and group family child care.** For purposes  
70.23 of family and group family child care, the license holder and each primary adult caregiver  
70.24 must complete 16 hours of ongoing training each year. ~~For purposes of this subdivision, a~~  
70.25 ~~primary caregiver is an adult caregiver who provides services in the licensed setting for~~  
70.26 ~~more than 30 days in any 12-month period.~~ Repeat of topical training requirements in  
70.27 subdivisions 2 to 8 shall count toward the annual 16-hour training requirement. Additional  
70.28 ongoing training subjects to meet the annual 16-hour training requirement must be selected  
70.29 from the following areas:

70.30 (1) child development and learning training ~~under subdivision 2, paragraph (a) in~~  
70.31 understanding how a child develops physically, cognitively, emotionally, and socially, and  
70.32 how a child learns as part of the child's family, culture, and community;

70.33 (2) developmentally appropriate learning experiences, including training in creating  
70.34 positive learning experiences, promoting cognitive development, promoting social and

71.1 emotional development, promoting physical development, promoting creative development;  
71.2 and behavior guidance;

71.3 (3) relationships with families, including training in building a positive, respectful  
71.4 relationship with the child's family;

71.5 (4) assessment, evaluation, and individualization, including training in observing,  
71.6 recording, and assessing development; assessing and using information to plan; and assessing  
71.7 and using information to enhance and maintain program quality;

71.8 (5) historical and contemporary development of early childhood education, including  
71.9 training in past and current practices in early childhood education and how current events  
71.10 and issues affect children, families, and programs;

71.11 (6) professionalism, including training in knowledge, skills, and abilities that promote  
71.12 ongoing professional development; and

71.13 (7) health, safety, and nutrition, including training in establishing healthy practices;  
71.14 ensuring safety; and providing healthy nutrition.

71.15 Subd. 8. **Other required training requirements.** (a) The training required of family  
71.16 and group family child care providers and staff must include training in the cultural dynamics  
71.17 of early childhood development and child care. The cultural dynamics and disabilities  
71.18 training and skills development of child care providers must be designed to achieve outcomes  
71.19 for providers of child care that include, but are not limited to:

71.20 (1) an understanding and support of the importance of culture and differences in ability  
71.21 in children's identity development;

71.22 (2) understanding the importance of awareness of cultural differences and similarities  
71.23 in working with children and their families;

71.24 (3) understanding and support of the needs of families and children with differences in  
71.25 ability;

71.26 (4) developing skills to help children develop unbiased attitudes about cultural differences  
71.27 and differences in ability;

71.28 (5) developing skills in culturally appropriate caregiving; and

71.29 (6) developing skills in appropriate caregiving for children of different abilities.

71.30 The commissioner shall approve the curriculum for cultural dynamics and disability  
71.31 training.

72.1 (b) The provider must meet the training requirement in section 245A.14, subdivision  
72.2 11, paragraph (a), clause (4), to be eligible to allow a child cared for at the family child care  
72.3 or group family child care home to use the swimming pool located at the home.

72.4 Subd. 9. **Supervising for safety; training requirement.** (a) Courses required by this  
72.5 subdivision must include the following health and safety topics:

72.6 (1) preventing and controlling infectious diseases;

72.7 (2) administering medication;

72.8 (3) preventing and responding to allergies;

72.9 (4) ensuring building and physical premise safety;

72.10 (5) handling and storing biological contaminants;

72.11 (6) preventing and reporting child abuse and maltreatment; and

72.12 (7) emergency preparedness.

72.13 ~~(a)~~ (b) Before initial licensure and before caring for a child, all family child care license  
72.14 holders and each adult caregiver ~~who provides care in the licensed family child care home~~  
72.15 ~~for more than 30 days in any 12-month period~~ shall complete and document the completion  
72.16 of the six-hour Supervising for Safety for Family Child Care course developed by the  
72.17 commissioner.

72.18 (c) The license holder must ensure and document that, before caring for a child, all  
72.19 substitutes have completed the four-hour Basics of Licensed Family Child Care for  
72.20 Substitutes course developed by the commissioner, which must include health and safety  
72.21 topics as well as child development and learning.

72.22 ~~(b)~~ (d) The family child care license holder and each adult caregiver ~~who provides care~~  
72.23 ~~in the licensed family child care home for more than 30 days in any 12-month period~~ shall  
72.24 complete and document:

72.25 (1) the annual completion of a two-hour active supervision course developed by the  
72.26 commissioner, which may be fulfilled by completing any course in Knowledge and  
72.27 Competency Area VII-A: Establishing Healthy Practices or Knowledge and Competency  
72.28 area VII-B: Ensuring Safety, that is not otherwise required in this section; and

72.29 (2) the completion at least once every five years of the two-hour courses Health and  
72.30 Safety I and Health and Safety II. A license holder's or adult caregiver's completion of either  
72.31 training in a given year meets the annual active supervision training requirement in clause  
72.32 (1).



73.1 (e) At least once every three years, license holders must ensure and document that  
73.2 substitutes have completed the four-hour Basics of Licensed Family Child Care for  
73.3 Substitutes course.

73.4 Subd. 10. **Approved training.** County licensing staff must accept training approved by  
73.5 the Minnesota Center for Professional Development, including:

73.6 (1) face-to-face or classroom training;

73.7 (2) online training; and

73.8 (3) relationship-based professional development, such as mentoring, coaching, and  
73.9 consulting.

73.10 Subd. 11. **Provider training.** New and increased training requirements under this section  
73.11 must not be imposed on providers until the commissioner establishes statewide accessibility  
73.12 to the required provider training.

73.13 **EFFECTIVE DATE.** This section is effective September 30, 2020.

73.14 Sec. 10. Minnesota Statutes 2018, section 245C.02, subdivision 5, is amended to read:

73.15 Subd. 5. **Background study.** "Background study" means the review of records conducted  
73.16 by the commissioner to determine whether a subject is disqualified from direct contact with  
73.17 persons served by a program and, where specifically provided in statutes, whether a subject  
73.18 is disqualified from having access to persons served by a program and from working in a  
73.19 children's residential facility or foster residence setting.

73.20 Sec. 11. Minnesota Statutes 2018, section 245C.02, is amended by adding a subdivision  
73.21 to read:

73.22 Subd. 11a. **Foster family setting.** "Foster family setting" has the meaning given in  
73.23 Minnesota Rules, chapter 2960.3010, subpart 23.

73.24 Sec. 12. Minnesota Statutes 2018, section 245C.02, is amended by adding a subdivision  
73.25 to read:

73.26 Subd. 11b. **Foster residence setting.** "Foster residence setting" has the meaning given  
73.27 in Minnesota Rules, chapter 2960.3010, subpart 26, and includes settings licensed by the  
73.28 commissioner of corrections or the commissioner of human services.

74.1 Sec. 13. Minnesota Statutes 2018, section 245C.02, is amended by adding a subdivision  
74.2 to read:

74.3 Subd. 21. **Title IV-E eligible.** "Title IV-E eligible" means a children's residential facility  
74.4 or foster residence setting that is designated by the commissioner as eligible to receive Title  
74.5 IV-E payments for a child placed at the children's residential facility or foster residence  
74.6 setting.

74.7 Sec. 14. Minnesota Statutes 2019 Supplement, section 245C.03, subdivision 1, is amended  
74.8 to read:

74.9 Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background  
74.10 study on:

74.11 (1) the person or persons applying for a license;

74.12 (2) an individual age 13 and over living in the household where the licensed program  
74.13 will be provided who is not receiving licensed services from the program;

74.14 (3) current or prospective employees or contractors of the applicant who will have direct  
74.15 contact with persons served by the facility, agency, or program;

74.16 (4) volunteers or student volunteers who will have direct contact with persons served  
74.17 by the program to provide program services if the contact is not under the continuous, direct  
74.18 supervision by an individual listed in clause (1) or (3);

74.19 (5) an individual age ten to 12 living in the household where the licensed services will  
74.20 be provided when the commissioner has reasonable cause as defined in section 245C.02,  
74.21 subdivision 15;

74.22 (6) an individual who, without providing direct contact services at a licensed program,  
74.23 may have unsupervised access to children or vulnerable adults receiving services from a  
74.24 program, when the commissioner has reasonable cause as defined in section 245C.02,  
74.25 subdivision 15;

74.26 (7) all controlling individuals as defined in section 245A.02, subdivision 5a;

74.27 (8) notwithstanding the other requirements in this subdivision, child care background  
74.28 study subjects as defined in section 245C.02, subdivision 6a; and

74.29 (9) notwithstanding clause (3), for children's residential facilities and foster residence  
74.30 settings, any adult working in the facility, whether or not the individual will have direct  
74.31 contact with persons served by the facility.

75.1 (b) For child foster care when the license holder resides in the home where foster care  
75.2 services are provided, a short-term substitute caregiver providing direct contact services for  
75.3 a child for less than 72 hours of continuous care is not required to receive a background  
75.4 study under this chapter.

75.5 Sec. 15. Minnesota Statutes 2018, section 245C.04, subdivision 1, is amended to read:

75.6 Subdivision 1. **Licensed programs; other child care programs.** (a) The commissioner  
75.7 shall conduct a background study of an individual required to be studied under section  
75.8 245C.03, subdivision 1, at least upon application for initial license for all license types.

75.9 (b) The commissioner shall conduct a background study of an individual required to be  
75.10 studied under section 245C.03, subdivision 1, including a child care background study  
75.11 subject as defined in section 245C.02, subdivision 6a, in a family child care program, licensed  
75.12 child care center, certified license-exempt child care center, or legal nonlicensed child care  
75.13 provider, on a schedule determined by the commissioner. Except as provided in section  
75.14 245C.05, subdivision 5a, a child care background study must include submission of  
75.15 fingerprints for a national criminal history record check and a review of the information  
75.16 under section 245C.08. A background study for a child care program must be repeated  
75.17 within five years from the most recent study conducted under this paragraph.

75.18 (c) At reapplication for a family child care license:

75.19 (1) for a background study affiliated with a licensed family child care center or legal  
75.20 nonlicensed child care provider, the individual shall provide information required under  
75.21 section 245C.05, subdivision 1, paragraphs (a), (b), and (d), to the county agency, and be  
75.22 fingerprinted and photographed under section 245C.05, subdivision 5;

75.23 (2) the county agency shall verify the information received under clause (1) and forward  
75.24 the information to the commissioner to complete the background study; and

75.25 (3) the background study conducted by the commissioner under this paragraph must  
75.26 include a review of the information required under section 245C.08.

75.27 (d) The commissioner is not required to conduct a study of an individual at the time of  
75.28 reapplication for a license if the individual's background study was completed by the  
75.29 commissioner of human services and the following conditions are met:

75.30 (1) a study of the individual was conducted either at the time of initial licensure or when  
75.31 the individual became affiliated with the license holder;

76.1 (2) the individual has been continuously affiliated with the license holder since the last  
76.2 study was conducted; and

76.3 (3) the last study of the individual was conducted on or after October 1, 1995.

76.4 (e) The commissioner of human services shall conduct a background study of an  
76.5 individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6),  
76.6 who is newly affiliated with a child foster ~~care~~ family setting license holder:

76.7 (1) the county or private agency shall collect and forward to the commissioner the  
76.8 information required under section 245C.05, subdivisions 1 and 5, when the child foster  
76.9 ~~care~~ family setting applicant or license holder resides in the home where child foster care  
76.10 services are provided; and

76.11 ~~(2) the child foster care license holder or applicant shall collect and forward to the~~  
76.12 ~~commissioner the information required under section 245C.05, subdivisions 1 and 5, when~~  
76.13 ~~the applicant or license holder does not reside in the home where child foster care services~~  
76.14 ~~are provided; and~~

76.15 ~~(3)~~ (2) the background study conducted by the commissioner of human services under  
76.16 this paragraph must include a review of the information required under section 245C.08,  
76.17 subdivisions 1, 3, and 4.

76.18 (f) The commissioner shall conduct a background study of an individual specified under  
76.19 section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated  
76.20 with an adult foster care or family adult day services and with a family child care license  
76.21 holder or a legal nonlicensed child care provider authorized under chapter 119B and:

76.22 (1) except as provided in section 245C.05, subdivision 5a, the county shall collect and  
76.23 forward to the commissioner the information required under section 245C.05, subdivision  
76.24 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a), (b), and (d), for background  
76.25 studies conducted by the commissioner for all family adult day services, for adult foster  
76.26 care when the adult foster care license holder resides in the adult foster care residence, and  
76.27 for family child care and legal nonlicensed child care authorized under chapter 119B;

76.28 (2) the license holder shall collect and forward to the commissioner the information  
76.29 required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs  
76.30 (a) and (b), for background studies conducted by the commissioner for adult foster care  
76.31 when the license holder does not reside in the adult foster care residence; and

77.1 (3) the background study conducted by the commissioner under this paragraph must  
77.2 include a review of the information required under section 245C.08, subdivision 1, paragraph  
77.3 (a), and subdivisions 3 and 4.

77.4 (g) Applicants for licensure, license holders, and other entities as provided in this chapter  
77.5 must submit completed background study requests to the commissioner using the electronic  
77.6 system known as NETStudy before individuals specified in section 245C.03, subdivision  
77.7 1, begin positions allowing direct contact in any licensed program.

77.8 (h) For an individual who is not on the entity's active roster, the entity must initiate a  
77.9 new background study through NETStudy when:

77.10 (1) an individual returns to a position requiring a background study following an absence  
77.11 of 120 or more consecutive days; or

77.12 (2) a program that discontinued providing licensed direct contact services for 120 or  
77.13 more consecutive days begins to provide direct contact licensed services again.

77.14 The license holder shall maintain a copy of the notification provided to the commissioner  
77.15 under this paragraph in the program's files. If the individual's disqualification was previously  
77.16 set aside for the license holder's program and the new background study results in no new  
77.17 information that indicates the individual may pose a risk of harm to persons receiving  
77.18 services from the license holder, the previous set-aside shall remain in effect.

77.19 (i) For purposes of this section, a physician licensed under chapter 147 is considered to  
77.20 be continuously affiliated upon the license holder's receipt from the commissioner of health  
77.21 or human services of the physician's background study results.

77.22 (j) For purposes of family child care, a substitute caregiver must receive repeat  
77.23 background studies at the time of each license renewal.

77.24 (k) A repeat background study at the time of license renewal is not required if the family  
77.25 child care substitute caregiver's background study was completed by the commissioner on  
77.26 or after October 1, 2017, and the substitute caregiver is on the license holder's active roster  
77.27 in NETStudy 2.0.

77.28 (l) Before and after school programs authorized under chapter 119B, are exempt from  
77.29 the background study requirements under section 123B.03, for an employee for whom a  
77.30 background study under this chapter has been completed.

78.1 Sec. 16. Minnesota Statutes 2018, section 245C.04, is amended by adding a subdivision  
78.2 to read:

78.3 Subd. 11. **Children's residential facilities and foster residence settings.** Applicants  
78.4 and license holders for children's residential facilities and foster residence settings must  
78.5 submit a background study request to the commissioner using the electronic system known  
78.6 as NETStudy 2.0:

78.7 (1) before the commissioner issues a license to an applicant;

78.8 (2) before an individual age 13 or older, who is not currently receiving services from  
78.9 the licensed facility or setting, may live in the licensed program or setting;

78.10 (3) before a volunteer has unsupervised direct contact with persons that the program  
78.11 serves;

78.12 (4) before an individual becomes a controlling individual as defined in section 245A.02,  
78.13 subdivision 5a;

78.14 (5) before an adult, regardless of whether or not the individual will have direct contact  
78.15 with persons served by the facility, begins working in the facility or setting;

78.16 (6) when directed to by the commissioner for an individual who resides in the household  
78.17 as described in section 245C.03, subdivision 1, paragraph (a), clause (5); and

78.18 (7) when directed to by the commissioner for an individual who may have unsupervised  
78.19 access to children or vulnerable adults as described in section 245C.03, subdivision 1,  
78.20 paragraph (a), clause (6).

78.21 Sec. 17. Minnesota Statutes 2019 Supplement, section 245C.05, subdivision 4, is amended  
78.22 to read:

78.23 **Subd. 4. **Electronic transmission.**** (a) For background studies conducted by the  
78.24 Department of Human Services, the commissioner shall implement a secure system for the  
78.25 electronic transmission of:

78.26 (1) background study information to the commissioner;

78.27 (2) background study results to the license holder;

78.28 (3) background study results to ~~county and private agencies~~ counties for background  
78.29 studies conducted by the commissioner for child foster care; and

78.30 (4) background study results to county agencies for background studies conducted by  
78.31 the commissioner for adult foster care and family adult day services and, upon

79.1 implementation of NETStudy 2.0, family child care and legal nonlicensed child care  
79.2 authorized under chapter 119B.

79.3 (b) Unless the commissioner has granted a hardship variance under paragraph (c), a  
79.4 license holder or an applicant must use the electronic transmission system known as  
79.5 NETStudy or NETStudy 2.0 to submit all requests for background studies to the  
79.6 commissioner as required by this chapter.

79.7 (c) A license holder or applicant whose program is located in an area in which high-speed  
79.8 Internet is inaccessible may request the commissioner to grant a variance to the electronic  
79.9 transmission requirement.

79.10 (d) Section 245C.08, subdivision 3, paragraph (c), applies to results transmitted under  
79.11 this subdivision.

79.12 Sec. 18. Minnesota Statutes 2019 Supplement, section 245C.08, subdivision 1, is amended  
79.13 to read:

79.14 Subdivision 1. **Background studies conducted by Department of Human Services.** (a)  
79.15 For a background study conducted by the Department of Human Services, the commissioner  
79.16 shall review:

79.17 (1) information related to names of substantiated perpetrators of maltreatment of  
79.18 vulnerable adults that has been received by the commissioner as required under section  
79.19 626.557, subdivision 9c, paragraph (j);

79.20 (2) the commissioner's records relating to the maltreatment of minors in licensed  
79.21 programs, and from findings of maltreatment of minors as indicated through the social  
79.22 service information system;

79.23 (3) information from juvenile courts as required in subdivision 4 for individuals listed  
79.24 in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;

79.25 (4) information from the Bureau of Criminal Apprehension, including information  
79.26 regarding a background study subject's registration in Minnesota as a predatory offender  
79.27 under section 243.166;

79.28 (5) except as provided in clause (6), information received as a result of submission of  
79.29 fingerprints for a national criminal history record check, as defined in section 245C.02,  
79.30 subdivision 13c, when the commissioner has reasonable cause for a national criminal history  
79.31 record check as defined under section 245C.02, subdivision 15a, or as required under section  
79.32 144.057, subdivision 1, clause (2);

80.1 (6) for a background study related to a child foster ~~care~~ family setting application for  
80.2 licensure, foster residence settings, children's residential facilities, a transfer of permanent  
80.3 legal and physical custody of a child under sections 260C.503 to 260C.515, or adoptions,  
80.4 and for a background study required for family child care, certified license-exempt child  
80.5 care, child care centers, and legal nonlicensed child care authorized under chapter 119B,  
80.6 the commissioner shall also review:

80.7 (i) information from the child abuse and neglect registry for any state in which the  
80.8 background study subject has resided for the past five years;

80.9 (ii) when the background study subject is 18 years of age or older, or a minor under  
80.10 section 245C.05, subdivision 5a, paragraph (c), information received following submission  
80.11 of fingerprints for a national criminal history record check; and

80.12 (iii) when the background study subject is 18 years of age or older or a minor under  
80.13 section 245C.05, subdivision 5a, paragraph (d), for licensed family child care, certified  
80.14 license-exempt child care, licensed child care centers, and legal nonlicensed child care  
80.15 authorized under chapter 119B, information obtained using non-fingerprint-based data  
80.16 including information from the criminal and sex offender registries for any state in which  
80.17 the background study subject resided for the past five years and information from the national  
80.18 crime information database and the national sex offender registry; and

80.19 (7) for a background study required for family child care, certified license-exempt child  
80.20 care centers, licensed child care centers, and legal nonlicensed child care authorized under  
80.21 chapter 119B, the background study shall also include, to the extent practicable, a name  
80.22 and date-of-birth search of the National Sex Offender Public website.

80.23 (b) Notwithstanding expungement by a court, the commissioner may consider information  
80.24 obtained under paragraph (a), clauses (3) and (4), unless the commissioner received notice  
80.25 of the petition for expungement and the court order for expungement is directed specifically  
80.26 to the commissioner.

80.27 (c) The commissioner shall also review criminal case information received according  
80.28 to section 245C.04, subdivision 4a, from the Minnesota court information system that relates  
80.29 to individuals who have already been studied under this chapter and who remain affiliated  
80.30 with the agency that initiated the background study.

80.31 (d) When the commissioner has reasonable cause to believe that the identity of a  
80.32 background study subject is uncertain, the commissioner may require the subject to provide  
80.33 a set of classifiable fingerprints for purposes of completing a fingerprint-based record check  
80.34 with the Bureau of Criminal Apprehension. Fingerprints collected under this paragraph



81.1 shall not be saved by the commissioner after they have been used to verify the identity of  
81.2 the background study subject against the particular criminal record in question.

81.3 (e) The commissioner may inform the entity that initiated a background study under  
81.4 NETStudy 2.0 of the status of processing of the subject's fingerprints.

81.5 Sec. 19. Minnesota Statutes 2019 Supplement, section 245C.13, subdivision 2, is amended  
81.6 to read:

81.7 Subd. 2. ~~Direct contact~~ **Activities pending completion of background study.** The  
81.8 subject of a background study may not perform any activity requiring a background study  
81.9 under paragraph (c) until the commissioner has issued one of the notices under paragraph  
81.10 (a).

81.11 (a) Notices from the commissioner required prior to activity under paragraph ~~(b)~~ (c)  
81.12 include:

81.13 (1) a notice of the study results under section 245C.17 stating that:

81.14 (i) the individual is not disqualified; or

81.15 (ii) more time is needed to complete the study but the individual is not required to be  
81.16 removed from direct contact or access to people receiving services prior to completion of  
81.17 the study as provided under section 245C.17, subdivision 1, paragraph (b) or (c). The notice  
81.18 that more time is needed to complete the study must also indicate whether the individual is  
81.19 required to be under continuous direct supervision prior to completion of the background  
81.20 study. When more time is necessary to complete a background study of an individual  
81.21 affiliated with a Title IV-E eligible children's residential facility or foster residence setting,  
81.22 the individual may not work in the facility or setting regardless of whether or not the  
81.23 individual is supervised;

81.24 (2) a notice that a disqualification has been set aside under section 245C.23; or

81.25 (3) a notice that a variance has been granted related to the individual under section  
81.26 245C.30.

81.27 (b) For a background study affiliated with a licensed child care center or certified  
81.28 license-exempt child care center, the notice sent under paragraph (a), clause (1), item (ii),  
81.29 must require the individual to be under continuous direct supervision prior to completion  
81.30 of the background study except as permitted in subdivision 3.

81.31 (c) Activities prohibited prior to receipt of notice under paragraph (a) include:

81.32 (1) being issued a license;

- 82.1 (2) living in the household where the licensed program will be provided;
- 82.2 (3) providing direct contact services to persons served by a program unless the subject  
82.3 is under continuous direct supervision;
- 82.4 (4) having access to persons receiving services if the background study was completed  
82.5 under section 144.057, subdivision 1, or 245C.03, subdivision 1, paragraph (a), clause (2),  
82.6 (5), or (6), unless the subject is under continuous direct supervision; ~~or~~
- 82.7 (5) for licensed child care centers and certified license-exempt child care centers,  
82.8 providing direct contact services to persons served by the program; or
- 82.9 (6) for children's residential facilities or foster residence settings, working in the facility  
82.10 or setting.

82.11 Sec. 20. Minnesota Statutes 2018, section 245C.14, is amended by adding a subdivision  
82.12 to read:

82.13 **Subd. 3. Disqualification from working in children's residential facilities and foster**  
82.14 **residence settings.** (a) For a background study affiliated with a children's residential facility  
82.15 or foster residence setting, if an individual is disqualified from direct contact under  
82.16 subdivision 1, the commissioner must also disqualify the individual from working in the  
82.17 children's residential facility or foster residence setting and from having access to a person  
82.18 receiving services from the facility or setting.

82.19 (b) Notwithstanding any other requirement of this chapter, for a background study  
82.20 affiliated with a Title IV-E eligible children's residential facility or foster residence setting,  
82.21 if an individual is disqualified, the individual may not work in the facility or setting until  
82.22 the commissioner has issued a notice stating that:

- 82.23 (1) the individual is not disqualified;
- 82.24 (2) a disqualification has been set aside under section 245C.23; or
- 82.25 (3) a variance has been granted related to the individual under section 245C.30.

82.26 Sec. 21. Minnesota Statutes 2018, section 245C.16, subdivision 1, is amended to read:

82.27 Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines  
82.28 that the individual studied has a disqualifying characteristic, the commissioner shall review  
82.29 the information immediately available and make a determination as to the subject's immediate  
82.30 risk of harm to persons served by the program where the individual studied will have direct  
82.31 contact with, or access to, people receiving services.

83.1 (b) The commissioner shall consider all relevant information available, including the  
83.2 following factors in determining the immediate risk of harm:

83.3 (1) the recency of the disqualifying characteristic;

83.4 (2) the recency of discharge from probation for the crimes;

83.5 (3) the number of disqualifying characteristics;

83.6 (4) the intrusiveness or violence of the disqualifying characteristic;

83.7 (5) the vulnerability of the victim involved in the disqualifying characteristic;

83.8 (6) the similarity of the victim to the persons served by the program where the individual  
83.9 studied will have direct contact;

83.10 (7) whether the individual has a disqualification from a previous background study that  
83.11 has not been set aside; and

83.12 (8) if the individual has a disqualification which may not be set aside because it is a  
83.13 permanent bar under section 245C.24, subdivision 1, or the individual is a child care  
83.14 background study subject who has a felony-level conviction for a drug-related offense in  
83.15 the last five years, the commissioner may order the immediate removal of the individual  
83.16 from any position allowing direct contact with, or access to, persons receiving services from  
83.17 the program and from working in a children's residential facility or foster residence setting.

83.18 (c) This section does not apply when the subject of a background study is regulated by  
83.19 a health-related licensing board as defined in chapter 214, and the subject is determined to  
83.20 be responsible for substantiated maltreatment under section 626.556 or 626.557.

83.21 (d) This section does not apply to a background study related to an initial application  
83.22 for a child foster care family setting license.

83.23 (e) Except for paragraph (f), this section does not apply to a background study that is  
83.24 also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for a  
83.25 personal care assistant or a qualified professional as defined in section 256B.0659,  
83.26 subdivision 1.

83.27 (f) If the commissioner has reason to believe, based on arrest information or an active  
83.28 maltreatment investigation, that an individual poses an imminent risk of harm to persons  
83.29 receiving services, the commissioner may order that the person be continuously supervised  
83.30 or immediately removed pending the conclusion of the maltreatment investigation or criminal  
83.31 proceedings.

84.1 Sec. 22. Minnesota Statutes 2018, section 245C.16, subdivision 2, is amended to read:

84.2 Subd. 2. **Findings.** (a) After evaluating the information immediately available under  
84.3 subdivision 1, the commissioner may have reason to believe one of the following:

84.4 (1) the individual poses an imminent risk of harm to persons served by the program  
84.5 where the individual studied will have direct contact or access to persons served by the  
84.6 program or where the individual studied will work;

84.7 (2) the individual poses a risk of harm requiring continuous, direct supervision while  
84.8 providing direct contact services during the period in which the subject may request a  
84.9 reconsideration; or

84.10 (3) the individual does not pose an imminent risk of harm or a risk of harm requiring  
84.11 continuous, direct supervision while providing direct contact services during the period in  
84.12 which the subject may request a reconsideration.

84.13 (b) After determining an individual's risk of harm under this section, the commissioner  
84.14 must notify the subject of the background study and the applicant or license holder as  
84.15 required under section 245C.17.

84.16 (c) For Title IV-E eligible children's residential facilities and foster residence settings,  
84.17 the commissioner is prohibited from making the findings in paragraph (a), clause (2) or (3).

84.18 Sec. 23. Minnesota Statutes 2018, section 245C.17, subdivision 1, is amended to read:

84.19 Subdivision 1. **Time frame for notice of study results and auditing system access.** (a)  
84.20 Within three working days after the commissioner's receipt of a request for a background  
84.21 study submitted through the commissioner's NETStudy or NETStudy 2.0 system, the  
84.22 commissioner shall notify the background study subject and the license holder or other  
84.23 entity as provided in this chapter in writing or by electronic transmission of the results of  
84.24 the study or that more time is needed to complete the study. The notice to the individual  
84.25 shall include the identity of the entity that initiated the background study.

84.26 (b) Before being provided access to NETStudy 2.0, the license holder or other entity  
84.27 under section 245C.04 shall sign an acknowledgment of responsibilities form developed  
84.28 by the commissioner that includes identifying the sensitive background study information  
84.29 person, who must be an employee of the license holder or entity. All queries to NETStudy  
84.30 2.0 are electronically recorded and subject to audit by the commissioner. The electronic  
84.31 record shall identify the specific user. A background study subject may request in writing  
84.32 to the commissioner a report listing the entities that initiated a background study on the  
84.33 individual.

85.1 (c) When the commissioner has completed a prior background study on an individual  
85.2 that resulted in an order for immediate removal and more time is necessary to complete a  
85.3 subsequent study, the notice that more time is needed that is issued under paragraph (a)  
85.4 shall include an order for immediate removal of the individual from any position allowing  
85.5 direct contact with or access to people receiving services and from working in a children's  
85.6 residential facility or foster residence setting pending completion of the background study.

85.7 Sec. 24. Minnesota Statutes 2018, section 245C.17, is amended by adding a subdivision  
85.8 to read:

85.9 **Subd. 7. Disqualification notice to children's residential facilities and foster residence**  
85.10 **settings.** (a) For children's residential facilities and foster residence settings, all notices  
85.11 under this section that order the license holder to immediately remove the individual studied  
85.12 from any position allowing direct contact with, or access to a person served by the program,  
85.13 must also order the license holder to immediately remove the individual studied from working  
85.14 in the program, facility, or setting.

85.15 (b) For Title IV-E eligible children's residential facilities and foster residence settings,  
85.16 notices under this section must not allow an individual to work in the program, facility, or  
85.17 setting under supervision.

85.18 Sec. 25. Minnesota Statutes 2018, section 245C.18, is amended to read:

85.19 **245C.18 OBLIGATION TO REMOVE DISQUALIFIED INDIVIDUAL FROM**  
85.20 **DIRECT CONTACT AND FROM WORKING IN A PROGRAM, FACILITY, OR**  
85.21 **SETTING.**

85.22 (a) Upon receipt of notice from the commissioner, the license holder must remove a  
85.23 disqualified individual from direct contact with persons served by the licensed program if:

85.24 (1) the individual does not request reconsideration under section 245C.21 within the  
85.25 prescribed time;

85.26 (2) the individual submits a timely request for reconsideration, the commissioner does  
85.27 not set aside the disqualification under section 245C.22, subdivision 4, and the individual  
85.28 does not submit a timely request for a hearing under sections 245C.27 and 256.045, or  
85.29 245C.28 and chapter 14; or

85.30 (3) the individual submits a timely request for a hearing under sections 245C.27 and  
85.31 256.045, or 245C.28 and chapter 14, and the commissioner does not set aside or rescind the  
85.32 disqualification under section 245A.08, subdivision 5, or 256.045.

86.1 (b) For children's residential facility and foster residence setting license holders, upon  
86.2 receipt of notice from the commissioner under paragraph (a), the license holder must also  
86.3 remove the disqualified individual from working in the program, facility, or setting and  
86.4 from access to persons served by the licensed program.

86.5 (c) For Title IV-E eligible children's residential facility and foster residence setting  
86.6 license holders, upon receipt of notice from the commissioner under paragraph (a), the  
86.7 license holder must also remove the disqualified individual from working in the program  
86.8 and from access to persons served by the program and must not allow the individual to work  
86.9 in the facility or setting until the commissioner has issued a notice stating that:

86.10 (1) the individual is not disqualified;

86.11 (2) a disqualification has been set aside under section 245C.23; or

86.12 (3) a variance has been granted related to the individual under section 245C.30.

86.13 Sec. 26. Minnesota Statutes 2018, section 245D.04, subdivision 3, is amended to read:

86.14 Subd. 3. **Protection-related rights.** (a) A person's protection-related rights include the  
86.15 right to:

86.16 (1) have personal, financial, service, health, and medical information kept private, and  
86.17 be advised of disclosure of this information by the license holder;

86.18 (2) access records and recorded information about the person in accordance with  
86.19 applicable state and federal law, regulation, or rule;

86.20 (3) be free from maltreatment;

86.21 (4) be free from restraint, time out, seclusion, restrictive intervention, or other prohibited  
86.22 procedure identified in section 245D.06, subdivision 5, or successor provisions, except for:

86.23 (i) emergency use of manual restraint to protect the person from imminent danger to self  
86.24 or others according to the requirements in section 245D.061 or successor provisions; or (ii)  
86.25 the use of safety interventions as part of a positive support transition plan under section  
86.26 245D.06, subdivision 8, or successor provisions;

86.27 (5) receive services in a clean and safe environment when the license holder is the owner,  
86.28 lessor, or tenant of the service site;

86.29 (6) be treated with courtesy and respect and receive respectful treatment of the person's  
86.30 property;

86.31 (7) reasonable observance of cultural and ethnic practice and religion;

87.1 (8) be free from bias and harassment regarding race, gender, age, disability, spirituality,  
87.2 and sexual orientation;

87.3 (9) be informed of and use the license holder's grievance policy and procedures, including  
87.4 knowing how to contact persons responsible for addressing problems and to appeal under  
87.5 section 256.045;

87.6 (10) know the name, telephone number, and the website, e-mail, and street addresses of  
87.7 protection and advocacy services, including the appropriate state-appointed ombudsman,  
87.8 and a brief description of how to file a complaint with these offices;

87.9 (11) assert these rights personally, or have them asserted by the person's family,  
87.10 authorized representative, or legal representative, without retaliation;

87.11 (12) give or withhold written informed consent to participate in any research or  
87.12 experimental treatment;

87.13 (13) associate with other persons of the person's choice, in the community;

87.14 (14) personal privacy, including the right to use the lock on the person's bedroom or unit  
87.15 door;

87.16 (15) engage in chosen activities; and

87.17 (16) access to the person's personal possessions at any time, including financial resources.

87.18 (b) For a person residing in a residential site licensed according to chapter 245A, or  
87.19 where the license holder is the owner, lessor, or tenant of the residential service site,  
87.20 protection-related rights also include the right to:

87.21 (1) have daily, private access to and use of a non-coin-operated telephone for local calls  
87.22 and long-distance calls made collect or paid for by the person;

87.23 (2) receive and send, without interference, uncensored, unopened mail or electronic  
87.24 correspondence or communication;

87.25 (3) have use of and free access to common areas in the residence and the freedom to  
87.26 come and go from the residence at will;

87.27 (4) choose the person's visitors and time of visits and have privacy for visits with the  
87.28 person's spouse, next of kin, legal counsel, religious adviser, or others, in accordance with  
87.29 section 363A.09 of the Human Rights Act, including privacy in the person's bedroom;

87.30 (5) have access to three nutritionally balanced meals and nutritious snacks between  
87.31 meals each day;

- 88.1 (6) have freedom and support to access food and potable water at any time;
- 88.2 (7) have the freedom to furnish and decorate the person's bedroom or living unit;
- 88.3 (8) a setting that is clean and free from accumulation of dirt, grease, garbage, peeling
- 88.4 paint, mold, vermin, and insects;
- 88.5 (9) a setting that is free from hazards that threaten the person's health or safety; and
- 88.6 (10) a setting that meets the definition of a dwelling unit within a residential occupancy
- 88.7 as defined in the State Fire Code.

88.8 (c) Restriction of a person's rights under paragraph (a), clauses (13) to (16), or paragraph

88.9 (b) is allowed only if determined necessary to ensure the health, safety, and well-being of

88.10 the person. Any restriction of those rights must be documented in the person's coordinated

88.11 service and support plan or coordinated service and support plan addendum. The restriction

88.12 must be implemented in the least restrictive alternative manner necessary to protect the

88.13 person and provide support to reduce or eliminate the need for the restriction in the most

88.14 integrated setting and inclusive manner. The documentation must include the following

88.15 information:

88.16 (1) the justification for the restriction based on an assessment of the person's vulnerability

88.17 related to exercising the right without restriction;

88.18 (2) the objective measures set as conditions for ending the restriction;

88.19 (3) a schedule for reviewing the need for the restriction based on the conditions for

88.20 ending the restriction to occur semiannually from the date of initial approval, at a minimum,

88.21 or more frequently if requested by the person, the person's legal representative, if any, and

88.22 case manager; and

88.23 (4) signed and dated approval for the restriction from the person, or the person's legal

88.24 representative, if any. A restriction may be implemented only when the required approval

88.25 has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the

88.26 right must be immediately and fully restored.

88.27 Sec. 27. Minnesota Statutes 2018, section 245D.06, subdivision 2, is amended to read:

88.28 Subd. 2. **Environment and safety.** The license holder must:

88.29 (1) ensure the following when the license holder is the owner, lessor, or tenant of the

88.30 service site:

88.31 (i) the service site is a safe and hazard-free environment;



89.1 (ii) that toxic substances or dangerous items are inaccessible to persons served by the  
89.2 program only to protect the safety of a person receiving services when a known safety threat  
89.3 exists and not as a substitute for staff supervision or interactions with a person who is  
89.4 receiving services. If toxic substances or dangerous items are made inaccessible, the license  
89.5 holder must document an assessment of the physical plant, its environment, and its population  
89.6 identifying the risk factors which require toxic substances or dangerous items to be  
89.7 inaccessible and a statement of specific measures to be taken to minimize the safety risk to  
89.8 persons receiving services and to restore accessibility to all persons receiving services at  
89.9 the service site;

89.10 (iii) doors are locked from the inside to prevent a person from exiting only when necessary  
89.11 to protect the safety of a person receiving services and not as a substitute for staff supervision  
89.12 or interactions with the person. If doors are locked from the inside, the license holder must  
89.13 document an assessment of the physical plant, the environment and the population served,  
89.14 identifying the risk factors which require the use of locked doors, and a statement of specific  
89.15 measures to be taken to minimize the safety risk to persons receiving services at the service  
89.16 site; ~~and~~

89.17 (iv) a staff person is available at the service site who is trained in basic first aid and,  
89.18 when required in a person's coordinated service and support plan or coordinated service  
89.19 and support plan addendum, cardiopulmonary resuscitation (CPR) whenever persons are  
89.20 present and staff are required to be at the site to provide direct support service. The CPR  
89.21 training must include instruction, hands-on practice, and an observed skills assessment  
89.22 under the direct supervision of a CPR instructor; and

89.23 (v) that sharpened or metal knives are presumed to be inaccessible to an individual  
89.24 provisionally discharged from a commitment as mentally ill and dangerous who is residing  
89.25 in a licensed state-operated community-based program and whose provisional discharge  
89.26 plan restricts access to inherently dangerous instruments, including but not limited to knives,  
89.27 firearms, and explosives or incendiary material or devices, unless unsupervised access is  
89.28 approved by the individual, county case manager, and the individual's support team. Approval  
89.29 must be reflected in the coordinated service and support plan, the coordinated service and  
89.30 support plan addendum, or the self-management assessment. This provision does not apply  
89.31 to an individual who has been fully discharged from a commitment;

89.32 (2) maintain equipment, vehicles, supplies, and materials owned or leased by the license  
89.33 holder in good condition when used to provide services;

90.1 (3) follow procedures to ensure safe transportation, handling, and transfers of the person  
90.2 and any equipment used by the person, when the license holder is responsible for  
90.3 transportation of a person or a person's equipment;

90.4 (4) be prepared for emergencies and follow emergency response procedures to ensure  
90.5 the person's safety in an emergency; and

90.6 (5) follow universal precautions and sanitary practices, including hand washing, for  
90.7 infection prevention and control, and to prevent communicable diseases.

90.8 Sec. 28. Minnesota Statutes 2018, section 245D.10, subdivision 3a, is amended to read:

90.9 Subd. 3a. **Service termination.** (a) The license holder must establish policies and  
90.10 procedures for service termination that promote continuity of care and service coordination  
90.11 with the person and the case manager and with other licensed caregivers, if any, who also  
90.12 provide support to the person. The policy must include the requirements specified in  
90.13 paragraphs (b) to (f).

90.14 (b) The license holder must permit each person to remain in the program and must not  
90.15 terminate services unless:

90.16 (1) the termination is necessary for the person's welfare and the facility cannot meet the  
90.17 person's needs ~~cannot be met in the facility~~;

90.18 (2) the safety of the person or others in the program is endangered and positive support  
90.19 strategies were attempted and have not achieved and effectively maintained safety for the  
90.20 person or others;

90.21 (3) the health of the person or others in the program would otherwise be endangered;

90.22 (4) the program has not been paid for services;

90.23 (5) the program ceases to operate; ~~or~~

90.24 (6) the person has been terminated by the lead agency from waiver eligibility; or

90.25 (7) for state-operated community-based services, the person no longer demonstrates  
90.26 complex behavioral needs that cannot be met by private community-based providers  
90.27 identified in section 252.50, subdivision 5, paragraph (a), clause (1).

90.28 (c) Prior to giving notice of service termination, the license holder must document actions  
90.29 taken to minimize or eliminate the need for termination. Action taken by the license holder  
90.30 must include, at a minimum:

91.1 (1) consultation with the person's support team or expanded support team to identify  
91.2 and resolve issues leading to issuance of the termination notice; ~~and~~

91.3 (2) a request to the case manager for intervention services identified in section 245D.03,  
91.4 subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention  
91.5 services to support the person in the program. This requirement does not apply to notices  
91.6 of service termination issued under paragraph (b), ~~clause (4)~~. clauses (4) and (7); and

91.7 (3) for state-operated community-based services terminating services under paragraph  
91.8 (b), clause (7), the state-operated community-based services must engage in consultation  
91.9 with the person's support team or expanded support team to:

91.10 (i) identify that the person no longer demonstrates complex behavioral needs that cannot  
91.11 be met by private community-based providers identified in section 252.50, subdivision 5,  
91.12 paragraph (a), clause (1);

91.13 (ii) provide notice of intent to issue a termination of services to the lead agency when a  
91.14 finding has been made that a person no longer demonstrates complex behavioral needs that  
91.15 cannot be met by private community-based providers identified in section 252.50, subdivision  
91.16 5, paragraph (a), clause (1);

91.17 (iii) assist the lead agency and case manager in developing a person-centered transition  
91.18 plan to a private community-based provider to ensure continuity of care; and

91.19 (iv) coordinate with the lead agency to ensure the private community-based service  
91.20 provider is able to meet the person's needs and criteria established in a person's  
91.21 person-centered transition plan.

91.22 If, based on the best interests of the person, the circumstances at the time of the notice were  
91.23 such that the license holder was unable to take the action specified in clauses (1) and (2),  
91.24 the license holder must document the specific circumstances and the reason for being unable  
91.25 to do so.

91.26 (d) The notice of service termination must meet the following requirements:

91.27 (1) the license holder must notify the person or the person's legal representative and the  
91.28 case manager in writing of the intended service termination. If the service termination is  
91.29 from residential supports and services as defined in section 245D.03, subdivision 1, paragraph  
91.30 (c), clause (3), the license holder must also notify the commissioner in writing; and

91.31 (2) the notice must include:

91.32 (i) the reason for the action;

92.1 (ii) except for a service termination under paragraph (b), clause (5), a summary of actions  
92.2 taken to minimize or eliminate the need for service termination or temporary service  
92.3 suspension as required under paragraph (c), and why these measures failed to prevent the  
92.4 termination or suspension;

92.5 (iii) the person's right to appeal the termination of services under section 256.045,  
92.6 subdivision 3, paragraph (a); and

92.7 (iv) the person's right to seek a temporary order staying the termination of services  
92.8 according to the procedures in section 256.045, subdivision 4a or 6, paragraph (c).

92.9 (e) Notice of the proposed termination of service, including those situations that began  
92.10 with a temporary service suspension, must be given at least 90 days prior to termination of  
92.11 services under paragraph (b), clause (7), 60 days prior to termination when a license holder  
92.12 is providing intensive supports and services identified in section 245D.03, subdivision 1,  
92.13 paragraph (c), and 30 days prior to termination for all other services licensed under this  
92.14 chapter. This notice may be given in conjunction with a notice of temporary service  
92.15 suspension under subdivision 3.

92.16 (f) During the service termination notice period, the license holder must:

92.17 (1) work with the support team or expanded support team to develop reasonable  
92.18 alternatives to protect the person and others and to support continuity of care;

92.19 (2) provide information requested by the person or case manager; and

92.20 (3) maintain information about the service termination, including the written notice of  
92.21 intended service termination, in the service recipient record.

92.22 (g) For notices issued under paragraph (b), clause (7), the lead agency shall provide  
92.23 notice to the commissioner and state-operated services at least 30 days before the conclusion  
92.24 of the 90-day termination period, if an appropriate alternative provider cannot be secured.  
92.25 Upon receipt of this notice, the commissioner and state-operated services shall reassess  
92.26 whether a private community-based service can meet the person's needs. If the commissioner  
92.27 determines that a private provider can meet the person's needs, state-operated services shall,  
92.28 if necessary, extend notice of service termination until placement can be made. If the  
92.29 commissioner determines that a private provider cannot meet the person's needs,  
92.30 state-operated services shall rescind the notice of service termination and re-engage with  
92.31 the lead agency in service planning for the person.

92.32 (h) For state-operated community-based services, the license holder shall prioritize the  
92.33 capacity created within the existing service site by the termination of services under paragraph

93.1 (b), clause (7), to serve persons described in section 252.50, subdivision 5, paragraph (a),  
93.2 clause (1).

93.3 Sec. 29. Minnesota Statutes 2018, section 245F.02, subdivision 7, is amended to read:

93.4 Subd. 7. **Clinically managed program.** "Clinically managed program" means a  
93.5 residential setting with staff comprised of a medical director and a licensed practical nurse.  
93.6 A licensed practical nurse must be on site 24 hours a day, seven days a week. A ~~qualified~~  
93.7 ~~medical professional~~ licensed practitioner must be available by telephone or in person for  
93.8 consultation 24 hours a day. Patients admitted to this level of service receive medical  
93.9 observation, evaluation, and stabilization services during the detoxification process; access  
93.10 to medications administered by trained, licensed staff to manage withdrawal; and a  
93.11 comprehensive assessment pursuant to section ~~245G.05~~ 245F.06.

93.12 Sec. 30. Minnesota Statutes 2018, section 245F.02, subdivision 14, is amended to read:

93.13 Subd. 14. **Medically monitored program.** "Medically monitored program" means a  
93.14 residential setting with staff that includes a registered nurse and a medical director. A  
93.15 registered nurse must be on site 24 hours a day. A ~~medical director~~ licensed practitioner  
93.16 must be ~~on-site~~ available seven days a week, and patients must have the ability to be seen  
93.17 by a ~~medical director~~ licensed practitioner within 24 hours. Patients admitted to this level  
93.18 of service receive medical observation, evaluation, and stabilization services during the  
93.19 detoxification process; medications administered by trained, licensed staff to manage  
93.20 withdrawal; and a comprehensive assessment pursuant to ~~Minnesota Rules, part 9530.6422~~  
93.21 section 245F.06.

93.22 Sec. 31. Minnesota Statutes 2018, section 245F.06, subdivision 2, is amended to read:

93.23 Subd. 2. **Comprehensive assessment and assessment summary.** (a) Prior to a medically  
93.24 stable discharge, but not later than 72 hours following admission, a license holder must  
93.25 provide a comprehensive assessment and assessment summary according to sections  
93.26 245.4863, paragraph (a), and 245G.05, for each patient who has a positive screening for a  
93.27 substance use disorder. If a patient's medical condition prevents a comprehensive assessment  
93.28 from being completed within 72 hours, the license holder must document why the assessment  
93.29 was not completed. The comprehensive assessment must include documentation of the  
93.30 appropriateness of an involuntary referral through the civil commitment process.

93.31 (b) If available to the program, a patient's previous comprehensive assessment may be  
93.32 used in the patient record. If a previously completed comprehensive assessment is used, its

94.1 contents must be reviewed to ensure the assessment is accurate and current and complies  
94.2 with the requirements of this chapter. The review must be completed by a staff person  
94.3 qualified according to section 245G.11, subdivision 5. The license holder must document  
94.4 that the review was completed and that the previously completed assessment is accurate  
94.5 and current, or the license holder must complete an updated or new assessment.

94.6 Sec. 32. Minnesota Statutes 2018, section 245F.12, subdivision 2, is amended to read:

94.7 Subd. 2. **Services provided at clinically managed programs.** In addition to the services  
94.8 listed in subdivision 1, clinically managed programs must:

94.9 (1) have a licensed practical nurse on site 24 hours a day and a medical director;

94.10 (2) provide an initial health assessment conducted by a nurse upon admission;

94.11 (3) provide daily on-site medical evaluation by a nurse;

94.12 (4) have a registered nurse available by telephone or in person for consultation 24 hours  
94.13 a day;

94.14 (5) have a ~~qualified medical professional~~ licensed practitioner available by telephone  
94.15 or in person for consultation 24 hours a day; and

94.16 (6) have appropriately licensed staff available to administer medications according to  
94.17 prescriber-approved orders.

94.18 Sec. 33. Minnesota Statutes 2018, section 245F.12, subdivision 3, is amended to read:

94.19 Subd. 3. **Services provided at medically monitored programs.** In addition to the  
94.20 services listed in subdivision 1, medically monitored programs must have a registered nurse  
94.21 on site 24 hours a day and a medical director. Medically monitored programs must provide  
94.22 intensive inpatient withdrawal management services which must include:

94.23 (1) an initial health assessment conducted by a registered nurse upon admission;

94.24 (2) the availability of a medical evaluation and consultation with a registered nurse 24  
94.25 hours a day;

94.26 (3) the availability of a ~~qualified medical professional~~ licensed practitioner by telephone  
94.27 or in person for consultation 24 hours a day;

94.28 (4) the ability to be seen within 24 hours or sooner by a ~~qualified medical professional~~  
94.29 licensed practitioner if the initial health assessment indicates the need to be seen;

95.1 (5) the availability of on-site monitoring of patient care seven days a week by a ~~qualified~~  
95.2 ~~medical professional~~ licensed practitioner; and

95.3 (6) appropriately licensed staff available to administer medications according to  
95.4 prescriber-approved orders.

95.5 Sec. 34. Minnesota Statutes 2018, section 245G.02, subdivision 2, is amended to read:

95.6 Subd. 2. **Exemption from license requirement.** This chapter does not apply to a county  
95.7 or recovery community organization that is providing a service for which the county or  
95.8 recovery community organization is an eligible vendor under section 254B.05. This chapter  
95.9 does not apply to an organization whose primary functions are information, referral,  
95.10 diagnosis, case management, and assessment for the purposes of client placement, education,  
95.11 support group services, or self-help programs. This chapter does not apply to the activities  
95.12 of a licensed professional in private practice. A license holder when providing services to  
95.13 an individual referred to a licensed nonresidential substance use disorder treatment program  
95.14 after a positive screen for alcohol or substance misuse when providing the initial set of  
95.15 substance use disorder services allowable under section 254A.03, subdivision 3, paragraph  
95.16 (c), is exempt from sections 245G.05; 245G.06, subdivisions 1, 2, and 4; 245G.07,  
95.17 subdivisions 1, paragraph (a), clauses (2) to (4), and 2, clauses (1) to (7); and 245G.17.

95.18 Sec. 35. Minnesota Statutes 2018, section 245G.09, subdivision 1, is amended to read:

95.19 Subdivision 1. **Client records required.** (a) A license holder must maintain a file of  
95.20 current and accurate client records on the premises where the treatment service is provided  
95.21 or coordinated. For services provided off site, client records must be available at the program  
95.22 and adhere to the same clinical and administrative policies and procedures as services  
95.23 provided on site. The content and format of client records must be uniform and entries in  
95.24 each record must be signed and dated by the staff member making the entry. Client records  
95.25 must be protected against loss, tampering, or unauthorized disclosure according to section  
95.26 254A.09, chapter 13, and Code of Federal Regulations, title 42, chapter 1, part 2, subpart  
95.27 B, sections 2.1 to 2.67, and title 45, parts 160 to 164.

95.28 (b) The program must have a policy and procedure that identifies how the program will  
95.29 track and record client attendance at treatment activities, including the date, duration, and  
95.30 nature of each treatment service provided to the client.

95.31 (c) The program must identify in the client record designation of an individual who is  
95.32 receiving services under section 254A.03, subdivision 3, including the start date and end  
95.33 date of services eligible under section 254A.03, subdivision 3.

96.1 Sec. 36. Minnesota Statutes 2019 Supplement, section 254A.03, subdivision 3, as amended  
96.2 by Laws 2020, chapter 74, article 3, section 3, is amended to read:

96.3 Subd. 3. **Rules for substance use disorder care.** (a) The commissioner of human  
96.4 services shall establish by rule criteria to be used in determining the appropriate level of  
96.5 chemical dependency care for each recipient of public assistance seeking treatment for  
96.6 substance misuse or substance use disorder. Upon federal approval of a comprehensive  
96.7 assessment as a Medicaid benefit, or on July 1, 2018, whichever is later, and notwithstanding  
96.8 the criteria in Minnesota Rules, parts 9530.6600 to 9530.6655, an eligible vendor of  
96.9 comprehensive assessments under section 254B.05 may determine and approve the  
96.10 appropriate level of substance use disorder treatment for a recipient of public assistance.  
96.11 The process for determining an individual's financial eligibility for the consolidated chemical  
96.12 dependency treatment fund or determining an individual's enrollment in or eligibility for a  
96.13 publicly subsidized health plan is not affected by the individual's choice to access a  
96.14 comprehensive assessment for placement.

96.15 (b) The commissioner shall develop and implement a utilization review process for  
96.16 publicly funded treatment placements to monitor and review the clinical appropriateness  
96.17 and timeliness of all publicly funded placements in treatment.

96.18 (c) If a screen result is positive for alcohol or substance misuse, a brief screening for  
96.19 alcohol or substance use disorder that is provided to a recipient of public assistance within  
96.20 a primary care clinic, hospital, or other medical setting or school setting establishes medical  
96.21 necessity and approval for an initial set of substance use disorder services identified in  
96.22 section 254B.05, subdivision 5. The initial set of services approved for a recipient whose  
96.23 screen result is positive may include any combination of up to four hours of individual or  
96.24 group substance use disorder treatment, two hours of substance use disorder treatment  
96.25 coordination, or two hours of substance use disorder peer support services provided by a  
96.26 qualified individual according to chapter 245G. A recipient must obtain an assessment  
96.27 pursuant to paragraph (a) to be approved for additional treatment services. Minnesota Rules,  
96.28 parts 9530.6600 to 9530.6655, and a comprehensive assessment pursuant to section 245G.05  
96.29 are not applicable to the initial set of services allowed under this subdivision. A positive  
96.30 screen result establishes eligibility for the initial set of services allowed under this  
96.31 subdivision.

96.32 (d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655, an individual may  
96.33 choose to obtain a comprehensive assessment as provided in section 245G.05. Individuals  
96.34 obtaining a comprehensive assessment may access any enrolled provider that is licensed to  
96.35 provide the level of service authorized pursuant to section 254A.19, subdivision 3, paragraph



97.1 (d). If the individual is enrolled in a prepaid health plan, the individual must comply with  
97.2 any provider network requirements or limitations. This paragraph expires July 1, 2022.

97.3 Sec. 37. Minnesota Statutes 2019 Supplement, section 254B.05, subdivision 1, is amended  
97.4 to read:

97.5 Subdivision 1. **Licensure required.** (a) Programs licensed by the commissioner are  
97.6 eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors,  
97.7 notwithstanding the provisions of section 245A.03. American Indian programs that provide  
97.8 substance use disorder treatment, extended care, transitional residence, or outpatient treatment  
97.9 services, and are licensed by tribal government are eligible vendors.

97.10 (b) A licensed professional in private practice as defined in section 245G.01, subdivision  
97.11 17, who meets the requirements of section 245G.11, subdivisions 1 and 4, is an eligible  
97.12 vendor of a comprehensive assessment and assessment summary provided according to  
97.13 section 245G.05, and treatment services provided according to sections 245G.06 and  
97.14 245G.07, subdivision 1, paragraphs (a), clauses (1) to ~~(4)~~ (5), and (b); and subdivision 2,  
97.15 clauses (1) to (6).

97.16 (c) A county is an eligible vendor for a comprehensive assessment and assessment  
97.17 summary when provided by an individual who meets the staffing credentials of section  
97.18 245G.11, subdivisions 1 and 5, and completed according to the requirements of section  
97.19 245G.05. A county is an eligible vendor of care coordination services when provided by an  
97.20 individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 7, and  
97.21 provided according to the requirements of section 245G.07, subdivision 1, paragraph (a),  
97.22 clause (5).

97.23 (d) A recovery community organization that meets certification requirements identified  
97.24 by the commissioner is an eligible vendor of peer support services.

97.25 (e) Detoxification programs licensed under Minnesota Rules, parts 9530.6510 to  
97.26 9530.6590, are not eligible vendors. Programs that are not licensed as a residential or  
97.27 nonresidential substance use disorder treatment or withdrawal management program by the  
97.28 commissioner or by tribal government or do not meet the requirements of subdivisions 1a  
97.29 and 1b are not eligible vendors.

97.30 Sec. 38. Minnesota Statutes 2018, section 256.0112, subdivision 10, is amended to read:

97.31 Subd. 10. **Contracts for child foster care services.** When local agencies negotiate lead  
97.32 county contracts or purchase of service contracts for child foster care services, the foster

98.1 care maintenance payment made on behalf of the child shall follow the provisions of  
98.2 Northstar Care for Children, chapter 256N. Foster care maintenance payments as defined  
98.3 in section 256N.02, subdivision 15, represent costs for activities similar in nature to those  
98.4 expected of parents and do not cover services rendered by the licensed or tribally approved  
98.5 foster parent, ~~facility~~, or administrative costs or fees. Payments made to foster parents must  
98.6 follow the requirements of section 256N.26, subdivision 15. The legally responsible agency  
98.7 must provide foster parents with the assessment and notice as specified in section 256N.24.  
98.8 The financially responsible agency is permitted to make additional payments for specific  
98.9 services provided by the foster parents ~~or facility~~, as permitted in section 256N.21,  
98.10 subdivision 5. These additional payments are not considered foster care maintenance.

98.11 **EFFECTIVE DATE.** This section is effective September 30, 2021.

98.12 Sec. 39. Minnesota Statutes 2018, section 256.82, subdivision 2, is amended to read:

98.13 Subd. 2. **Foster care maintenance payments.** (a) For the purpose of foster care  
98.14 maintenance payments under title IV-E of the Social Security Act, United States Code, title  
98.15 42, sections 670 to 676, the county or American Indian child welfare initiative tribes under  
98.16 section 256.01, subdivision 14b, paying the maintenance costs must be reimbursed for the  
98.17 costs from the federal money available for the purpose. Beginning July 1, 1997, for the  
98.18 purposes of determining a child's eligibility under title IV-E of the Social Security Act, the  
98.19 placing agency shall use AFDC requirements in effect on July 16, 1996.

98.20 (b) For the purpose of foster care maintenance payments under title IV-E of the Social  
98.21 Security Act, United States Code, title 42, sections 670 to 676, the state is responsible for  
98.22 approving of child care institutions for the county paying the facility's maintenance costs  
98.23 to be reimbursed from the federal money available for the purpose. The facility must be  
98.24 licensed by the state or approved or licensed by a tribe.

98.25 **EFFECTIVE DATE.** This section is effective September 30, 2021.

98.26 Sec. 40. Minnesota Statutes 2018, section 256.87, subdivision 8, is amended to read:

98.27 Subd. 8. **Disclosure prohibited.** ~~Notwithstanding statutory or other authorization for~~  
98.28 The public authority ~~to~~ shall not release private data on the location of a party to the action;  
98.29 ~~information on the location of one party may not be released to the other party by the public~~  
98.30 ~~authority or the joint child if:~~

99.1 (1) the public authority has knowledge that one party is currently subject to a protective  
99.2 order with respect to the other party ~~has been entered~~ or the joint child, and the protected  
99.3 party or guardian of the joint child has not authorized disclosure; or

99.4 (2) the public authority has reason to believe that the release of the information may  
99.5 result in physical or emotional harm to ~~the other~~ a party or the joint child.

99.6 Sec. 41. Minnesota Statutes 2019 Supplement, section 256B.064, subdivision 2, is amended  
99.7 to read:

99.8 **Subd. 2. Imposition of monetary recovery and sanctions.** (a) The commissioner shall  
99.9 determine any monetary amounts to be recovered and sanctions to be imposed upon a vendor  
99.10 of medical care under this section. Except as provided in paragraphs (b) and (d), neither a  
99.11 monetary recovery nor a sanction will be imposed by the commissioner without prior notice  
99.12 and an opportunity for a hearing, according to chapter 14, on the commissioner's proposed  
99.13 action, provided that the commissioner may suspend or reduce payment to a vendor of  
99.14 medical care, except a nursing home or convalescent care facility, after notice and prior to  
99.15 the hearing if in the commissioner's opinion that action is necessary to protect the public  
99.16 welfare and the interests of the program.

99.17 (b) Except when the commissioner finds good cause not to suspend payments under  
99.18 Code of Federal Regulations, title 42, section 455.23 (e) or (f), the commissioner shall  
99.19 withhold or reduce payments to a vendor of medical care without providing advance notice  
99.20 of such withholding or reduction if either of the following occurs:

99.21 (1) the vendor is convicted of a crime involving the conduct described in subdivision  
99.22 1a; or

99.23 (2) the commissioner determines there is a credible allegation of fraud for which an  
99.24 investigation is pending under the program. A credible allegation of fraud is an allegation  
99.25 which has been verified by the state, from any source, including but not limited to:

99.26 (i) fraud hotline complaints;

99.27 (ii) claims data mining; and

99.28 (iii) patterns identified through provider audits, civil false claims cases, and law  
99.29 enforcement investigations.

99.30 Allegations are considered to be credible when they have an indicia of reliability and  
99.31 the state agency has reviewed all allegations, facts, and evidence carefully and acts  
99.32 judiciously on a case-by-case basis.

100.1 (c) The commissioner must send notice of the withholding or reduction of payments  
100.2 under paragraph (b) within five days of taking such action unless requested in writing by a  
100.3 law enforcement agency to temporarily withhold the notice. The notice must:

100.4 (1) state that payments are being withheld according to paragraph (b);

100.5 (2) set forth the general allegations as to the nature of the withholding action, but need  
100.6 not disclose any specific information concerning an ongoing investigation;

100.7 (3) except in the case of a conviction for conduct described in subdivision 1a, state that  
100.8 the withholding is for a temporary period and cite the circumstances under which withholding  
100.9 will be terminated;

100.10 (4) identify the types of claims to which the withholding applies; and

100.11 (5) inform the vendor of the right to submit written evidence for consideration by the  
100.12 commissioner.

100.13 The withholding or reduction of payments will not continue after the commissioner  
100.14 determines there is insufficient evidence of fraud by the vendor, or after legal proceedings  
100.15 relating to the alleged fraud are completed, unless the commissioner has sent notice of  
100.16 intention to impose monetary recovery or sanctions under paragraph (a). Upon conviction  
100.17 for a crime related to the provision, management, or administration of a health service under  
100.18 medical assistance, a payment held pursuant to this section by the commissioner or a managed  
100.19 care organization that contracts with the commissioner under section 256B.035 is forfeited  
100.20 to the commissioner or managed care organization, regardless of the amount charged in the  
100.21 criminal complaint or the amount of criminal restitution ordered.

100.22 (d) The commissioner shall suspend or terminate a vendor's participation in the program  
100.23 without providing advance notice and an opportunity for a hearing when the suspension or  
100.24 termination is required because of the vendor's exclusion from participation in Medicare.  
100.25 Within five days of taking such action, the commissioner must send notice of the suspension  
100.26 or termination. The notice must:

100.27 (1) state that suspension or termination is the result of the vendor's exclusion from  
100.28 Medicare;

100.29 (2) identify the effective date of the suspension or termination; and

100.30 (3) inform the vendor of the need to be reinstated to Medicare before reapplying for  
100.31 participation in the program.

101.1 (e) Upon receipt of a notice under paragraph (a) that a monetary recovery or sanction is  
101.2 to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision  
101.3 3, by filing with the commissioner a written request of appeal. The appeal request must be  
101.4 received by the commissioner no later than 30 days after the date the notification of monetary  
101.5 recovery or sanction was mailed to the vendor. The appeal request must specify:

101.6 (1) each disputed item, the reason for the dispute, and an estimate of the dollar amount  
101.7 involved for each disputed item;

101.8 (2) the computation that the vendor believes is correct;

101.9 (3) the authority in statute or rule upon which the vendor relies for each disputed item;

101.10 (4) the name and address of the person or entity with whom contacts may be made  
101.11 regarding the appeal; and

101.12 (5) other information required by the commissioner.

101.13 (f) The commissioner may order a vendor to forfeit a fine for failure to fully document  
101.14 services according to standards in this chapter and Minnesota Rules, chapter 9505. The  
101.15 commissioner may assess fines if specific required components of documentation are  
101.16 missing. The fine for incomplete documentation shall equal 20 percent of the amount paid  
101.17 on the claims for reimbursement submitted by the vendor, or up to \$5,000, whichever is  
101.18 less. If the commissioner determines that a vendor repeatedly violated this chapter, chapter  
101.19 254B or 245G, or Minnesota Rules, chapter 9505, related to the provision of services to  
101.20 program recipients and the submission of claims for payment, the commissioner may order  
101.21 a vendor to forfeit a fine based on the nature, severity, and chronicity of the violations, in  
101.22 an amount of up to \$5,000 or 20 percent of the value of the claims, whichever is greater.

101.23 (g) The vendor shall pay the fine assessed on or before the payment date specified. If  
101.24 the vendor fails to pay the fine, the commissioner may withhold or reduce payments and  
101.25 recover the amount of the fine. A timely appeal shall stay payment of the fine until the  
101.26 commissioner issues a final order.

101.27 Sec. 42. Minnesota Statutes 2018, section 256B.0652, subdivision 10, is amended to read:

101.28 Subd. 10. **Authorization for foster care setting.** (a) Home care services provided in  
101.29 an adult or child foster care setting must receive authorization by the commissioner according  
101.30 to the limits established in subdivision 11.

101.31 (b) The commissioner may not authorize:

102.1 (1) home care services that are the responsibility of the foster care provider under the  
102.2 terms of the foster care placement agreement, ~~difficulty of care rate as of January 1, 2010~~  
102.3 assessment under sections 256N.24 and 260C.4411, and administrative rules;

102.4 (2) personal care assistance services when the foster care license holder is also the  
102.5 personal care provider or personal care assistant, unless the foster home is the licensed  
102.6 provider's primary residence as defined in section 256B.0625, subdivision 19a; or

102.7 (3) personal care assistant and home care nursing services when the licensed capacity  
102.8 is greater than ~~four~~ six, unless all conditions for a variance under section 245A.04,  
102.9 subdivision 9a, are satisfied for a sibling, as defined in section 260C.007, subdivision 32.

102.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

102.11 Sec. 43. Minnesota Statutes 2018, section 256B.0949, subdivision 2, is amended to read:

102.12 Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given in this  
102.13 subdivision.

102.14 (b) "Agency" means the legal entity that is enrolled with Minnesota health care programs  
102.15 as a medical assistance provider according to Minnesota Rules, part 9505.0195, to provide  
102.16 EIDBI services and that has the legal responsibility to ensure that its employees or contractors  
102.17 carry out the responsibilities defined in this section. Agency includes a licensed individual  
102.18 professional who practices independently and acts as an agency.

102.19 (c) "Autism spectrum disorder or a related condition" or "ASD or a related condition"  
102.20 means either autism spectrum disorder (ASD) as defined in the current version of the  
102.21 Diagnostic and Statistical Manual of Mental Disorders (DSM) or a condition that is found  
102.22 to be closely related to ASD, as identified under the current version of the DSM, and meets  
102.23 all of the following criteria:

102.24 (1) is severe and chronic;

102.25 (2) results in impairment of adaptive behavior and function similar to that of a person  
102.26 with ASD;

102.27 (3) requires treatment or services similar to those required for a person with ASD; and

102.28 (4) results in substantial functional limitations in three core developmental deficits of  
102.29 ASD: social or interpersonal interaction; functional communication, including nonverbal  
102.30 or social communication; and restrictive, or repetitive behaviors or hyperreactivity or  
102.31 hyporeactivity to sensory input; and may include deficits or a high level of support in one  
102.32 or more of the following domains:

- 103.1 (i) behavioral challenges and self-regulation;
- 103.2 (ii) cognition;
- 103.3 (iii) learning and play;
- 103.4 ~~(ii)~~(iv) self-care; or
- 103.5 ~~(iii) behavioral challenges~~;
- 103.6 ~~(iv) expressive communication~~;
- 103.7 ~~(v) receptive communication~~;
- 103.8 ~~(vi) cognitive functioning~~; or
- 103.9 ~~(vii)~~(v) safety.
- 103.10 (d) "Person" means a person under 21 years of age.
- 103.11 (e) "Clinical supervision" means the overall responsibility for the control and direction
- 103.12 of EIDBI service delivery, including individual treatment planning, staff supervision,
- 103.13 individual treatment plan progress monitoring, and treatment review for each person. Clinical
- 103.14 supervision is provided by a qualified supervising professional (QSP) who takes full
- 103.15 professional responsibility for the service provided by each supervisee.
- 103.16 (f) "Commissioner" means the commissioner of human services, unless otherwise
- 103.17 specified.
- 103.18 (g) "Comprehensive multidisciplinary evaluation" or "CMDE" means a comprehensive
- 103.19 evaluation of a person to determine medical necessity for EIDBI services based on the
- 103.20 requirements in subdivision 5.
- 103.21 (h) "Department" means the Department of Human Services, unless otherwise specified.
- 103.22 (i) "Early intensive developmental and behavioral intervention benefit" or "EIDBI
- 103.23 benefit" means a variety of individualized, intensive treatment modalities approved and
- 103.24 published by the commissioner that are based in behavioral and developmental science
- 103.25 consistent with best practices on effectiveness.
- 103.26 (j) "Generalizable goals" means results or gains that are observed during a variety of
- 103.27 activities over time with different people, such as providers, family members, other adults,
- 103.28 and people, and in different environments including, but not limited to, clinics, homes,
- 103.29 schools, and the community.
- 103.30 (k) "Incident" means when any of the following occur:

104.1 (1) an illness, accident, or injury that requires first aid treatment;

104.2 (2) a bump or blow to the head; or

104.3 (3) an unusual or unexpected event that jeopardizes the safety of a person or staff,  
104.4 including a person leaving the agency unattended.

104.5 (l) "Individual treatment plan" or "ITP" means the person-centered, individualized written  
104.6 plan of care that integrates and coordinates person and family information from the CMDE  
104.7 for a person who meets medical necessity for the EIDBI benefit. An individual treatment  
104.8 plan must meet the standards in subdivision 6.

104.9 (m) "Legal representative" means the parent of a child who is under 18 years of age, a  
104.10 court-appointed guardian, or other representative with legal authority to make decisions  
104.11 about service for a person. For the purpose of this subdivision, "other representative with  
104.12 legal authority to make decisions" includes a health care agent or an attorney-in-fact  
104.13 authorized through a health care directive or power of attorney.

104.14 (n) "Mental health professional" has the meaning given in section 245.4871, subdivision  
104.15 27, clauses (1) to (6).

104.16 (o) "Person-centered" means a service that both responds to the identified needs, interests,  
104.17 values, preferences, and desired outcomes of the person or the person's legal representative  
104.18 and respects the person's history, dignity, and cultural background and allows inclusion and  
104.19 participation in the person's community.

104.20 (p) "Qualified EIDBI provider" means a person who is a QSP or a level I, level II, or  
104.21 level III treatment provider.

104.22 Sec. 44. Minnesota Statutes 2018, section 256B.0949, subdivision 5, is amended to read:

104.23 Subd. 5. **Comprehensive multidisciplinary evaluation.** (a) A CMDE must be completed  
104.24 to determine medical necessity of EIDBI services. For the commissioner to authorize EIDBI  
104.25 services, the CMDE provider must submit the CMDE to the commissioner and the person  
104.26 or the person's legal representative as determined by the commissioner. Information and  
104.27 assessments must be performed, reviewed, and relied upon for the eligibility determination,  
104.28 treatment and services recommendations, and treatment plan development for the person.

104.29 (b) The CMDE provider must review the diagnostic assessment to confirm the person  
104.30 has an eligible diagnosis and the diagnostic assessment meets standards required under  
104.31 subdivision 4. If the CMDE provider elects to complete the diagnostic assessment at the



105.1 same time as the CMDE, the CMDE provider must certify that the CMDE meets all standards  
105.2 as required under subdivision 4.

105.3 ~~(b)~~(c) The CMDE must:

105.4 (1) include an assessment of the person's developmental skills, functional behavior,  
105.5 needs, and capacities based on direct observation of the person which must be administered  
105.6 by a CMDE provider, include medical or assessment information from the person's physician  
105.7 or advanced practice registered nurse, and may also include input from family members,  
105.8 school personnel, child care providers, or other caregivers, as well as any medical or  
105.9 assessment information from other licensed professionals such as rehabilitation or habilitation  
105.10 therapists, licensed school personnel, or mental health professionals;

105.11 (2) include and document the person's legal representative's or primary caregiver's  
105.12 preferences for involvement in the person's treatment; and

105.13 (3) provide information about the range of current EIDBI treatment modalities recognized  
105.14 by the commissioner.

105.15 Sec. 45. Minnesota Statutes 2018, section 256B.0949, subdivision 6, is amended to read:

105.16 Subd. 6. **Individual treatment plan.** (a) The QSP, level I treatment provider, or level  
105.17 II treatment provider who integrates and coordinates person and family information from  
105.18 the CMDE and ITP progress monitoring process to develop the ITP must develop and  
105.19 monitor the ITP.

105.20 (b) Each person's ITP must be:

105.21 (1) culturally and linguistically appropriate, as required under subdivision 3a,  
105.22 individualized, and person-centered; and

105.23 (2) based on the diagnosis and CMDE information specified in subdivisions 4 and 5.

105.24 (c) The ITP must specify:

105.25 (1) the medically necessary treatment and service;

105.26 (2) the treatment modality that shall be used to meet the goals and objectives, including:

105.27 (i) baseline measures and projected dates of accomplishment;

105.28 (ii) the frequency, intensity, location, and duration of each service provided;

105.29 (iii) the level of legal representative or primary caregiver training and counseling;

- 106.1 (iv) any change or modification to the physical and social environments necessary to  
106.2 provide a service;
- 106.3 (v) significant changes in the person's condition or family circumstance;
- 106.4 ~~(vi) any specialized equipment or material required;~~
- 106.5 ~~(vii)~~ (vi) techniques that support and are consistent with the person's communication  
106.6 mode and learning style;
- 106.7 ~~(viii)~~ (vii) the name of the QSP; and
- 106.8 ~~(ix)~~ (viii) progress monitoring results and goal mastery data; and
- 106.9 (3) the discharge criteria that ~~shall~~ must be used and a defined transition plan that meets  
106.10 the requirement of paragraph (g).
- 106.11 (d) Implementation of the ITP must be supervised by a QSP.
- 106.12 (e) The ITP must be submitted to the commissioner and the person or the person's legal  
106.13 representative for approval in a manner determined by the commissioner for this purpose.
- 106.14 (f) A service included in the ITP must meet all applicable requirements for medical  
106.15 necessity and coverage.
- 106.16 (g) To terminate service, the provider must send notice of termination to the person or  
106.17 the person's legal representative. The transition period begins when the person or the person's  
106.18 legal representative receives notice of termination from the EIDBI service and ends when  
106.19 the EIDBI service is terminated. Up to 30 days of continued service is allowed during the  
106.20 transition period. Services during the transition period shall be consistent with the ITP. The  
106.21 transition plan ~~shall~~ must include:
- 106.22 (1) protocols for changing service when medically necessary;
- 106.23 (2) how the transition will occur;
- 106.24 (3) the time allowed to make the transition; and
- 106.25 (4) a description of how the person or the person's legal representative will be informed  
106.26 of and involved in the transition.
- 106.27 Sec. 46. Minnesota Statutes 2018, section 256B.0949, subdivision 9, is amended to read:
- 106.28 Subd. 9. **Revision of treatment options.** (a) The commissioner may revise covered  
106.29 treatment ~~options~~ modalities as needed based on outcome data and other evidence. EIDBI  
106.30 treatment modalities approved by the department must:

- 107.1 (1) cause no harm to the person or the person's family;
- 107.2 (2) be individualized and person-centered;
- 107.3 (3) be developmentally appropriate and highly structured, with well-defined goals and  
107.4 objectives that provide a strategic direction for treatment;
- 107.5 (4) be based in recognized principles of developmental and behavioral science;
- 107.6 (5) utilize sound practices that are replicable across providers and maintain the fidelity  
107.7 of the specific modality;
- 107.8 (6) demonstrate an evidentiary basis;
- 107.9 (7) have goals and objectives that are measurable, achievable, and regularly evaluated  
107.10 and adjusted to ensure that adequate progress is being made;
- 107.11 (8) be provided intensively with a high staff-to-person ratio; and
- 107.12 (9) include participation by the person and the person's legal representative in decision  
107.13 making, knowledge building and capacity building, and developing and implementing the  
107.14 person's ITP.

107.15 (b) Before revisions in department recognized treatment modalities become effective,  
107.16 the commissioner must provide public notice of the changes, the reasons for the change,  
107.17 and a 30-day public comment period to those who request notice through an electronic list  
107.18 accessible to the public on the department's website.

107.19 Sec. 47. Minnesota Statutes 2018, section 256B.0949, subdivision 13, is amended to read:

107.20 Subd. 13. **Covered services.** (a) The services described in paragraphs (b) to ~~(j)~~ (l) are  
107.21 eligible for reimbursement by medical assistance under this section. Services must be  
107.22 provided by a qualified EIDBI provider and supervised by a QSP. An EIDBI service must  
107.23 address the person's medically necessary treatment goals and must be targeted to develop,  
107.24 enhance, or maintain the individual developmental skills of a person with ASD or a related  
107.25 condition to improve functional communication, including nonverbal or social  
107.26 communication, social or interpersonal interaction, restrictive or repetitive behaviors,  
107.27 hyperreactivity or hyporeactivity to sensory input, behavioral challenges and self-regulation,  
107.28 cognition, learning and play, self-care, and safety.

107.29 (b) ~~EIDBI modalities include, but are not limited to:~~ treatment must be delivered  
107.30 consistent with the standards of an approved modality, as published by the commissioner.  
107.31 EIDBI modalities include:

- 108.1 (1) applied behavior analysis (ABA);
- 108.2 (2) developmental individual-difference relationship-based model (DIR/Floortime);
- 108.3 (3) early start Denver model (ESDM);
- 108.4 (4) PLAY project; ~~or~~
- 108.5 (5) relationship development intervention (RDI); or
- 108.6 (6) additional modalities not listed in clauses (1) to (5) upon approval by the
- 108.7 commissioner.

108.8 (c) An EIDBI provider may use one or more of the EIDBI modalities in paragraph (b),

108.9 clauses (1) to (5), as the primary modality for treatment as a covered service, or several

108.10 EIDBI modalities in combination as the primary modality of treatment, as approved by the

108.11 commissioner. An EIDBI provider that identifies and provides assurance of qualifications

108.12 for a single specific treatment modality must document the required qualifications to meet

108.13 fidelity to the specific model. ~~Additional EIDBI modalities not listed in paragraph (b) may~~

108.14 ~~be covered upon approval by the commissioner.~~

108.15 (d) Each qualified EIDBI provider must identify and provide assurance of qualifications

108.16 for professional licensure certification, or training in evidence-based treatment methods,

108.17 and must document the required qualifications outlined in subdivision 15 in a manner

108.18 determined by the commissioner.

108.19 ~~(d)~~ (e) CMDE is a comprehensive evaluation of the person's developmental status to

108.20 determine medical necessity for EIDBI services and meets the requirements of subdivision

108.21 5. The services must be provided by a qualified CMDE provider.

108.22 ~~(e)~~ (f) EIDBI intervention observation and direction is the clinical direction and oversight

108.23 of EIDBI services by the QSP, level I treatment provider, or level II treatment provider,

108.24 including developmental and behavioral techniques, progress measurement, data collection,

108.25 function of behaviors, and generalization of acquired skills for the direct benefit of a person.

108.26 EIDBI intervention observation and direction informs any modification of the ~~methods~~

108.27 current treatment protocol to support the outcomes outlined in the ITP. ~~EIDBI intervention~~

108.28 ~~observation and direction provides a real-time response to EIDBI interventions to maximize~~

108.29 ~~the benefit to the person.~~

108.30 (g) Intervention is medically necessary direct treatment provided to a person with ASD

108.31 or a related condition as outlined in their ITP. All intervention services must be provided

108.32 under the direction of a QSP. Intervention may take place across multiple settings. The

108.33 frequency and intensity of intervention services are provided based on the number of

109.1 treatment goals, person and family or caregiver preferences, and other factors. Intervention  
109.2 services may be provided individually or in a group. Intervention with a higher provider  
109.3 ratio may occur when deemed medically necessary through the person's ITP.

109.4 (1) Individual intervention is treatment by protocol administered by a single qualified  
109.5 EIDBI provider delivered face-to-face to one person.

109.6 (2) Group intervention is treatment by protocol provided by one or more qualified EIDBI  
109.7 providers, delivered to at least two people who receive EIDBI services.

109.8 ~~(f)~~ (h) ITP development and ITP progress monitoring is development of the initial,  
109.9 annual, and progress monitoring of an ITP. ITP development and ITP progress monitoring  
109.10 documents, ~~provides~~ provide oversight and ongoing evaluation of a person's treatment and  
109.11 progress on targeted goals and objectives; and ~~integrates~~ integrate and ~~coordinates~~ coordinate  
109.12 the person's and the person's legal representative's information from the CMDE and ITP  
109.13 progress monitoring. This service must be reviewed and completed by the QSP, and may  
109.14 include input from a level I ~~treatment~~ provider or a level II ~~treatment~~ provider.

109.15 ~~(g)~~ (i) Family caregiver training and counseling is specialized training and education  
109.16 for a family or primary caregiver to understand the person's developmental status and help  
109.17 with the person's needs and development. This service must be provided by the QSP, level  
109.18 I ~~treatment~~ provider, or level II ~~treatment~~ provider.

109.19 ~~(h)~~ (j) A coordinated care conference is a voluntary face-to-face meeting with the person  
109.20 and the person's family to review the CMDE or ITP progress monitoring and to integrate  
109.21 and coordinate services across providers and service-delivery systems to develop the ITP.  
109.22 This service must be provided by the QSP and may include the CMDE provider or a level  
109.23 I ~~treatment~~ provider or a level II ~~treatment~~ provider.

109.24 ~~(i)~~ (k) Travel time is allowable billing for traveling to and from the person's home,  
109.25 school, a community setting, or place of service outside of an EIDBI center, clinic, or office  
109.26 from a specified location to provide face-to-face EIDBI intervention, observation and  
109.27 direction, or family caregiver training and counseling. The person's ITP must specify the  
109.28 reasons the provider must travel to the person.

109.29 ~~(j)~~ (l) Medical assistance covers medically necessary EIDBI services and consultations  
109.30 delivered by a licensed health care provider via telemedicine, as defined under section  
109.31 256B.0625, subdivision 3b, in the same manner as if the service or consultation was delivered  
109.32 in person. ~~Medical assistance coverage is limited to three telemedicine services per person~~  
109.33 ~~per calendar week.~~

110.1 Sec. 48. Minnesota Statutes 2018, section 256B.0949, subdivision 14, is amended to read:

110.2 Subd. 14. **Person's rights.** A person or the person's legal representative has the right to:

110.3 (1) protection as defined under the health care bill of rights under section 144.651;

110.4 (2) designate an advocate to be present in all aspects of the person's and person's family's  
110.5 services at the request of the person or the person's legal representative;

110.6 (3) be informed of the agency policy on assigning staff to a person;

110.7 (4) be informed of the opportunity to observe the person while receiving services;

110.8 (5) be informed of services in a manner that respects and takes into consideration the  
110.9 person's and the person's legal representative's culture, values, and preferences in accordance  
110.10 with subdivision 3a;

110.11 (6) be free from seclusion and restraint, except for emergency use of manual restraint  
110.12 in emergencies as defined in section 245D.02, subdivision 8a;

110.13 (7) be under the supervision of a responsible adult at all times;

110.14 (8) be notified by the agency within 24 hours if an incident occurs or the person is injured  
110.15 while receiving services, including what occurred and how agency staff responded to the  
110.16 incident;

110.17 (9) request a voluntary coordinated care conference; ~~and~~

110.18 (10) request a CMDE provider of the person's or the person's legal representative's  
110.19 choice; and

110.20 (11) be free of all prohibitions as defined in Minnesota Rules, part 9544.0060.

110.21 Sec. 49. Minnesota Statutes 2018, section 256B.0949, subdivision 15, is amended to read:

110.22 Subd. 15. **EIDBI provider qualifications.** (a) A QSP must be employed by an agency  
110.23 and be:

110.24 (1) a licensed mental health professional who has at least 2,000 hours of supervised  
110.25 clinical experience or training in examining or treating people with ASD or a related condition  
110.26 or equivalent documented coursework at the graduate level by an accredited university in  
110.27 ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child  
110.28 development; or

110.29 (2) a developmental or behavioral pediatrician who has at least 2,000 hours of supervised  
110.30 clinical experience or training in examining or treating people with ASD or a related condition

111.1 or equivalent documented coursework at the graduate level by an accredited university in  
111.2 the areas of ASD diagnostics, ASD developmental and behavioral treatment strategies, and  
111.3 typical child development.

111.4 (b) A level I treatment provider must be employed by an agency and:

111.5 (1) have at least 2,000 hours of supervised clinical experience or training in examining  
111.6 or treating people with ASD or a related condition or equivalent documented coursework  
111.7 at the graduate level by an accredited university in ASD diagnostics, ASD developmental  
111.8 and behavioral treatment strategies, and typical child development or an equivalent  
111.9 combination of documented coursework or hours of experience; and

111.10 (2) have or be at least one of the following:

111.11 (i) a master's degree in behavioral health or child development or related fields including,  
111.12 but not limited to, mental health, special education, social work, psychology, speech  
111.13 pathology, or occupational therapy from an accredited college or university;

111.14 (ii) a bachelor's degree in a behavioral health, child development, or related field  
111.15 including, but not limited to, mental health, special education, social work, psychology,  
111.16 speech pathology, or occupational therapy, from an accredited college or university, and  
111.17 advanced certification in a treatment modality recognized by the department;

111.18 (iii) a board-certified behavior analyst; or

111.19 (iv) a board-certified assistant behavior analyst with 4,000 hours of supervised clinical  
111.20 experience that meets all registration, supervision, and continuing education requirements  
111.21 of the certification.

111.22 (c) A level II treatment provider must be employed by an agency and must be:

111.23 (1) a person who has a bachelor's degree from an accredited college or university in a  
111.24 behavioral or child development science or related field including, but not limited to, mental  
111.25 health, special education, social work, psychology, speech pathology, or occupational  
111.26 therapy; and ~~meet~~ meets at least one of the following:

111.27 (i) has at least 1,000 hours of supervised clinical experience or training in examining or  
111.28 treating people with ASD or a related condition or equivalent documented coursework at  
111.29 the graduate level by an accredited university in ASD diagnostics, ASD developmental and  
111.30 behavioral treatment strategies, and typical child development or a combination of  
111.31 coursework or hours of experience;

- 112.1 (ii) has certification as a board-certified assistant behavior analyst from the Behavior  
112.2 Analyst Certification Board;
- 112.3 (iii) is a registered behavior technician as defined by the Behavior Analyst Certification  
112.4 Board; or
- 112.5 (iv) is certified in one of the other treatment modalities recognized by the department;  
112.6 or
- 112.7 (2) a person who has:
- 112.8 (i) an associate's degree in a behavioral or child development science or related field  
112.9 including, but not limited to, mental health, special education, social work, psychology,  
112.10 speech pathology, or occupational therapy from an accredited college or university; and
- 112.11 (ii) at least 2,000 hours of supervised clinical experience in delivering treatment to people  
112.12 with ASD or a related condition. Hours worked as a mental health behavioral aide or level  
112.13 III treatment provider may be included in the required hours of experience; or
- 112.14 (3) a person who has at least 4,000 hours of supervised clinical experience in delivering  
112.15 treatment to people with ASD or a related condition. Hours worked as a mental health  
112.16 behavioral aide or level III treatment provider may be included in the required hours of  
112.17 experience; or
- 112.18 (4) a person who is a graduate student in a behavioral science, child development science,  
112.19 or related field and is receiving clinical supervision by a QSP affiliated with an agency to  
112.20 meet the clinical training requirements for experience and training with people with ASD  
112.21 or a related condition; or
- 112.22 (5) a person who is at least 18 years of age and who:
- 112.23 (i) is fluent in a non-English language;
- 112.24 (ii) completed the level III EIDBI training requirements; and
- 112.25 (iii) receives observation and direction from a QSP or level I treatment provider at least  
112.26 once a week until the person meets 1,000 hours of supervised clinical experience.
- 112.27 (d) A level III treatment provider must be employed by an agency, have completed the  
112.28 level III training requirement, be at least 18 years of age, and have at least one of the  
112.29 following:
- 112.30 (1) a high school diploma or commissioner of education-selected high school equivalency  
112.31 certification;



- 113.1 (2) fluency in a non-English language; ~~or~~
- 113.2 (3) one year of experience as a primary personal care assistant, community health worker,
- 113.3 waiver service provider, or special education assistant to a person with ASD or a related
- 113.4 condition within the previous five years; or
- 113.5 (4) completion of all required EIDBI training within six months of employment.

113.6 Sec. 50. Minnesota Statutes 2018, section 256B.0949, subdivision 16, is amended to read:

113.7 Subd. 16. **Agency duties.** (a) An agency delivering an EIDBI service under this section

113.8 must:

113.9 (1) enroll as a medical assistance Minnesota health care program provider according to

113.10 Minnesota Rules, part 9505.0195, and section 256B.04, subdivision 21, and meet all

113.11 applicable provider standards and requirements;

113.12 (2) demonstrate compliance with federal and state laws for EIDBI service;

113.13 (3) verify and maintain records of a service provided to the person or the person's legal

113.14 representative as required under Minnesota Rules, parts 9505.2175 and 9505.2197;

113.15 (4) demonstrate that while enrolled or seeking enrollment as a Minnesota health care

113.16 program provider the agency did not have a lead agency contract or provider agreement

113.17 discontinued because of a conviction of fraud; or did not have an owner, board member, or

113.18 manager fail a state or federal criminal background check or appear on the list of excluded

113.19 individuals or entities maintained by the federal Department of Human Services Office of

113.20 Inspector General;

113.21 (5) have established business practices including written policies and procedures, internal

113.22 controls, and a system that demonstrates the organization's ability to deliver quality EIDBI

113.23 services;

113.24 (6) have an office located in Minnesota or a border state;

113.25 (7) conduct a criminal background check on an individual who has direct contact with

113.26 the person or the person's legal representative;

113.27 (8) report maltreatment according to sections 626.556 and 626.557;

113.28 (9) comply with any data requests consistent with the Minnesota Government Data

113.29 Practices Act, sections 256B.064 and 256B.27;

113.30 (10) provide training for all agency staff on the requirements and responsibilities listed

113.31 in the Maltreatment of Minors Act, section 626.556, and the Vulnerable Adult Protection

114.1 Act, section 626.557, including mandated and voluntary reporting, nonretaliation, and the  
114.2 agency's policy for all staff on how to report suspected abuse and neglect;

114.3 (11) have a written policy to resolve issues collaboratively with the person and the  
114.4 person's legal representative when possible. The policy must include a timeline for when  
114.5 the person and the person's legal representative will be notified about issues that arise in  
114.6 the provision of services;

114.7 (12) provide the person's legal representative with prompt notification if the person is  
114.8 injured while being served by the agency. An incident report must be completed by the  
114.9 agency staff member in charge of the person. A copy of all incident and injury reports must  
114.10 remain on file at the agency for at least five years from the report of the incident; and

114.11 (13) before starting a service, provide the person or the person's legal representative a  
114.12 description of the treatment modality that the person shall receive, including the staffing  
114.13 certification levels and training of the staff who shall provide a treatment.

114.14 (b) When delivering the ITP, and annually thereafter, an agency must provide the person  
114.15 or the person's legal representative with:

114.16 (1) a written copy and a verbal explanation of the person's or person's legal  
114.17 representative's rights and the agency's responsibilities;

114.18 (2) documentation in the person's file the date that the person or the person's legal  
114.19 representative received a copy and explanation of the person's or person's legal  
114.20 representative's rights and the agency's responsibilities; and

114.21 (3) reasonable accommodations to provide the information in another format or language  
114.22 as needed to facilitate understanding of the person's or person's legal representative's rights  
114.23 and the agency's responsibilities.

114.24 Sec. 51. Minnesota Statutes 2018, section 256D.02, subdivision 17, is amended to read:

114.25 Subd. 17. **Professional certification.** "Professional certification" means a statement  
114.26 about a person's illness, injury, or incapacity that is signed by a "qualified professional" as  
114.27 defined in section ~~256J.08, subdivision 73a~~ 256P.01, subdivision 6a.

114.28 Sec. 52. Minnesota Statutes 2018, section 256I.03, subdivision 3, is amended to read:

114.29 Subd. 3. **Housing support.** "Housing support" means ~~a group living situation~~ assistance  
114.30 that provides at a minimum room and board to unrelated persons who meet the eligibility  
114.31 requirements of section 256I.04. To receive payment for a group residence rate housing

115.1 support, the residence must meet the requirements under section 256I.04, subdivisions 2a  
115.2 to 2f.

115.3 Sec. 53. Minnesota Statutes 2018, section 256I.03, subdivision 14, is amended to read:

115.4 Subd. 14. **Qualified professional.** "Qualified professional" means an individual as  
115.5 defined in section ~~256J.08, subdivision 73a, or~~ 245G.11, subdivision 3, 4, or 5, or 256P.01,  
115.6 subdivision 6a; or an individual approved by the director of human services or a designee  
115.7 of the director.

115.8 Sec. 54. Minnesota Statutes 2019 Supplement, section 256I.04, subdivision 2b, is amended  
115.9 to read:

115.10 Subd. 2b. **Housing support agreements.** (a) Agreements between agencies and providers  
115.11 of housing support must be in writing on a form developed and approved by the commissioner  
115.12 and must specify the name and address under which the establishment subject to the  
115.13 agreement does business and under which the establishment, or service provider, if different  
115.14 from the ~~group residential housing~~ establishment, is licensed by the Department of Health  
115.15 or the Department of Human Services; the specific license or registration from the  
115.16 Department of Health or the Department of Human Services held by the provider and the  
115.17 number of beds subject to that license; the address of the location or locations at which  
115.18 ~~group residential housing~~ housing support is provided under this agreement; the per diem and monthly  
115.19 rates that are to be paid from housing support funds for each eligible resident at each location;  
115.20 the number of beds at each location which are subject to the agreement; whether the license  
115.21 holder is a not-for-profit corporation under section 501(c)(3) of the Internal Revenue Code;  
115.22 and a statement that the agreement is subject to the provisions of sections 256I.01 to 256I.06  
115.23 and subject to any changes to those sections.

115.24 (b) Providers are required to verify the following minimum requirements in the  
115.25 agreement:

115.26 (1) current license or registration, including authorization if managing or monitoring  
115.27 medications;

115.28 (2) all staff who have direct contact with recipients meet the staff qualifications;

115.29 (3) the provision of housing support;

115.30 (4) the provision of supplementary services, if applicable;

115.31 (5) reports of adverse events, including recipient death or serious injury;

116.1 (6) submission of residency requirements that could result in recipient eviction; and

116.2 (7) confirmation that the provider will not limit or restrict the number of hours an  
116.3 applicant or recipient chooses to be employed, as specified in subdivision 5.

116.4 (c) Agreements may be terminated with or without cause by the commissioner, the  
116.5 agency, or the provider with two calendar months prior notice. The commissioner may  
116.6 immediately terminate an agreement under subdivision 2d.

116.7 Sec. 55. Minnesota Statutes 2018, section 256I.05, subdivision 1c, is amended to read:

116.8 Subd. 1c. **Rate increases.** An agency may not increase the rates negotiated for housing  
116.9 support above those in effect on June 30, 1993, except as provided in paragraphs (a) to (f).

116.10 (a) An agency may increase the rates for room and board to the MSA equivalent rate  
116.11 for those settings whose current rate is below the MSA equivalent rate.

116.12 (b) An agency may increase the rates for residents in adult foster care whose difficulty  
116.13 of care has increased. The total housing support rate for these residents must not exceed the  
116.14 maximum rate specified in subdivisions 1 and 1a. Agencies must not include nor increase  
116.15 difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding  
116.16 by home and community-based waiver programs under title XIX of the Social Security Act.

116.17 (c) The room and board rates will be increased each year when the MSA equivalent rate  
116.18 is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less  
116.19 the amount of the increase in the medical assistance personal needs allowance under section  
116.20 256B.35.

116.21 (d) When housing support pays for an individual's room and board, or other costs  
116.22 necessary to provide room and board, the rate payable to the residence must continue for  
116.23 up to 18 calendar days per incident that the person is temporarily absent from the residence,  
116.24 not to exceed 60 days in a calendar year, if the absence or absences ~~have received the prior~~  
116.25 ~~approval of~~ are reported in advance to the county agency's social service staff. ~~Prior approval~~  
116.26 Advance reporting is not required for emergency absences due to crisis, illness, or injury.

116.27 (e) For facilities meeting substantial change criteria within the prior year. Substantial  
116.28 change criteria exists if the establishment experiences a 25 percent increase or decrease in  
116.29 the total number of its beds, if the net cost of capital additions or improvements is in excess  
116.30 of 15 percent of the current market value of the residence, or if the residence physically  
116.31 moves, or changes its licensure, and incurs a resulting increase in operation and property  
116.32 costs.

117.1 (f) Until June 30, 1994, an agency may increase by up to five percent the total rate paid  
117.2 for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who  
117.3 reside in residences that are licensed by the commissioner of health as a boarding care home,  
117.4 but are not certified for the purposes of the medical assistance program. However, an increase  
117.5 under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical  
117.6 assistance reimbursement rate for nursing home resident class A, in the geographic grouping  
117.7 in which the facility is located, as established under Minnesota Rules, parts 9549.0051 to  
117.8 9549.0058.

117.9 Sec. 56. Minnesota Statutes 2018, section 256I.05, subdivision 1n, is amended to read:

117.10 Subd. 1n. **Supplemental rate; Mahnomen County.** Notwithstanding the provisions of  
117.11 this section, for the rate period July 1, 2010, to June 30, 2011, a county agency shall negotiate  
117.12 a supplemental service rate in addition to the rate specified in subdivision 1, not to exceed  
117.13 \$753 per month or the existing rate, including any legislative authorized inflationary  
117.14 adjustments, for a ~~group residential~~ housing support provider located in Mahnomen County  
117.15 that operates a 28-bed facility providing 24-hour care to individuals who are homeless,  
117.16 disabled, chemically dependent, mentally ill, or chronically homeless.

117.17 Sec. 57. Minnesota Statutes 2018, section 256I.05, subdivision 8, is amended to read:

117.18 Subd. 8. **State participation.** For a ~~resident of a group residence~~ person who is eligible  
117.19 under section 256I.04, subdivision 1, paragraph (b), state participation in the ~~group residential~~  
117.20 housing support payment is determined according to section 256D.03, subdivision 2. For  
117.21 a ~~resident of a group residence~~ person who is eligible under section 256I.04, subdivision 1,  
117.22 paragraph (a), state participation in the ~~group residential~~ housing support rate is determined  
117.23 according to section 256D.36.

117.24 Sec. 58. Minnesota Statutes 2018, section 256I.06, subdivision 2, is amended to read:

117.25 Subd. 2. **Time of payment.** A county agency may make payments in advance for an  
117.26 individual whose stay is expected to last beyond the calendar month for which the payment  
117.27 is made. Housing support payments made by a county agency on behalf of an individual  
117.28 who is not expected to remain in the ~~group residence~~ establishment beyond the month for  
117.29 which payment is made must be made subsequent to the individual's departure from the  
117.30 residence.

118.1 Sec. 59. Minnesota Statutes 2018, section 256I.06, is amended by adding a subdivision  
118.2 to read:

118.3 Subd. 10. Correction of overpayments and underpayments. The agency shall make  
118.4 an adjustment to housing support payments issued to individuals consistent with requirements  
118.5 of federal law and regulation and state law and rule and shall issue or recover benefits as  
118.6 appropriate. A recipient or former recipient is not responsible for overpayments due to  
118.7 agency error, unless the amount of the overpayment is large enough that a reasonable person  
118.8 would know it is an error.

118.9 Sec. 60. Minnesota Statutes 2018, section 256J.08, subdivision 73a, is amended to read:

118.10 Subd. 73a. **Qualified professional.** "Qualified professional" means an individual as  
118.11 defined in section 256P.01, subdivision 6a. (a) For physical illness, injury, or incapacity, a  
118.12 "qualified professional" means a licensed physician, a physician assistant, a nurse practitioner,  
118.13 or a licensed chiropractor.

118.14 ~~(b) For developmental disability and intelligence testing, a "qualified professional"~~  
118.15 ~~means an individual qualified by training and experience to administer the tests necessary~~  
118.16 ~~to make determinations, such as tests of intellectual functioning, assessments of adaptive~~  
118.17 ~~behavior, adaptive skills, and developmental functioning. These professionals include~~  
118.18 ~~licensed psychologists, certified school psychologists, or certified psychometrists working~~  
118.19 ~~under the supervision of a licensed psychologist.~~

118.20 ~~(c) For learning disabilities, a "qualified professional" means a licensed psychologist or~~  
118.21 ~~school psychologist with experience determining learning disabilities.~~

118.22 ~~(d) For mental health, a "qualified professional" means a licensed physician or a qualified~~  
118.23 ~~mental health professional. A "qualified mental health professional" means:~~

118.24 ~~(1) for children, in psychiatric nursing, a registered nurse who is licensed under sections~~  
118.25 ~~148.171 to 148.285, and who is certified as a clinical specialist in child and adolescent~~  
118.26 ~~psychiatric or mental health nursing by a national nurse certification organization or who~~  
118.27 ~~has a master's degree in nursing or one of the behavioral sciences or related fields from an~~  
118.28 ~~accredited college or university or its equivalent, with at least 4,000 hours of post-master's~~  
118.29 ~~supervised experience in the delivery of clinical services in the treatment of mental illness;~~

118.30 ~~(2) for adults, in psychiatric nursing, a registered nurse who is licensed under sections~~  
118.31 ~~148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric and~~  
118.32 ~~mental health nursing by a national nurse certification organization or who has a master's~~  
118.33 ~~degree in nursing or one of the behavioral sciences or related fields from an accredited~~

119.1 college or university or its equivalent, with at least 4,000 hours of post-master's supervised  
119.2 experience in the delivery of clinical services in the treatment of mental illness;

119.3 (3) in clinical social work, a person licensed as an independent clinical social worker  
119.4 under chapter 148D, or a person with a master's degree in social work from an accredited  
119.5 college or university, with at least 4,000 hours of post-master's supervised experience in  
119.6 the delivery of clinical services in the treatment of mental illness;

119.7 (4) in psychology, an individual licensed by the Board of Psychology under sections  
119.8 148.88 to 148.98, who has stated to the Board of Psychology competencies in the diagnosis  
119.9 and treatment of mental illness;

119.10 (5) in psychiatry, a physician licensed under chapter 147 and certified by the American  
119.11 Board of Psychiatry and Neurology or eligible for board certification in psychiatry;

119.12 (6) in marriage and family therapy, the mental health professional must be a marriage  
119.13 and family therapist licensed under sections 148B.29 to 148B.39, with at least two years of  
119.14 post-master's supervised experience in the delivery of clinical services in the treatment of  
119.15 mental illness; and

119.16 (7) in licensed professional clinical counseling, the mental health professional shall be  
119.17 a licensed professional clinical counselor under section 148B.5301 with at least 4,000 hours  
119.18 of post-master's supervised experience in the delivery of clinical services in the treatment  
119.19 of mental illness.

119.20 Sec. 61. **[256K.451] MINOR CONSENT TO HOMELESS AND SEXUALLY**  
119.21 **EXPLOITED YOUTH SERVICES.**

119.22 A minor living separately from the minor's parent or legal guardian may give consent  
119.23 to receive homeless youth services and services for sexually exploited youth. A minor's  
119.24 consent to receive services does not affect a parent or legal guardian's custody of the minor.

119.25 Sec. 62. Minnesota Statutes 2018, section 256N.02, subdivision 14a, is amended to read:

119.26 Subd. 14a. **Licensed child foster parent.** "Licensed child foster parent" means a person  
119.27 an individual or family who is licensed for child foster care under Minnesota Rules, parts  
119.28 2960.3000 to 2960.3340 chapter 2960, excluding foster residence settings licensed under  
119.29 Minnesota Rules, parts 2960.3200 to 2960.3230, or licensed or approved by a Minnesota  
119.30 tribe in accordance with tribal standards with whom the foster child resides.

119.31 **EFFECTIVE DATE.** This section is effective September 30, 2021.

120.1 Sec. 63. Minnesota Statutes 2018, section 256N.21, subdivision 2, is amended to read:

120.2 Subd. 2. **Placement in foster care.** To be eligible for foster care benefits under this  
120.3 section, the child must be in placement away from the child's legal parent, guardian, or  
120.4 Indian custodian as defined in section 260.755, subdivision 10, and must meet one of the  
120.5 criteria in clause (1) and either clause (2) or (3):

120.6 (1) the legally responsible agency must have placement authority to place the child with:  
120.7 (i) a voluntary placement agreement or a court order, consistent with sections 260B.198,  
120.8 260C.001, and 260D.01, or consistent with section 260C.451 for a child 18 years old or  
120.9 older and under age 21 who maintains eligibility for foster care; or (ii) a voluntary placement  
120.10 agreement or court order by a Minnesota tribe that is consistent with United States Code,  
120.11 title 42, section 672(a)(2); and

120.12 (2) the child is placed with a licensed child foster parent who resides with the child; or

120.13 (3) the child is placed in one of the following unlicensed child foster care settings:

120.14 (i) an emergency relative placement under tribal licensing regulations or section  
120.15 245A.035, with the legally responsible agency ensuring the relative completes the required  
120.16 child foster care application process;

120.17 (ii) a licensed adult foster home with an approved age variance under section 245A.16  
120.18 for no more than six months where the license holder resides with the child;

120.19 (iii) for a child 18 years old or older and under age 21 who is eligible for extended foster  
120.20 care under section 260C.451, an unlicensed supervised independent living setting approved  
120.21 by the agency responsible for the child's care; or

120.22 (iv) a preadoptive placement in a home specified in section 245A.03, subdivision 2,  
120.23 paragraph (a), clause (9), with an approved adoption home study and signed adoption  
120.24 placement agreement.

120.25 **EFFECTIVE DATE.** This section is effective September 30, 2021.

120.26 Sec. 64. Minnesota Statutes 2018, section 256N.21, subdivision 5, is amended to read:

120.27 Subd. 5. **Excluded activities.** The basic and supplemental difficulty of care payment  
120.28 represents costs for activities similar in nature to those expected of parents, and does not  
120.29 cover services rendered by the licensed or tribally approved foster parent, ~~facility~~, or  
120.30 administrative costs or fees. The financially responsible agency may pay an additional fee  
120.31 for specific services provided by the licensed foster parent ~~or facility~~. A foster parent ~~or~~



121.1 ~~residence setting~~ must distinguish such a service from the daily care of the child as assessed  
121.2 through the process under section 256N.24.

121.3 **EFFECTIVE DATE.** This section is effective September 30, 2021.

121.4 Sec. 65. Minnesota Statutes 2018, section 256N.24, subdivision 4, is amended to read:

121.5 Subd. 4. **Extraordinary levels.** (a) The assessment tool established under subdivision  
121.6 2 must provide a mechanism through which up to five levels can be added to the supplemental  
121.7 difficulty of care for a particular child under section 256N.26, subdivision 4. In establishing  
121.8 the assessment tool, the commissioner must design the tool so that the levels applicable to  
121.9 the portions of the assessment other than the extraordinary levels can accommodate the  
121.10 requirements of this subdivision.

121.11 (b) These extraordinary levels are available when all of the following circumstances  
121.12 apply:

121.13 (1) the child has extraordinary needs as determined by the assessment tool provided for  
121.14 under subdivision 2, and the child meets other requirements established by the commissioner,  
121.15 such as a minimum score on the assessment tool;

121.16 (2) the child's extraordinary needs require extraordinary care and intense supervision  
121.17 that is provided by the child's caregiver as part of the parental duties as described in the  
121.18 supplemental difficulty of care rate, section 256N.02, subdivision 21. This extraordinary  
121.19 care provided by the caregiver is required so that the child can be safely cared for in the  
121.20 home and community, and prevents residential placement;

121.21 (3) the child is physically living in a foster family setting, as defined in Minnesota Rules,  
121.22 part 2960.3010, subpart 23, ~~in a foster residence setting~~, or physically living in the home  
121.23 with the adoptive parent or relative custodian; and

121.24 (4) the child is receiving the services for which the child is eligible through medical  
121.25 assistance programs or other programs that provide necessary services for children with  
121.26 disabilities or other medical and behavioral conditions to live with the child's family, but  
121.27 the agency with caregiver's input has identified a specific support gap that cannot be met  
121.28 through home and community support waivers or other programs that are designed to provide  
121.29 support for children with special needs.

121.30 (c) The agency completing an assessment, under subdivision 2, that suggests an  
121.31 extraordinary level must document as part of the assessment, the following:

122.1 (1) the assessment tool that determined that the child's needs or disabilities require  
122.2 extraordinary care and intense supervision;

122.3 (2) a summary of the extraordinary care and intense supervision that is provided by the  
122.4 caregiver as part of the parental duties as described in the supplemental difficulty of care  
122.5 rate, section 256N.02, subdivision 21;

122.6 (3) confirmation that the child is currently physically residing ~~in the foster family setting~~  
122.7 ~~or~~ in the home with the foster parent, adoptive parent, or relative custodian;

122.8 (4) the efforts of the agency, caregiver, parents, and others to request support services  
122.9 in the home and community that would ease the degree of parental duties provided by the  
122.10 caregiver for the care and supervision of the child. This would include documentation of  
122.11 the services provided for the child's needs or disabilities, and the services that were denied  
122.12 or not available from the local social service agency, community agency, the local school  
122.13 district, local public health department, the parent, or child's medical insurance provider;

122.14 (5) the specific support gap identified that places the child's safety and well-being at risk  
122.15 in the home or community and is necessary to prevent residential placement; and

122.16 (6) the extraordinary care and intense supervision provided by the foster, adoptive, or  
122.17 guardianship caregivers to maintain the child safely in the child's home and prevent residential  
122.18 placement that cannot be supported by medical assistance or other programs that provide  
122.19 services, necessary care for children with disabilities, or other medical or behavioral  
122.20 conditions in the home or community.

122.21 (d) An agency completing an assessment under subdivision 2 that suggests an  
122.22 extraordinary level is appropriate must forward the assessment and required documentation  
122.23 to the commissioner. If the commissioner approves, the extraordinary levels must be  
122.24 retroactive to the date the assessment was forwarded.

122.25 **EFFECTIVE DATE.** This section is effective September 30, 2021.

122.26 Sec. 66. Minnesota Statutes 2018, section 256P.01, is amended by adding a subdivision  
122.27 to read:

122.28 **Subd. 6a. Qualified professional.** (a) For illness, injury, or incapacity, a "qualified  
122.29 professional" means a licensed physician, physician assistant, nurse practitioner, physical  
122.30 therapist, occupational therapist, or licensed chiropractor, according to their scope of practice.

122.31 (b) For developmental disability, learning disability, and intelligence testing, a "qualified  
122.32 professional" means a licensed physician, physician assistant, nurse practitioner, licensed

123.1 independent clinical social worker, licensed psychologist, certified school psychologist, or  
123.2 certified psychometrist working under the supervision of a licensed psychologist.

123.3 (c) For mental health, a "qualified professional" means a licensed physician, nurse  
123.4 practitioner, or qualified mental health professional under section 245.462, subdivision 18,  
123.5 clauses (1) to (6).

123.6 (d) For substance use disorder, a "qualified professional" means a licensed physician, a  
123.7 qualified mental health professional under section 245.462, subdivision 18, clauses (1) to  
123.8 (6), or an individual as defined in section 245G.11, subdivision 3, 4, or 5.

123.9 Sec. 67. Minnesota Statutes 2018, section 257.70, is amended to read:

123.10 **257.70 HEARINGS AND RECORDS; CONFIDENTIALITY.**

123.11 (a) Notwithstanding any other law concerning public hearings and records, any hearing  
123.12 or trial held under sections 257.51 to 257.74 shall be held in closed court without admittance  
123.13 of any person other than those necessary to the action or proceeding. All papers and records,  
123.14 other than the final judgment, pertaining to the action or proceeding, whether part of the  
123.15 permanent record of the court or of a file in the state Department of Human Services or  
123.16 elsewhere, are subject to inspection only upon consent of the court and all interested persons,  
123.17 or in exceptional cases only upon an order of the court for good cause shown.

123.18 (b) In all actions under this chapter in which public assistance is assigned under section  
123.19 256.741 or the public authority provides services to a party or parties to the action,  
123.20 ~~notwithstanding statutory or other authorization for the public authority to~~ shall not release  
123.21 ~~private data on the location of a party to the action, information on the location of one a~~  
123.22 ~~party may not be released by the public authority to the other party~~ to the action or the joint  
123.23 child if:

123.24 (1) the public authority has knowledge that one party is currently subject to a protective  
123.25 order with respect to the other party ~~has been entered~~ or the joint child, and the protected  
123.26 party or guardian of the joint child has not authorized disclosure; or

123.27 (2) the public authority has reason to believe that the release of the information may  
123.28 result in physical or emotional harm to ~~the other~~ a party or the joint child.

123.29 Sec. 68. **[260.7611] COUNTY AND TRIBAL AGREEMENTS; MALTREATMENT**  
123.30 **ASSESSMENTS AND INVESTIGATIONS OF INDIAN CHILDREN.**

123.31 A tribe and a county may enter a written agreement transferring responsibility for the  
123.32 screening and initial response to a child maltreatment report regarding an Indian child

124.1 residing in the county where the child's reservation is located, from the county to the tribe.  
124.2 An agreement under this subdivision shall include a provision clarifying whether the county  
124.3 or the tribe is responsible for ongoing case management stemming from a child maltreatment  
124.4 report.

124.5 Sec. 69. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision  
124.6 to read:

124.7 Subd. 16a. **Family and permanency team.** "Family and permanency team" means a  
124.8 team consisting of the child's parent or legal custodian, relatives, foster care providers, and  
124.9 professionals who are resources to the child's family such as teachers, medical or mental  
124.10 health providers who have treated the child, or clergy, as appropriate. In the case of an  
124.11 Indian child, the family and permanency team includes tribal representatives, delegates,  
124.12 and cultural resources as identified by the child's tribe. Consistent with section 260C.212,  
124.13 subdivision 1, paragraph (b), if the child is age 14 or older, the team must also include two  
124.14 team members that the child selects who are not the child's foster parent or caseworker. The  
124.15 responsible social services agency may reject an individual that the child selects if the agency  
124.16 has good cause to believe that the individual would not act in the best interests of the child.

124.17 **EFFECTIVE DATE.** This section is effective September 30, 2021.

124.18 Sec. 70. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision  
124.19 to read:

124.20 Subd. 16b. **Family foster home.** "Family foster home" means the home of an individual  
124.21 or family who is licensed for child foster care under Minnesota Statutes, chapter 245A,  
124.22 meeting the standards in Minnesota Rules, chapter 2960, excluding foster residence settings  
124.23 licensed under Minnesota Rules, parts 2960.3000 to 2960.3200, or licensed or approved by  
124.24 a tribe in accordance with tribal standards with whom the foster child resides. Family foster  
124.25 home includes an emergency unlicensed relative placement under section 245A.035.

124.26 **EFFECTIVE DATE.** This section is effective September 30, 2021.

124.27 Sec. 71. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision  
124.28 to read:

124.29 Subd. 21a. **Legal authority to place the child.** "Legal authority to place the child"  
124.30 means that the agency has legal responsibility for the care and control of the child while  
124.31 the child is in foster care. The agency may have legal authority to place a child through a  
124.32 court order under this chapter through a voluntary placement agreement between the agency

125.1 and the child's parent under section 260C.227 or, in the case of an Indian child, through  
125.2 tribal court.

125.3 **EFFECTIVE DATE.** This section is effective September 30, 2021.

125.4 Sec. 72. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision  
125.5 to read:

125.6 Subd. 25a. **Permanency plan.** "Permanency plan" means the established goal in the  
125.7 out-of-home placement plan that will achieve a safe, permanent home for the child. There  
125.8 are four permanency goals for children:

125.9 (1) reunification with the child's parent or legal guardian;

125.10 (2) placement with other relatives;

125.11 (3) adoption; or

125.12 (4) establishment of a new legal guardianship.

125.13 **EFFECTIVE DATE.** This section is effective September 30, 2021.

125.14 Sec. 73. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision  
125.15 to read:

125.16 Subd. 26c. **Qualified individual.** "Qualified individual" means a trained culturally  
125.17 competent professional or licensed clinician, including a mental health professional under  
125.18 section 245.4871, subdivision 27, who is not an employee of the responsible social services  
125.19 agency and who is not connected to or affiliated with any placement setting in which a  
125.20 responsible social services agency has placed children.

125.21 **EFFECTIVE DATE.** This section is effective September 30, 2021.

125.22 Sec. 74. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision  
125.23 to read:

125.24 Subd. 26d. **Qualified residential treatment program.** "Qualified residential treatment  
125.25 program" means a children's residential treatment program licensed under chapter 245A or  
125.26 licensed or approved by a tribe that is approved to receive foster care maintenance payments  
125.27 under section 256.82 that:

125.28 (1) has a trauma-informed treatment model designed to address the needs of children  
125.29 with serious emotional or behavioral disorders or disturbances;

125.30 (2) has registered or licensed nursing staff and other licensed clinical staff who:

- 126.1 (i) provide care within the scope of their practice; and
- 126.2 (ii) are available 24 hours per day and seven days per week;
- 126.3 (3) is accredited by any of the following independent, nonprofit organizations: the
- 126.4 Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission
- 126.5 on Accreditation of Healthcare Organizations (JCAHO), and the Council on Accreditation
- 126.6 (COA), or any other nonprofit accrediting organization approved by the United States
- 126.7 Department of Health and Human Services;
- 126.8 (4) if it is in the child's best interests, facilitates participation of the child's family members
- 126.9 in the child's treatment programming consistent with the child's out-of-home placement
- 126.10 plan under sections 260C.212, subdivision 1, and 260C.708;
- 126.11 (5) facilitates outreach to family members of the child, including siblings;
- 126.12 (6) documents how the facility facilitates outreach to the child's parents and relatives,
- 126.13 as well as documents the child's parents' and other relatives' contact information;
- 126.14 (7) documents how the facility includes family members in the child's treatment process,
- 126.15 including after the child's discharge, and how the facility maintains the child's sibling
- 126.16 connections; and
- 126.17 (8) provides the child and child's family with discharge planning and family-based
- 126.18 aftercare support for at least six months after the child's discharge.

126.19 **EFFECTIVE DATE.** This section is effective September 30, 2021.

126.20 Sec. 75. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision

126.21 to read:

126.22 **Subd. 27b. Residential treatment facility.** "Residential treatment facility" means a

126.23 24-hour-a-day program that provides treatment for children with emotional disturbance,

126.24 consistent with section 245.4871, subdivision 32, and includes a licensed residential program

126.25 specializing in caring 24 hours a day for children with a developmental delay or related

126.26 condition. A residential treatment facility does not include a psychiatric residential treatment

126.27 facility under section 256B.0941 or a family foster home as defined in section 260C.007,

126.28 subdivision 16b.

126.29 Sec. 76. Minnesota Statutes 2018, section 260C.157, subdivision 3, is amended to read:

126.30 **Subd. 3. Juvenile treatment screening team.** (a) The responsible social services agency

126.31 shall establish a juvenile treatment screening team to conduct screenings ~~and prepare case~~

127.1 ~~plans~~ under this chapter, ~~chapter 260D~~, and section 245.487, subdivision 3, for a child to  
127.2 receive treatment for an emotional disturbance, a developmental disability, or related  
127.3 condition in a residential treatment facility licensed by the commissioner of human services  
127.4 under chapter 245A, or licensed or approved by a tribe. A screening team is not required  
127.5 for a child to be in: (1) a residential facility specializing in prenatal, postpartum, or parenting  
127.6 support; (2) a facility specializing in high-quality residential care and supportive services  
127.7 to children and youth who are sex-trafficking victims or are at risk of becoming  
127.8 sex-trafficking victims; (3) supervised settings for youth 18 years old or older living  
127.9 independently; or (4) a licensed residential family-based treatment facility for substance  
127.10 abuse consistent with section 260C.190. Screenings are also not required when a child must  
127.11 be placed in a facility due to an emotional crisis or other mental health emergency.

127.12 (b) The responsible social services agency shall conduct screenings ~~shall be conducted~~  
127.13 within 15 days of a request for a screening, unless the screening is for the purpose of  
127.14 placement in mental health residential treatment and the child is enrolled in a prepaid health  
127.15 program under section 256B.69, in which case the agency shall conduct the screening ~~shall~~  
127.16 ~~be conducted~~ within ten working days of a request. The responsible social services agency  
127.17 shall convene the team, which may be the team ~~constituted~~ under section 245.4885 or  
127.18 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655. The team shall consist of  
127.19 social workers, juvenile justice professionals, persons with expertise in the treatment of  
127.20 juveniles who are emotionally disabled, chemically dependent, or have a developmental  
127.21 disability; and the child's parent, guardian, or permanent legal custodian ~~under Minnesota~~  
127.22 ~~Statutes 2010, section 260C.201, subdivision 11, or section 260C.515, subdivision 4. The~~  
127.23 ~~team may be the same team as defined in section 260B.157, subdivision 3. The team may~~  
127.24 include the child's relatives as defined in section 260C.007, subdivisions 26b and 27, the  
127.25 child's foster care provider, and professionals who are a resource to the child's family such  
127.26 as teachers, medical or mental health providers, and clergy, as appropriate, consistent with  
127.27 the family and permanency team as defined in section 260C.007, subdivision 16a. Prior to  
127.28 forming the team, the responsible social services agency must consult with the child if the  
127.29 child is age 14 or older, the child's parents, and, if applicable, the child's tribe to ensure that  
127.30 the team is family-centered and will act in the child's best interest. If the child, child's parents,  
127.31 or legal guardians raise concerns about specific relatives or professionals, the team should  
127.32 not include those individuals. This provision does not apply to paragraph (c).

127.33 ~~(b) The social services agency shall determine whether a child brought to its attention~~  
127.34 ~~for the purposes described in this section is an Indian child, as defined in section 260C.007,~~  
127.35 ~~subdivision 21, and shall determine the identity of the Indian child's tribe, as defined in~~

128.1 ~~section 260.755, subdivision 9. When a child to be evaluated~~ (c) If the agency provides  
128.2 notice to tribes under section 260.761, and the child screened is an Indian child, the team  
128.3 ~~provided in paragraph (a) shall include~~ responsible social services agency must make a  
128.4 rigorous and concerted effort to include a designated representative of the Indian child's  
128.5 tribe on the juvenile treatment screening team, unless the child's tribal authority declines to  
128.6 appoint a representative. The Indian child's tribe may delegate its authority to represent the  
128.7 child to any other federally recognized Indian tribe, as defined in section 260.755, subdivision  
128.8 12. The provisions of the Indian Child Welfare Act of 1978, United States Code, title 25,  
128.9 sections 1901 to 1963, and the Minnesota Indian Family Preservation Act, sections 260.751  
128.10 to 260.835, apply to this section.

128.11 ~~(e)~~ (d) If the court, prior to, or as part of, a final disposition or other court order, proposes  
128.12 to place a child: with an emotional disturbance or developmental disability or related  
128.13 condition in residential treatment, the responsible social services agency must conduct a  
128.14 screening. If the team recommends treating the child in a qualified residential treatment  
128.15 program, the agency must follow the requirements of sections 260C.70 to 260C.714.

128.16 ~~(1) for the primary purpose of treatment for an emotional disturbance, a developmental~~  
128.17 ~~disability, or chemical dependency in a residential treatment facility out of state or in one~~  
128.18 ~~which is within the state and licensed by the commissioner of human services under chapter~~  
128.19 ~~245A; or~~

128.20 ~~(2) in any out-of-home setting potentially exceeding 30 days in duration, including a~~  
128.21 ~~postdispositional placement in a facility licensed by the commissioner of corrections or~~  
128.22 ~~human services; The court shall ascertain whether the child is an Indian child and shall~~  
128.23 ~~notify the county welfare agency~~ responsible social services agency and, if the child is an  
128.24 Indian child, shall notify the Indian child's tribe. ~~The county's juvenile treatment screening~~  
128.25 ~~team must either: (i) screen and evaluate the child and file its recommendations with the~~  
128.26 ~~court within 14 days of receipt of the notice; or (ii) elect not to screen a given case and~~  
128.27 ~~notify the court of that decision within three working days~~ as paragraph (c) requires.

128.28 (d) The child may not be placed for the primary purpose of treatment for an emotional  
128.29 ~~disturbance, a developmental disability, or chemical dependency, in a residential treatment~~  
128.30 ~~facility out of state nor in a residential treatment facility within the state that is licensed~~  
128.31 ~~under chapter 245A, unless one of the following conditions applies:~~

128.32 (1) ~~a treatment professional certifies that an emergency requires the placement of the~~  
128.33 ~~child in a facility within the state;~~



129.1 ~~(2) the screening team has evaluated the child and recommended that a residential~~  
129.2 ~~placement is necessary to meet the child's treatment needs and the safety needs of the~~  
129.3 ~~community, that it is a cost-effective means of meeting the treatment needs, and that it will~~  
129.4 ~~be of therapeutic value to the child; or~~

129.5 ~~(3) the court, having reviewed a screening team recommendation against placement,~~  
129.6 ~~determines to the contrary that a residential placement is necessary. The court shall state~~  
129.7 ~~the reasons for its determination in writing, on the record, and shall respond specifically to~~  
129.8 ~~the findings and recommendation of the screening team in explaining why the~~  
129.9 ~~recommendation was rejected. The attorney representing the child and the prosecuting~~  
129.10 ~~attorney shall be afforded an opportunity to be heard on the matter.~~

129.11 ~~(e) When the county's juvenile treatment screening team has elected to screen and evaluate~~  
129.12 ~~a child determined to be an Indian child, the team shall provide notice to the tribe or tribes~~  
129.13 ~~that accept jurisdiction for the Indian child or that recognize the child as a member of the~~  
129.14 ~~tribe or as a person eligible for membership in the tribe, and permit the tribe's representative~~  
129.15 ~~to participate in the screening team.~~

129.16 (e) When the responsible social services agency is responsible for placing and caring  
129.17 for the child and the screening team recommends placing a child in a qualified residential  
129.18 treatment program as defined in section 260C.007, subdivision 26d, the agency must: (1)  
129.19 begin the assessment and processes required in section 260C.704 without delay; and (2)  
129.20 conduct a relative search according to section 260C.221 to assemble the child's family and  
129.21 permanency team under section 260C.706. Prior to notifying relatives regarding the family  
129.22 and permanency team, the responsible social services agency must consult with the child  
129.23 if the child is age 14 or older, the child's parents and, if applicable, the child's tribe to ensure  
129.24 that the agency is providing notice to individuals who will act in the child's best interest.  
129.25 The child and the child's parents may identify a culturally competent qualified individual  
129.26 to complete the child's assessment. The agency shall make efforts to refer the assessment  
129.27 to the identified qualified individual. The assessment may not be delayed for the purpose  
129.28 of having the assessment completed by a specific qualified individual.

129.29 (f) When a screening team determines that a child does not need treatment in a qualified  
129.30 residential treatment program, the screening team must:

129.31 (1) document the services and supports that will prevent the child's foster care placement  
129.32 and will support the child remaining at home;

129.33 (2) document the services and supports that the agency will arrange to place the child  
129.34 in a family foster home; or

130.1 (3) document the services and supports that the agency has provided in any other setting.

130.2 ~~(f)~~ (g) When the Indian child's tribe or tribal health care services provider or Indian  
130.3 Health Services provider proposes to place a child for the primary purpose of treatment for  
130.4 an emotional disturbance, a developmental disability, or co-occurring emotional disturbance  
130.5 and chemical dependency, the Indian child's tribe or the tribe delegated by the child's tribe  
130.6 shall submit necessary documentation to the county juvenile treatment screening team,  
130.7 which must invite the Indian child's tribe to designate a representative to the screening team.

130.8 (h) The responsible social services agency must conduct and document the screening in  
130.9 a format approved by the commissioner of human services.

130.10 **EFFECTIVE DATE.** This section is effective September 30, 2021.

130.11 Sec. 77. Minnesota Statutes 2018, section 260C.202, is amended to read:

130.12 **260C.202 COURT REVIEW OF FOSTER CARE.**

130.13 (a) If the court orders a child placed in foster care, the court shall review the out-of-home  
130.14 placement plan and the child's placement at least every 90 days as required in juvenile court  
130.15 rules to determine whether continued out-of-home placement is necessary and appropriate  
130.16 or whether the child should be returned home. This review is not required if the court has  
130.17 returned the child home, ordered the child permanently placed away from the parent under  
130.18 sections 260C.503 to 260C.521, or terminated rights under section 260C.301. Court review  
130.19 for a child permanently placed away from a parent, including where the child is under  
130.20 guardianship of the commissioner, shall be governed by section 260C.607. When a child  
130.21 is placed in a qualified residential treatment program setting as defined in section 260C.007,  
130.22 subdivision 26d, the responsible social services agency must submit evidence to the court  
130.23 as specified in section 260C.712.

130.24 (b) No later than three months after the child's placement in foster care, the court shall  
130.25 review agency efforts pursuant to section 260C.221, and order that the efforts continue if  
130.26 the agency has failed to perform the duties under that section. The court must order the  
130.27 agency to continue to appropriately engage relatives who responded to the notice under  
130.28 section 260C.221 in placement and case planning decisions and to engage other relatives  
130.29 who came to the agency's attention after notice under section 260C.221 was sent.

130.30 (c) The court shall review the out-of-home placement plan and may modify the plan as  
130.31 provided under section 260C.201, subdivisions 6 and 7.

130.32 (d) When the court orders transfer of custody to a responsible social services agency  
130.33 resulting in foster care or protective supervision with a noncustodial parent under subdivision

131.1 1, the court shall notify the parents of the provisions of sections 260C.204 and 260C.503  
131.2 to 260C.521, as required under juvenile court rules.

131.3 (e) When a child remains in or returns to foster care pursuant to section 260C.451 and  
131.4 the court has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the  
131.5 court shall at least annually conduct the review required under section 260C.203.

131.6 **EFFECTIVE DATE.** This section is effective September 30, 2021.

131.7 Sec. 78. Minnesota Statutes 2018, section 260C.204, is amended to read:

131.8 **260C.204 PERMANENCY PROGRESS REVIEW FOR CHILDREN IN FOSTER**  
131.9 **CARE FOR SIX MONTHS.**

131.10 (a) When a child continues in placement out of the home of the parent or guardian from  
131.11 whom the child was removed, no later than six months after the child's placement the court  
131.12 shall conduct a permanency progress hearing to review:

131.13 (1) the progress of the case, the parent's progress on the case plan or out-of-home  
131.14 placement plan, whichever is applicable;

131.15 (2) the agency's reasonable, or in the case of an Indian child, active efforts for  
131.16 reunification and its provision of services;

131.17 (3) the agency's reasonable efforts to finalize the permanent plan for the child under  
131.18 section 260.012, paragraph (e), and to make a placement as required under section 260C.212,  
131.19 subdivision 2, in a home that will commit to being the legally permanent family for the  
131.20 child in the event the child cannot return home according to the timelines in this section;  
131.21 and

131.22 (4) in the case of an Indian child, active efforts to prevent the breakup of the Indian  
131.23 family and to make a placement according to the placement preferences under United States  
131.24 Code, title 25, chapter 21, section 1915.

131.25 (b) When a child is placed in a qualified residential treatment program setting as defined  
131.26 in section 260C.007, subdivision 26d, the responsible social services agency must submit  
131.27 evidence to the court as specified in section 260C.712.

131.28 ~~(b)~~ (c) The court shall ensure that notice of the hearing is sent to any relative who:

131.29 (1) responded to the agency's notice provided under section 260C.221, indicating an  
131.30 interest in participating in planning for the child or being a permanency resource for the  
131.31 child and who has kept the court apprised of the relative's address; or

132.1 (2) asked to be notified of court proceedings regarding the child as is permitted in section  
132.2 260C.152, subdivision 5.

132.3 ~~(e)(1)~~ (d)(1) If the parent or guardian has maintained contact with the child and is  
132.4 complying with the court-ordered out-of-home placement plan, and if the child would benefit  
132.5 from reunification with the parent, the court may either:

132.6 (i) return the child home, if the conditions which led to the out-of-home placement have  
132.7 been sufficiently mitigated that it is safe and in the child's best interests to return home; or

132.8 (ii) continue the matter up to a total of six additional months. If the child has not returned  
132.9 home by the end of the additional six months, the court must conduct a hearing according  
132.10 to sections 260C.503 to 260C.521.

132.11 (2) If the court determines that the parent or guardian is not complying with the  
132.12 out-of-home placement plan or is not maintaining regular contact with the child as outlined  
132.13 in the visitation plan required as part of the out-of-home placement plan under section  
132.14 260C.212, the court may order the responsible social services agency:

132.15 (i) to develop a plan for legally permanent placement of the child away from the parent;

132.16 (ii) to consider, identify, recruit, and support one or more permanency resources from  
132.17 the child's relatives and foster parent to be the legally permanent home in the event the child  
132.18 cannot be returned to the parent. Any relative or the child's foster parent may ask the court  
132.19 to order the agency to consider them for permanent placement of the child in the event the  
132.20 child cannot be returned to the parent. A relative or foster parent who wants to be considered  
132.21 under this item shall cooperate with the background study required under section 245C.08,  
132.22 if the individual has not already done so, and with the home study process required under  
132.23 chapter 245A for providing child foster care and for adoption under section 259.41. The  
132.24 home study referred to in this item shall be a single-home study in the form required by the  
132.25 commissioner of human services or similar study required by the individual's state of  
132.26 residence when the subject of the study is not a resident of Minnesota. The court may order  
132.27 the responsible social services agency to make a referral under the Interstate Compact on  
132.28 the Placement of Children when necessary to obtain a home study for an individual who  
132.29 wants to be considered for transfer of permanent legal and physical custody or adoption of  
132.30 the child; and

132.31 (iii) to file a petition to support an order for the legally permanent placement plan.

132.32 ~~(d)~~ (e) Following the review under this section:

133.1 (1) if the court has either returned the child home or continued the matter up to a total  
133.2 of six additional months, the agency shall continue to provide services to support the child's  
133.3 return home or to make reasonable efforts to achieve reunification of the child and the parent  
133.4 as ordered by the court under an approved case plan;

133.5 (2) if the court orders the agency to develop a plan for the transfer of permanent legal  
133.6 and physical custody of the child to a relative, a petition supporting the plan shall be filed  
133.7 in juvenile court within 30 days of the hearing required under this section and a trial on the  
133.8 petition held within 60 days of the filing of the pleadings; or

133.9 (3) if the court orders the agency to file a termination of parental rights, unless the county  
133.10 attorney can show cause why a termination of parental rights petition should not be filed,  
133.11 a petition for termination of parental rights shall be filed in juvenile court within 30 days  
133.12 of the hearing required under this section and a trial on the petition held within 60 days of  
133.13 the filing of the petition.

133.14 **EFFECTIVE DATE.** This section is effective September 30, 2021.

133.15 Sec. 79. Minnesota Statutes 2018, section 260C.212, subdivision 1, is amended to read:

133.16 Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall  
133.17 be prepared within 30 days after any child is placed in foster care by court order or a  
133.18 voluntary placement agreement between the responsible social services agency and the  
133.19 child's parent pursuant to section 260C.227 or chapter 260D.

133.20 (b) An out-of-home placement plan means a written document which is prepared by the  
133.21 responsible social services agency jointly with the parent or parents or guardian of the child  
133.22 and in consultation with the child's guardian ad litem, the child's tribe, if the child is an  
133.23 Indian child, the child's foster parent or representative of the foster care facility, and, where  
133.24 appropriate, the child. When a child is age 14 or older, the child may include two other  
133.25 individuals on the team preparing the child's out-of-home placement plan. The child may  
133.26 select one member of the case planning team to be designated as the child's advisor and to  
133.27 advocate with respect to the application of the reasonable and prudent parenting standards.  
133.28 The responsible social services agency may reject an individual selected by the child if the  
133.29 agency has good cause to believe that the individual would not act in the best interest of the  
133.30 child. For a child in voluntary foster care for treatment under chapter 260D, preparation of  
133.31 the out-of-home placement plan shall additionally include the child's mental health treatment  
133.32 provider. For a child 18 years of age or older, the responsible social services agency shall  
133.33 involve the child and the child's parents as appropriate. As appropriate, the plan shall be:

134.1 (1) submitted to the court for approval under section 260C.178, subdivision 7;

134.2 (2) ordered by the court, either as presented or modified after hearing, under section  
134.3 260C.178, subdivision 7, or 260C.201, subdivision 6; and

134.4 (3) signed by the parent or parents or guardian of the child, the child's guardian ad litem,  
134.5 a representative of the child's tribe, the responsible social services agency, and, if possible,  
134.6 the child.

134.7 (c) The out-of-home placement plan shall be explained to all persons involved in its  
134.8 implementation, including the child who has signed the plan, and shall set forth:

134.9 (1) a description of the foster care home or facility selected, including how the  
134.10 out-of-home placement plan is designed to achieve a safe placement for the child in the  
134.11 least restrictive, most family-like, setting available which is in close proximity to the home  
134.12 of the parent or parents or guardian of the child when the case plan goal is reunification,  
134.13 and how the placement is consistent with the best interests and special needs of the child  
134.14 according to the factors under subdivision 2, paragraph (b);

134.15 (2) the specific reasons for the placement of the child in foster care, and when  
134.16 reunification is the plan, a description of the problems or conditions in the home of the  
134.17 parent or parents which necessitated removal of the child from home and the changes the  
134.18 parent or parents must make for the child to safely return home;

134.19 (3) a description of the services offered and provided to prevent removal of the child  
134.20 from the home and to reunify the family including:

134.21 (i) the specific actions to be taken by the parent or parents of the child to eliminate or  
134.22 correct the problems or conditions identified in clause (2), and the time period during which  
134.23 the actions are to be taken; and

134.24 (ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made to  
134.25 achieve a safe and stable home for the child including social and other supportive services  
134.26 to be provided or offered to the parent or parents or guardian of the child, the child, and the  
134.27 residential facility during the period the child is in the residential facility;

134.28 (4) a description of any services or resources that were requested by the child or the  
134.29 child's parent, guardian, foster parent, or custodian since the date of the child's placement  
134.30 in the residential facility, and whether those services or resources were provided and if not,  
134.31 the basis for the denial of the services or resources;

134.32 (5) the visitation plan for the parent or parents or guardian, other relatives as defined in  
134.33 section 260C.007, subdivision 26b or 27, and siblings of the child if the siblings are not

135.1 placed together in foster care, and whether visitation is consistent with the best interest of  
135.2 the child, during the period the child is in foster care;

135.3 (6) when a child cannot return to or be in the care of either parent, documentation of  
135.4 steps to finalize adoption as the permanency plan for the child through reasonable efforts  
135.5 to place the child for adoption. At a minimum, the documentation must include consideration  
135.6 of whether adoption is in the best interests of the child, child-specific recruitment efforts  
135.7 such as relative search and the use of state, regional, and national adoption exchanges to  
135.8 facilitate orderly and timely placements in and outside of the state. A copy of this  
135.9 documentation shall be provided to the court in the review required under section 260C.317,  
135.10 subdivision 3, paragraph (b);

135.11 (7) when a child cannot return to or be in the care of either parent, documentation of  
135.12 steps to finalize the transfer of permanent legal and physical custody to a relative as the  
135.13 permanency plan for the child. This documentation must support the requirements of the  
135.14 kinship placement agreement under section 256N.22 and must include the reasonable efforts  
135.15 used to determine that it is not appropriate for the child to return home or be adopted, and  
135.16 reasons why permanent placement with a relative through a Northstar kinship assistance  
135.17 arrangement is in the child's best interest; how the child meets the eligibility requirements  
135.18 for Northstar kinship assistance payments; agency efforts to discuss adoption with the child's  
135.19 relative foster parent and reasons why the relative foster parent chose not to pursue adoption,  
135.20 if applicable; and agency efforts to discuss with the child's parent or parents the permanent  
135.21 transfer of permanent legal and physical custody or the reasons why these efforts were not  
135.22 made;

135.23 (8) efforts to ensure the child's educational stability while in foster care for a child who  
135.24 attained the minimum age for compulsory school attendance under state law and is enrolled  
135.25 full time in elementary or secondary school, or instructed in elementary or secondary  
135.26 education at home, or instructed in an independent study elementary or secondary program,  
135.27 or incapable of attending school on a full-time basis due to a medical condition that is  
135.28 documented and supported by regularly updated information in the child's case plan.  
135.29 Educational stability efforts include:

135.30 (i) efforts to ensure that the child remains in the same school in which the child was  
135.31 enrolled prior to placement or upon the child's move from one placement to another, including  
135.32 efforts to work with the local education authorities to ensure the child's educational stability  
135.33 and attendance; or

- 136.1 (ii) if it is not in the child's best interest to remain in the same school that the child was  
136.2 enrolled in prior to placement or move from one placement to another, efforts to ensure  
136.3 immediate and appropriate enrollment for the child in a new school;
- 136.4 (9) the educational records of the child including the most recent information available  
136.5 regarding:
- 136.6 (i) the names and addresses of the child's educational providers;
- 136.7 (ii) the child's grade level performance;
- 136.8 (iii) the child's school record;
- 136.9 (iv) a statement about how the child's placement in foster care takes into account  
136.10 proximity to the school in which the child is enrolled at the time of placement; and
- 136.11 (v) any other relevant educational information;
- 136.12 (10) the efforts by the responsible social services agency to ensure the oversight and  
136.13 continuity of health care services for the foster child, including:
- 136.14 (i) the plan to schedule the child's initial health screens;
- 136.15 (ii) how the child's known medical problems and identified needs from the screens,  
136.16 including any known communicable diseases, as defined in section 144.4172, subdivision  
136.17 2, shall be monitored and treated while the child is in foster care;
- 136.18 (iii) how the child's medical information shall be updated and shared, including the  
136.19 child's immunizations;
- 136.20 (iv) who is responsible to coordinate and respond to the child's health care needs,  
136.21 including the role of the parent, the agency, and the foster parent;
- 136.22 (v) who is responsible for oversight of the child's prescription medications;
- 136.23 (vi) how physicians or other appropriate medical and nonmedical professionals shall be  
136.24 consulted and involved in assessing the health and well-being of the child and determine  
136.25 the appropriate medical treatment for the child; and
- 136.26 (vii) the responsibility to ensure that the child has access to medical care through either  
136.27 medical insurance or medical assistance;
- 136.28 (11) the health records of the child including information available regarding:
- 136.29 (i) the names and addresses of the child's health care and dental care providers;
- 136.30 (ii) a record of the child's immunizations;



- 137.1 (iii) the child's known medical problems, including any known communicable diseases  
137.2 as defined in section 144.4172, subdivision 2;
- 137.3 (iv) the child's medications; and
- 137.4 (v) any other relevant health care information such as the child's eligibility for medical  
137.5 insurance or medical assistance;
- 137.6 (12) an independent living plan for a child 14 years of age or older, developed in  
137.7 consultation with the child. The child may select one member of the case planning team to  
137.8 be designated as the child's advisor and to advocate with respect to the application of the  
137.9 reasonable and prudent parenting standards in subdivision 14. The plan should include, but  
137.10 not be limited to, the following objectives:
- 137.11 (i) educational, vocational, or employment planning;
- 137.12 (ii) health care planning and medical coverage;
- 137.13 (iii) transportation including, where appropriate, assisting the child in obtaining a driver's  
137.14 license;
- 137.15 (iv) money management, including the responsibility of the responsible social services  
137.16 agency to ensure that the child annually receives, at no cost to the child, a consumer report  
137.17 as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies  
137.18 in the report;
- 137.19 (v) planning for housing;
- 137.20 (vi) social and recreational skills;
- 137.21 (vii) establishing and maintaining connections with the child's family and community;  
137.22 and
- 137.23 (viii) regular opportunities to engage in age-appropriate or developmentally appropriate  
137.24 activities typical for the child's age group, taking into consideration the capacities of the  
137.25 individual child;
- 137.26 (13) for a child in voluntary foster care for treatment under chapter 260D, diagnostic  
137.27 and assessment information, specific services relating to meeting the mental health care  
137.28 needs of the child, and treatment outcomes; ~~and~~
- 137.29 (14) for a child 14 years of age or older, a signed acknowledgment that describes the  
137.30 child's rights regarding education, health care, visitation, safety and protection from  
137.31 exploitation, and court participation; receipt of the documents identified in section 260C.452;

138.1 and receipt of an annual credit report. The acknowledgment shall state that the rights were  
138.2 explained in an age-appropriate manner to the child; and

138.3 (15) for a child placed in a qualified residential treatment program, the plan must include  
138.4 the requirements in section 260C.708.

138.5 (d) The parent or parents or guardian and the child each shall have the right to legal  
138.6 counsel in the preparation of the case plan and shall be informed of the right at the time of  
138.7 placement of the child. The child shall also have the right to a guardian ad litem. If unable  
138.8 to employ counsel from their own resources, the court shall appoint counsel upon the request  
138.9 of the parent or parents or the child or the child's legal guardian. The parent or parents may  
138.10 also receive assistance from any person or social services agency in preparation of the case  
138.11 plan.

138.12 After the plan has been agreed upon by the parties involved or approved or ordered by  
138.13 the court, the foster parents shall be fully informed of the provisions of the case plan and  
138.14 shall be provided a copy of the plan.

138.15 Upon discharge from foster care, the parent, adoptive parent, or permanent legal and  
138.16 physical custodian, as appropriate, and the child, if appropriate, must be provided with a  
138.17 current copy of the child's health and education record.

138.18 **EFFECTIVE DATE.** This section is effective September 30, 2021.

138.19 Sec. 80. Minnesota Statutes 2018, section 260C.212, is amended by adding a subdivision  
138.20 to read:

138.21 **Subd. 1a. Out-of-home placement plan update.** (a) Within 30 days of placing the child  
138.22 in foster care, the agency must file the initial out-of-home placement plan with the court.  
138.23 After filing the initial out-of-home placement plan, the agency shall update and file the  
138.24 out-of-home placement plan with the court as follows:

138.25 (1) when the agency moves a child to a different foster care setting, the agency shall  
138.26 inform the court within 30 days of the placement change or court-ordered trial home visit.  
138.27 The agency must file the updated out-of-home placement plan with the court at the next  
138.28 required review hearing;

138.29 (2) when the agency places a child in a qualified residential treatment program as defined  
138.30 in section 260C.007, subdivision 26d, or moves a child from one qualified residential  
138.31 treatment program to a different qualified residential treatment program, the agency must  
138.32 update the out-of-home placement plan within 60 days. To meet the requirements of  
138.33 260C.708, the agency must file the out-of-home placement plan with the court as part of

139.1 the 60-day hearing and must update the plan after the court hearing to document the court's  
139.2 approval or disapproval of the child's placement in a qualified residential treatment program;

139.3 (3) when the agency places a child with the child's parent in a licensed residential  
139.4 family-based substance use disorder treatment program under section 260C.190, the agency  
139.5 must identify the treatment program in the child's out-of-home placement plan prior to the  
139.6 child's placement. The agency must file the out-of-home placement plan with the court at  
139.7 the next required review hearing; and

139.8 (4) under sections 260C.227 and 260C.521, the agency must update the out-of-home  
139.9 placement plan and file the plan with the court.

139.10 (b) When none of the items in paragraph (a) apply, the agency must update the  
139.11 out-of-home placement plan no later than 180 days after the child's initial placement and  
139.12 every six months thereafter, consistent with section 260C.203, paragraph (a).

139.13 **EFFECTIVE DATE.** This section is effective September 30, 2021.

139.14 Sec. 81. Minnesota Statutes 2019 Supplement, section 260C.212, subdivision 2, is amended  
139.15 to read:

139.16 Subd. 2. **Placement decisions based on best interests of the child.** (a) The policy of  
139.17 the state of Minnesota is to ensure that the child's best interests are met by requiring an  
139.18 individualized determination of the needs of the child and of how the selected placement  
139.19 will serve the needs of the child being placed. The authorized child-placing agency shall  
139.20 place a child, released by court order or by voluntary release by the parent or parents, in a  
139.21 family foster home selected by considering placement with relatives and important friends  
139.22 in the following order:

139.23 (1) with an individual who is related to the child by blood, marriage, or adoption; or

139.24 (2) with an individual who is an important friend with whom the child has resided or  
139.25 had significant contact.

139.26 For an Indian child, the agency shall follow the order of placement preferences in the Indian  
139.27 Child Welfare Act of 1978, United States Code, title 25, section 1915.

139.28 (b) Among the factors the agency shall consider in determining the needs of the child  
139.29 are the following:

139.30 (1) the child's current functioning and behaviors;

139.31 (2) the medical needs of the child;

- 140.1 (3) the educational needs of the child;
- 140.2 (4) the developmental needs of the child;
- 140.3 (5) the child's history and past experience;
- 140.4 (6) the child's religious and cultural needs;
- 140.5 (7) the child's connection with a community, school, and faith community;
- 140.6 (8) the child's interests and talents;
- 140.7 (9) the child's relationship to current caretakers, parents, siblings, and relatives;
- 140.8 (10) the reasonable preference of the child, if the court, or the child-placing agency in
- 140.9 the case of a voluntary placement, deems the child to be of sufficient age to express
- 140.10 preferences; and
- 140.11 (11) for an Indian child, the best interests of an Indian child as defined in section 260.755,
- 140.12 subdivision 2a.
- 140.13 (c) Placement of a child cannot be delayed or denied based on race, color, or national
- 140.14 origin of the foster parent or the child.
- 140.15 (d) Siblings should be placed together for foster care and adoption at the earliest possible
- 140.16 time unless it is documented that a joint placement would be contrary to the safety or
- 140.17 well-being of any of the siblings or unless it is not possible after reasonable efforts by the
- 140.18 responsible social services agency. In cases where siblings cannot be placed together, the
- 140.19 agency is required to provide frequent visitation or other ongoing interaction between
- 140.20 siblings unless the agency documents that the interaction would be contrary to the safety
- 140.21 or well-being of any of the siblings.
- 140.22 (e) Except for emergency placement as provided for in section 245A.035, the following
- 140.23 requirements must be satisfied before the approval of a foster or adoptive placement in a
- 140.24 related or unrelated home: (1) a completed background study under section 245C.08; and
- 140.25 (2) a completed review of the written home study required under section 260C.215,
- 140.26 subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective foster or
- 140.27 adoptive parent to ensure the placement will meet the needs of the individual child.
- 140.28 (f) The agency must determine whether colocation with a parent who is receiving services
- 140.29 in a licensed residential family-based substance use disorder treatment program is in the
- 140.30 child's best interests according to paragraph (b) and include that determination in the child's
- 140.31 case plan under subdivision 1. The agency may consider additional factors not identified

141.1 in paragraph (b). The agency's determination must be documented in the child's case plan  
141.2 before the child is colocated with a parent.

141.3 (g) The agency must establish a juvenile treatment screening team under section 260C.157  
141.4 to determine whether it is necessary and appropriate to recommend placing a child in a  
141.5 qualified residential treatment program, as defined in section 260C.007, subdivision 26d.

141.6 **EFFECTIVE DATE.** This section is effective September 30, 2021.

141.7 Sec. 82. Minnesota Statutes 2018, section 260C.212, subdivision 4a, is amended to read:

141.8 Subd. 4a. **Monthly caseworker visits.** (a) Every child in foster care or on a trial home  
141.9 visit shall be visited by the child's caseworker or another person who has responsibility for  
141.10 visitation of the child on a monthly basis, with the majority of visits occurring in the child's  
141.11 residence. The responsible social services agency may designate another person responsible  
141.12 for monthly case visits. For the purposes of this section, the following definitions apply:

141.13 (1) "visit" is defined as a face-to-face contact between a child and the child's caseworker;

141.14 (2) "visited on a monthly basis" is defined as at least one visit per calendar month;

141.15 (3) "the child's caseworker" is defined as the person who has responsibility for managing  
141.16 the child's foster care placement case as assigned by the responsible social ~~service~~ services  
141.17 agency; ~~and~~

141.18 (4) "another person" means the professional staff whom the responsible social services  
141.19 agency has assigned in the out-of-home placement plan or case plan. Another person must  
141.20 be professionally trained to assess the child's safety, permanency, well-being, and case  
141.21 progress. The agency may not designate the guardian ad litem, the child foster care provider,  
141.22 residential facility staff, or a qualified individual as defined in section 260C.007, subdivision  
141.23 26b, as another person; and

141.24 ~~(4)~~ (5) "the child's residence" is defined as the home where the child is residing, and can  
141.25 include the foster home, child care institution, or the home from which the child was removed  
141.26 if the child is on a trial home visit.

141.27 (b) Caseworker visits shall be of sufficient substance and duration to address issues  
141.28 pertinent to case planning and service delivery to ensure the safety, permanency, and  
141.29 well-being of the child, including whether the child is enrolled and attending school as  
141.30 required by law.

141.31 **EFFECTIVE DATE.** This section is effective September 30, 2021.

142.1 Sec. 83. Minnesota Statutes 2018, section 260C.227, is amended to read:

142.2 **260C.227 VOLUNTARY FOSTER CARE; REQUIRED COURT REVIEW.**

142.3 (a) When the responsible social services agency and the child's parent or guardian agree  
142.4 that the child's safety, health, and best interests require that the child be in foster care, the  
142.5 agency and the parent or guardian may enter into a voluntary agreement for the placement  
142.6 of the child in foster care. The voluntary agreement must be in writing and in a form approved  
142.7 by the commissioner.

142.8 (b) When the child has been placed in foster care pursuant to a voluntary foster care  
142.9 agreement between the agency and the parent, under this section and the child is not returned  
142.10 home within 90 days after initial placement in foster care, the agency responsible for the  
142.11 child's placement in foster care shall:

142.12 (1) return the child to the home of the parent or parents; or

142.13 (2) file a petition according to section 260C.141, subdivision 1 or 2, which may:

142.14 (i) ask the court to review the child's placement in foster care and approve it as continued  
142.15 voluntary foster care for up to an additional 90 days;

142.16 (ii) ask the court to order continued foster care according to sections 260C.178 and  
142.17 260C.201; or

142.18 (iii) ask the court to terminate parental rights under section 260C.301.

142.19 (3) The out-of-home placement plan must be updated and filed along with the petition.

142.20 (c) If the court approves continuing the child in foster care for up to 90 more days on a  
142.21 voluntary basis, at the end of the court-approved 90-day period, the child must be returned  
142.22 to the parent's home. If the child is not returned home, the responsible social services agency  
142.23 must proceed on the petition filed alleging the child in need of protection or services or the  
142.24 petition for termination of parental rights or other permanent placement of the child away  
142.25 from the parent. The court must find a statutory basis to order the placement of the child  
142.26 under section 260C.178; 260C.201; 260C.503 to 260C.521; or 260C.317.

142.27 (d) If the child is placed in a qualified residential treatment program, the placement must  
142.28 follow the requirements of sections 260C.70 to 260C.714.

142.29 **EFFECTIVE DATE.** This section is effective September 30, 2021.

143.1 Sec. 84. Minnesota Statutes 2018, section 260C.4412, is amended to read:

143.2 **260C.4412 PAYMENT FOR RESIDENTIAL PLACEMENTS.**

143.3 (a) When a child is placed in a foster care group residential setting under Minnesota  
143.4 Rules, parts 2960.0020 to 2960.0710, a foster residence licensed under chapter 245A that  
143.5 meets the standards of Minnesota Rules, parts 2960.3200 to 2960.3230, or a children's  
143.6 residential facility licensed or approved by a tribe, foster care maintenance payments must  
143.7 be made on behalf of the child to cover the cost of providing food, clothing, shelter, daily  
143.8 supervision, school supplies, child's personal incidentals and supports, reasonable travel for  
143.9 visitation, or other transportation needs associated with the items listed. Daily supervision  
143.10 in the group residential setting includes routine day-to-day direction and arrangements to  
143.11 ensure the well-being and safety of the child. It may also include reasonable costs of  
143.12 administration and operation of the facility.

143.13 (b) The commissioner of human services shall specify the title IV-E administrative  
143.14 procedures under section 256.82 for each of the following residential program settings:

143.15 (1) residential programs licensed under chapter 245A or licensed by a tribe, including:

143.16 (i) qualified residential treatment programs as defined in section 260C.007, subdivision  
143.17 26d;

143.18 (ii) program settings specializing in providing prenatal, postpartum, or parenting supports  
143.19 for youth; and

143.20 (iii) program settings providing high-quality residential care and supportive services to  
143.21 children and youth who are, or are at risk of becoming, sex trafficking victims;

143.22 (2) licensed residential family-based substance use disorder treatment programs as  
143.23 defined in section 260C.007, subdivision 22a; and

143.24 (3) supervised settings in which a foster child age 18 or older may live independently,  
143.25 consistent with section 260C.451.

143.26 **EFFECTIVE DATE.** This section is effective September 30, 2021.

143.27 Sec. 85. Minnesota Statutes 2018, section 260C.503, is amended by adding a subdivision  
143.28 to read:

143.29 **Subd. 4. Qualified residential treatment program; permanency hearing**  
143.30 **requirements.** When a child is placed in a qualified residential treatment program as defined  
143.31 in section 260C.007, subdivision 26d, the responsible social services agency must submit  
143.32 evidence to the court as specified in section 260C.712.

144.1 **EFFECTIVE DATE.** This section is effective September 30, 2021.

144.2 Sec. 86. **[260C.70] CITATION.**

144.3 Sections 260C.70 to 260C.714 may be cited as "Placements in Qualified Residential  
144.4 Treatment Programs." Sections 260C.70 to 260C.714 implement the requirements of the  
144.5 Family First Prevention Services Act of 2018, Public Law 115-123, and apply to children  
144.6 for whom the juvenile treatment screening team under section 260C.157, subdivision 3,  
144.7 recommends placement in a qualified residential treatment program.

144.8 **EFFECTIVE DATE.** This section is effective September 30, 2021.

144.9 Sec. 87. **[260C.702] REQUIREMENTS FOR PLACEMENTS IN QUALIFIED**  
144.10 **RESIDENTIAL TREATMENT PROGRAMS.**

144.11 For the responsible social services agency to place a child in a qualified residential  
144.12 treatment program, there must be:

144.13 (1) an assessment by a qualified individual of whether it is necessary and appropriate  
144.14 to place the child at a qualified residential treatment program under section 260C.704;

144.15 (2) a family and permanency team under section 260C.706;

144.16 (3) an out-of-home placement plan under section 260C.708;

144.17 (4) court approval of a child's placement in a qualified residential treatment program  
144.18 under section 260C.71;

144.19 (5) ongoing reviews and permanency hearings under section 260C.712; and

144.20 (6) a court review of any extended placement of the child in a qualified residential  
144.21 treatment program under section 260C.714.

144.22 **EFFECTIVE DATE.** This section is effective September 30, 2021.

144.23 Sec. 88. **[260C.704] REQUIREMENTS FOR THE QUALIFIED INDIVIDUAL'S**  
144.24 **ASSESSMENT OF THE CHILD FOR PLACEMENT IN A QUALIFIED**  
144.25 **RESIDENTIAL TREATMENT PROGRAM.**

144.26 (a) A qualified individual must complete an assessment of the child prior to or within  
144.27 30 days of the child's placement in a qualified residential treatment program in a format  
144.28 approved by the commissioner of human services, and must:

144.29 (1) assess the child's needs and strengths, using an age-appropriate, evidence-based,  
144.30 validated, functional assessment approved by the commissioner of human services;



145.1 (2) determine whether the child's needs can be met by the child's family members or  
145.2 through placement in a family foster home; or, if not, determine which residential setting  
145.3 would provide the child with the most effective and appropriate level of care to the child  
145.4 in the least restrictive environment;

145.5 (3) develop a list of short- and long-term mental and behavioral health goals for the  
145.6 child; and

145.7 (4) work with the child's family and permanency team using culturally competent  
145.8 practices.

145.9 (b) The child and the child's parents, when appropriate, may request that a specific  
145.10 culturally competent qualified individual complete the child's assessment. The agency shall  
145.11 make efforts to refer the child to the identified qualified individual to complete the  
145.12 assessment. The assessment must not be delayed for a specific qualified individual to  
145.13 complete the assessment.

145.14 (c) The qualified individual must provide the assessment, when complete, to the  
145.15 responsible social services agency, the child's parents or legal guardians, the guardian ad  
145.16 litem, and the court as required in section 260C.71. If court rules and chapter 13 permit  
145.17 disclosure of the results of the child's assessment, the agency may share the results of the  
145.18 child's assessment with the child's foster care provider, other members of the child's family,  
145.19 and the family and permanency team. The agency must not share the child's private medical  
145.20 data with the family and permanency team unless: (1) chapter 13 permits the agency to  
145.21 disclose the child's private medical data to the family and permanency team; or (2) the child's  
145.22 parent has authorized the agency to disclose the child's private medical data to the family  
145.23 and permanency team.

145.24 (d) For an Indian child, the assessment of the child must follow the order of placement  
145.25 preferences in the Indian Child Welfare Act of 1978, United States Code, title 25, section  
145.26 1915.

145.27 (e) In the assessment determination, the qualified individual must specify in writing:

145.28 (1) the reasons why the child's needs cannot be met by the child's family or in a family  
145.29 foster home. A shortage of family foster homes is not an acceptable reason for determining  
145.30 that a family foster home cannot meet a child's needs;

145.31 (2) why the recommended placement in a qualified residential treatment program will  
145.32 provide the child with the most effective and appropriate level of care to meet the child's  
145.33 needs in the least restrictive environment possible and how placing the child at the treatment

146.1 program is consistent with the short-term and long-term goals of the child's permanency  
146.2 plan; and

146.3 (3) if the qualified individual's placement recommendation is not the placement setting  
146.4 that the parent, family and permanency team, child, or tribe prefer, the qualified individual  
146.5 must identify the reasons why the qualified individual does not recommend the parent's,  
146.6 family and permanency team's, child's, or tribe's placement preferences. The out-of-home  
146.7 placement plan under section 260C.708 must also include reasons why the qualified  
146.8 individual did not recommend the preferences of the parents, family and permanency team,  
146.9 child, or tribe.

146.10 (f) If the qualified individual determines that the child's family or a family foster home  
146.11 or other less restrictive placement may meet the child's needs, the agency must move the  
146.12 child out of the qualified residential treatment program and transition the child to a less  
146.13 restrictive setting within 30 days of the determination.

146.14 **EFFECTIVE DATE.** This section is effective September 30, 2021.

146.15 Sec. 89. **[260C.706] FAMILY AND PERMANENCY TEAM REQUIREMENTS.**

146.16 (a) When the responsible social services agency's juvenile treatment screening team, as  
146.17 defined in section 260C.157, recommends placing the child in a qualified residential treatment  
146.18 program, the agency must assemble a family and permanency team within ten days.

146.19 (1) The team must include all appropriate biological family members, the child's parents,  
146.20 legal guardians or custodians, foster care providers, and relatives as defined in section  
146.21 260C.007, subdivisions 26c and 27, and professionals, as appropriate, who are a resource  
146.22 to the child's family, such as teachers, medical or mental health providers, or clergy.

146.23 (2) When a child is placed in foster care prior to the qualified residential treatment  
146.24 program, the agency shall include relatives responding to the relative search notice as  
146.25 required under section 260C.221 on this team, unless the juvenile court finds that contacting  
146.26 a specific relative would endanger the parent, guardian, child, sibling, or any other family  
146.27 member.

146.28 (3) When a qualified residential treatment program is the child's initial placement setting,  
146.29 the responsible social services agency must engage with the child and the child's parents to  
146.30 determine the appropriate family and permanency team members.

146.31 (4) When the permanency goal is to reunify the child with the child's parent or legal  
146.32 guardian, the purpose of the relative search and focus of the family and permanency team  
146.33 is to preserve family relationships and identify and develop supports for the child and parents.

147.1 (5) The responsible agency must make a good faith effort to identify and assemble all  
147.2 appropriate individuals to be part of the child's family and permanency team and request  
147.3 input from the parents regarding relative search efforts consistent with section 260C.221.  
147.4 The out-of-home placement plan in section 260C.708 must include all contact information  
147.5 for the team members, as well as contact information for family members or relatives who  
147.6 are not a part of the family and permanency team.

147.7 (6) If the child is age 14 or older, the team must include members of the family and  
147.8 permanency team that the child selects in accordance with section 260C.212, subdivision  
147.9 1, paragraph (b).

147.10 (7) Consistent with section 260C.221, a responsible social services agency may disclose  
147.11 relevant and appropriate private data about the child to relatives in order for the relatives  
147.12 to participate in caring and planning for the child's placement.

147.13 (8) If the child is an Indian child under section 260.751, the responsible social services  
147.14 agency must make active efforts to include the child's tribal representative on the family  
147.15 and permanency team.

147.16 (b) The family and permanency team shall meet regarding the assessment required under  
147.17 section 260C.704 to determine whether it is necessary and appropriate to place the child in  
147.18 a qualified residential treatment program and to participate in case planning under section  
147.19 260C.708.

147.20 (c) When reunification of the child with the child's parent or legal guardian is the  
147.21 permanency plan, the family and permanency team shall support the parent-child relationship  
147.22 by recognizing the parent's legal authority, consulting with the parent regarding ongoing  
147.23 planning for the child, and assisting the parent with visiting and contacting the child.

147.24 (d) When the agency's permanency plan is to transfer the child's permanent legal and  
147.25 physical custody to a relative or for the child's adoption, the team shall:

147.26 (1) coordinate with the proposed guardian to provide the child with educational services,  
147.27 medical care, and dental care;

147.28 (2) coordinate with the proposed guardian, the agency, and the foster care facility to  
147.29 meet the child's treatment needs after the child is placed in a permanent placement with the  
147.30 proposed guardian;

147.31 (3) plan to meet the child's need for safety, stability, and connection with the child's  
147.32 family and community after the child is placed in a permanent placement with the proposed  
147.33 guardian; and

148.1 (4) in the case of an Indian child, communicate with the child's tribe to identify necessary  
148.2 and appropriate services for the child, transition planning for the child, the child's treatment  
148.3 needs, and how to maintain the child's connections to the child's community, family, and  
148.4 tribe.

148.5 (e) The agency shall invite the family and permanency team to participate in case planning  
148.6 and the agency shall give the team notice of court reviews under sections 260C.152 and  
148.7 260C.221 until: (1) the child is reunited with the child's parents; or (2) the child's foster care  
148.8 placement ends and the child is in a permanent placement.

148.9 **EFFECTIVE DATE.** This section is effective September 30, 2021.

148.10 Sec. 90. **[260C.708] OUT-OF-HOME PLACEMENT PLAN FOR QUALIFIED**  
148.11 **RESIDENTIAL TREATMENT PROGRAM PLACEMENTS.**

148.12 (a) When the responsible social services agency places a child in a qualified residential  
148.13 treatment program as defined in section 260C.007, subdivision 26d, the out-of-home  
148.14 placement plan must include:

148.15 (1) the case plan requirements in section 260.212, subdivision 1;

148.16 (2) the reasonable and good faith efforts of the responsible social services agency to  
148.17 identify and include all of the individuals required to be on the child's family and permanency  
148.18 team under section 260C.007;

148.19 (3) all contact information for members of the child's family and permanency team and  
148.20 for other relatives who are not part of the family and permanency team;

148.21 (4) evidence that the agency scheduled meetings of the family and permanency team,  
148.22 including meetings relating to the assessment required under section 260C.704, at a time  
148.23 and place convenient for the family;

148.24 (5) when reunification of the child with the child's parent or legal guardian is the agency's  
148.25 goal, evidence demonstrating that the parent or legal guardian provided input about the  
148.26 members of the family and permanency team under section 260C.706;

148.27 (6) when the agency's permanency goal is to reunify the child with the child's parent or  
148.28 legal guardian, the out-of-home placement plan must identify services and supports that  
148.29 maintain the parent-child relationship and the parent's legal authority, decision-making, and  
148.30 responsibility for ongoing planning for the child. In addition, the agency must assist the  
148.31 parent with visiting and contacting the child;

149.1 (7) when the agency's permanency goal is to transfer permanent legal and physical  
149.2 custody of the child to a proposed guardian or to finalize the child's adoption, the case plan  
149.3 must document the agency's steps to transfer permanent legal and physical custody of the  
149.4 child or finalize adoption, as required in section 260C.212, subdivision 1, paragraph (c),  
149.5 clauses (6) and (7); and

149.6 (8) the qualified individual's recommendation regarding the child's placement in a  
149.7 qualified residential treatment program and the court approval or disapproval of the placement  
149.8 as required in section 260C.71.

149.9 (b) If the placement preferences of the family and permanency team, child, and tribe, if  
149.10 applicable, are not consistent with the placement setting that the qualified individual  
149.11 recommends, the case plan must include the reasons why the qualified individual did not  
149.12 recommend following the preferences of the family and permanency team, child, and the  
149.13 tribe.

149.14 (c) The agency must file the out-of-home placement plan with the court as part of the  
149.15 60-day hearing under section 260C.71.

149.16 **EFFECTIVE DATE.** This section is effective September 30, 2021.

149.17 **Sec. 91. [260C.71] COURT APPROVAL REQUIREMENTS.**

149.18 (a) Within 60 days from the beginning of each placement in a qualified residential  
149.19 treatment program, the court must:

149.20 (1) consider the qualified individual's assessment of whether it is necessary and  
149.21 appropriate to place the child in a qualified residential treatment program under section  
149.22 260C.704;

149.23 (2) determine whether a family foster home can meet the child's needs, whether it is  
149.24 necessary and appropriate to place a child in a qualified residential treatment program that  
149.25 is the least restrictive environment possible, and whether the child's placement is consistent  
149.26 with the child's short and long term goals as specified in the permanency plan; and

149.27 (3) approve or disapprove of the child's placement.

149.28 (b) In the out-of-home placement plan, the agency must document the court's approval  
149.29 or disapproval of the placement, as specified in section 260C.708.

149.30 **EFFECTIVE DATE.** This section is effective September 30, 2021.

150.1 Sec. 92. [260C.712] ONGOING REVIEWS AND PERMANENCY HEARING  
150.2 REQUIREMENTS.

150.3 As long as a child remains placed in a qualified residential treatment program, the  
150.4 responsible social services agency shall submit evidence at each administrative review under  
150.5 section 260C.203; each court review under sections 260C.202, 260C.203, and 260C.204;  
150.6 and each permanency hearing under section 260C.515, 260C.519, or 260C.521, that:

150.7 (1) demonstrates that an ongoing assessment of the strengths and needs of the child  
150.8 continues to support the determination that the child's needs cannot be met through placement  
150.9 in a family foster home;

150.10 (2) demonstrates that the placement of the child in a qualified residential treatment  
150.11 program provides the most effective and appropriate level of care for the child in the least  
150.12 restrictive environment;

150.13 (3) demonstrates how the placement is consistent with the short-term and long-term  
150.14 goals for the child, as specified in the child's permanency plan;

150.15 (4) documents how the child's specific treatment or service needs will be met in the  
150.16 placement;

150.17 (5) documents the length of time that the agency expects the child to need treatment or  
150.18 services; and

150.19 (6) documents the responsible social services agency's efforts to prepare the child to  
150.20 return home or to be placed with a fit and willing relative, legal guardian, adoptive parent,  
150.21 or foster family.

150.22 **EFFECTIVE DATE.** This section is effective September 30, 2021.

150.23 Sec. 93. [260C.714] REVIEW OF EXTENDED QUALIFIED RESIDENTIAL  
150.24 TREATMENT PROGRAM PLACEMENTS.

150.25 (a) When a responsible social services agency places a child in a qualified residential  
150.26 treatment program for more than 12 consecutive months or 18 nonconsecutive months or,  
150.27 in the case of a child who is under 13 years of age, for more than six consecutive or  
150.28 nonconsecutive months, the agency must submit: (1) the signed approval by the county  
150.29 social services director of the responsible social services agency; and (2) the evidence  
150.30 supporting the child's placement at the most recent court review or permanency hearing  
150.31 under section 260C.712, paragraph (b).

151.1 (b) The commissioner shall specify the procedures and requirements for the agency's  
151.2 review and approval of a child's extended qualified residential treatment program placement.  
151.3 The commissioner may consult with counties, tribes, child-placing agencies, mental health  
151.4 providers, licensed facilities, the child, the child's parents, and the family and permanency  
151.5 team members to develop case plan requirements and engage in periodic reviews of the  
151.6 case plan.

151.7 **EFFECTIVE DATE.** This section is effective September 30, 2021.

151.8 Sec. 94. Minnesota Statutes 2018, section 518.005, subdivision 5, is amended to read:

151.9 Subd. 5. **Prohibited disclosure.** In all proceedings under this chapter and chapter 518A  
151.10 in which public assistance is assigned under section 256.741 or the public authority provides  
151.11 services to a party or parties to the proceedings, ~~notwithstanding statutory or other~~  
151.12 ~~authorization for the public authority to~~ shall not release private data on the location of a  
151.13 party to the action, ~~information on the location of one party may not be released by the~~  
151.14 ~~public authority to the other party~~ or the joint child if:

151.15 (1) the public authority has knowledge that one party is currently subject to a protective  
151.16 order with respect to the other party ~~has been entered~~ or the joint child, and the protected  
151.17 party or guardian of the joint child has not authorized disclosure; or

151.18 (2) the public authority has reason to believe that the release of the information may  
151.19 result in physical or emotional harm to ~~the other~~ a party or the joint child.

151.20 Sec. 95. Minnesota Statutes 2018, section 518A.53, subdivision 11, is amended to read:

151.21 Subd. 11. **Lump-sum payments.** Before transmittal to the obligor of a lump-sum payment  
151.22 of \$500 or more including, but not limited to, severance pay, accumulated sick pay, vacation  
151.23 pay, bonuses, commissions, or other pay or benefits, a payor of funds:

151.24 (1) who has been served with an order for or notice of income withholding under this  
151.25 section shall:

151.26 (i) notify the public authority of the lump-sum payment that is to be paid to the obligor;

151.27 (ii) hold the lump-sum payment for 30 days after the date on which the lump-sum payment  
151.28 would otherwise have been paid to the obligor, notwithstanding sections 176.221, 176.225,  
151.29 176.521, 181.08, 181.101, 181.11, 181.13, and 181.145; and

152.1 (iii) upon order of the court, and after a showing of past willful nonpayment of support,  
152.2 pay any specified amount of the lump-sum payment to the public authority for future support;  
152.3 or

152.4 (2) shall pay the lessor of the amount of the lump-sum payment or the total amount of  
152.5 the judgment and arrearages upon service by United States mail of a sworn affidavit from  
152.6 the public authority or a court order that includes the following information:

152.7 (i) that a judgment entered pursuant to section 548.091, subdivision 1a, exists against  
152.8 the obligor, or that other support arrearages exist;

152.9 (ii) the current balance of the judgment or arrearage; and

152.10 (iii) that a portion of the judgment or arrearage remains unpaid.

152.11 ~~The Consumer Credit Protection Act, title 15 of the United States Code, section 1673(b),~~  
152.12 ~~does not apply to lump-sum payments.~~

152.13 Sec. 96. Minnesota Statutes 2018, section 518A.68, is amended to read:

152.14 **518A.68 RECREATIONAL LICENSE SUSPENSION.**

152.15 (a) Upon motion of an obligee or the public authority, ~~which has been properly served~~  
152.16 ~~on the obligor by first class mail at the last known address or in person,~~ and if at a hearing,  
152.17 the court finds that (1) the obligor is in arrears in court-ordered child support or maintenance  
152.18 payments, or both, in an amount equal to or greater than six times the obligor's total monthly  
152.19 support and maintenance payments and is not in compliance with a written payment  
152.20 agreement pursuant to section 518A.69, or (2) has failed, after receiving notice, to comply  
152.21 with a subpoena relating to a paternity or child support proceeding, the court may direct the  
152.22 commissioner of natural resources to suspend or bar receipt of the obligor's recreational  
152.23 license or licenses. Prior to utilizing this section, the court must find that other substantial  
152.24 enforcement mechanisms have been attempted but have not resulted in compliance.

152.25 (b) For purposes of this section, a recreational license includes all licenses, permits, and  
152.26 stamps issued centrally by the commissioner of natural resources under sections 97B.301,  
152.27 97B.401, 97B.501, 97B.515, 97B.601, 97B.715, 97B.721, 97B.801, 97C.301, and 97C.305.

152.28 (c) ~~An obligor whose recreational license or licenses have been suspended or barred~~  
152.29 ~~may provide proof to the court that the obligor is in compliance with all written payment~~  
152.30 ~~agreements pursuant to section 518A.69. A motion to reinstate a recreational license by the~~  
152.31 obligor, obligee, or public authority may be granted if the court finds:



153.1 (1) the reason for the suspension was accrual of arrearage and the obligor is in compliance  
153.2 with all written payment agreements pursuant to section 518A.69 or has paid the arrearage in  
153.3 full;

153.4 (2) the reason for the suspension was failure to comply with a subpoena and the obligor  
153.5 has complied with the subpoena; or

153.6 (3) the original motion to suspend was brought by the public authority and the public  
153.7 authority attests that the IV-D case is eligible for closure.

153.8 Within 15 days of ~~receipt of that proof~~ issuance of an order to reinstate the recreational  
153.9 license, the court shall notify the commissioner of natural resources that the obligor's  
153.10 recreational license or licenses should no longer be suspended nor should receipt be barred.

153.11 Sec. 97. Minnesota Statutes 2018, section 518A.685, is amended to read:

153.12 **518A.685 CONSUMER REPORTING AGENCY; REPORTING ARREARS.**

153.13 (a) If a public authority determines that an obligor has not paid the current monthly  
153.14 support obligation plus any required arrearage payment for three months, the public authority  
153.15 must report this information to a consumer reporting agency.

153.16 (b) Before reporting that an obligor is in arrears for court-ordered child support, the  
153.17 public authority must:

153.18 (1) provide written notice to the obligor that the public authority intends to report the  
153.19 arrears to a consumer reporting agency; and

153.20 (2) mail the written notice to the obligor's last known mailing address at least 30 days  
153.21 before the public authority reports the arrears to a consumer reporting agency.

153.22 (c) The obligor may, within 21 days of receipt of the notice, do the following to prevent  
153.23 the public authority from reporting the arrears to a consumer reporting agency:

153.24 (1) pay the arrears in full; or

153.25 (2) request an administrative review. An administrative review is limited to issues of  
153.26 mistaken identity, a pending legal action involving the arrears, or an incorrect arrears balance.

153.27 ~~(d) If the public authority has reported that an obligor is in arrears for court-ordered~~  
153.28 ~~child support and subsequently determines that the obligor has paid the court-ordered child~~  
153.29 ~~support arrears in full, or is paying the current monthly support obligation plus any required~~  
153.30 ~~arrears payment, the public authority must report to the consumer reporting agency that~~  
153.31 ~~the obligor is currently paying child support as ordered by the court.~~

154.1 ~~(e)~~ (d) A public authority that reports arrearage information under this section must  
154.2 make monthly reports to a consumer reporting agency. The monthly report must be consistent  
154.3 with credit reporting industry standards for child support.

154.4 ~~(f)~~ (e) For purposes of this section, "consumer reporting agency" has the meaning given  
154.5 in section 13C.001, subdivision 4, and United States Code, title 15, section 1681a(f).

154.6 Sec. 98. **[518A.80] MOTION TO TRANSFER TO TRIBAL COURT.**

154.7 Subdivision 1. Definitions. (a) For purposes of this section, the terms defined in this  
154.8 subdivision have the meanings given them.

154.9 (b) "Case participant" means a party to the case that is a natural person.

154.10 (c) "District court" means a district court of the state of Minnesota.

154.11 (d) "Party" means a person or entity named or admitted as a party or seeking to be  
154.12 admitted as a party in the district court action, including the county IV-D agency, whether  
154.13 or not named in the caption.

154.14 (e) "Tribal court" means a tribal court of a federally recognized Indian tribe located in  
154.15 Minnesota that is receiving funding from the federal government to operate a child support  
154.16 program under United States Code, title 42, chapter 7, subchapter IV, part D, sections 654  
154.17 to 669b.

154.18 (f) "Tribal IV-D agency" has the meaning given to "tribal IV-D agency" in Code of  
154.19 Federal Regulations, title 45, part 309.05.

154.20 (g) "Title IV-D child support case" has the meaning given to "IV-D case" in section  
154.21 518A.26, subdivision 10.

154.22 Subd. 2. Actions eligible for transfer. For purposes of this section, a postjudgment  
154.23 child support, custody, or parenting time action is eligible for transfer to tribal court. A child  
154.24 protection action or a dissolution action involving a child is not eligible for transfer to tribal  
154.25 court pursuant to this section.

154.26 Subd. 3. Motion to transfer. (a) A party's or tribal IV-D agency's motion to transfer to  
154.27 tribal court shall state and allege:

154.28 (1) the address of each case participant;

154.29 (2) the tribal affiliation of each case participant, if any;

154.30 (3) the name, tribal affiliation, if any, and date of birth of each living minor or dependent  
154.31 child of a case participant who is subject to the action; and

155.1 (4) the legal and factual basis for the court to make a finding that there is concurrent  
155.2 jurisdiction in the case.

155.3 (b) A party or tribal IV-D agency bringing a motion to transfer to tribal court must file  
155.4 with the court and serve the required documents on each party and the tribal IV-D agency,  
155.5 regardless of whether the tribal IV-D agency is a party.

155.6 (c) A party's or tribal IV-D agency's motion to transfer must be accompanied by an  
155.7 affidavit setting forth facts in support of its motion.

155.8 (d) When the tribal IV-D agency has not filed a motion to transfer to tribal court, an  
155.9 affidavit of the tribal IV-D agency stating whether the tribal IV-D agency provides services  
155.10 to a party must be filed and served on each party within 15 days from the date of service of  
155.11 the motion.

155.12 Subd. 4. **Order to transfer to tribal court.** (a) Unless a hearing is held under subdivision  
155.13 6, upon motion of a party or a tribal IV-D agency, a district court must transfer a  
155.14 postjudgment child support, custody, or parenting time action to a tribal court when the  
155.15 district court finds that:

155.16 (1) the district court and tribal court have concurrent jurisdiction;

155.17 (2) a case participant is receiving services from the tribal IV-D agency; and

155.18 (3) no party or tribal IV-D agency files and serves a timely objection to the transfer.

155.19 (b) When the requirements of this subdivision are satisfied, the district court is not  
155.20 required to hold a hearing. The district court's order transferring the action to tribal court  
155.21 must contain written findings fulfilling each requirement of this subdivision.

155.22 Subd. 5. **Objection to motion to transfer.** (a) To object to a motion to transfer to a  
155.23 tribal court, a party or tribal IV-D agency must file with the court and serve on each party  
155.24 and the tribal IV-D agency a responsive motion objecting to the motion to transfer within  
155.25 30 days of the date of service of the motion to transfer.

155.26 (b) If a party or tribal IV-D agency files with the court and properly serves a timely  
155.27 objection to the motion to transfer to a tribal court, the district court must conduct a hearing.

155.28 Subd. 6. **Hearing.** If a hearing is held under this section, the district court must evaluate  
155.29 and make written findings on all relevant factors, including:

155.30 (1) whether an issue requires interpretation of tribal law, including the tribal constitution,  
155.31 statutes, bylaws, ordinances, resolutions, treaties, or case law;

155.32 (2) whether the action involves tribal traditional or cultural matters;

- 156.1 (3) whether the tribe is a party;
- 156.2 (4) whether tribal sovereignty, jurisdiction, or territory is an issue;
- 156.3 (5) the tribal membership status of each case participant;
- 156.4 (6) where the claim arises;
- 156.5 (7) the location of the residence of each case participant and the child;
- 156.6 (8) whether the parties have by contract chosen a forum or the law to be applied in the
- 156.7 event of a dispute;
- 156.8 (9) the timing of any motion to transfer to tribal court, considering each party's and the
- 156.9 court's expenditure of time and resources, and the district court's scheduling order;
- 156.10 (10) the court in which the action can be heard and decided most expeditiously;
- 156.11 (11) the burdens on each party, including cost, access to and admissibility of evidence,
- 156.12 and matters of procedure; and
- 156.13 (12) any other factor that the court determines relevant.

156.14 Subd. 7. **Future exercise of jurisdiction.** Nothing in this section shall be construed to

156.15 limit the district court's exercise of jurisdiction where the tribal court waives jurisdiction,

156.16 transfers the action back to district court, or otherwise declines to exercise jurisdiction over

156.17 the action.

156.18 Subd. 8. **Transfer to Red Lake Nation Tribal Court.** When a party or tribal IV-D

156.19 agency brings a motion to transfer to the Red Lake Nation Tribal Court, the court must

156.20 transfer the action if the case participants and child resided within the boundaries of the

156.21 Red Lake Reservation for the preceding six months.

156.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.

156.23 Sec. 99. **INSTRUCTION TO COMMISSIONER.**

156.24 The commissioner must confer with the Association of Minnesota Counties, the

156.25 Minnesota Association of County Social Service Administrators, other state and county

156.26 agencies, Minnesota's Tribal communities, National Alliance on Mental Illness Minnesota,

156.27 AspireMN, and other relevant stakeholders to make recommendations to the legislature

156.28 regarding payment for the cost of treatment and care for residential treatment services,

156.29 including community-based group care, for children currently served under Minnesota

156.30 Statutes, chapter 260D. The recommendations must include the approximate cost of care

156.31 that will no longer be eligible for federal Title IV-E reimbursement paid to the counties for

157.1 children currently served through voluntary foster care placements. The recommendations  
157.2 must also explore the impact on youth currently served under Minnesota Statutes, chapter  
157.3 260D, including access to medical assistance and nonresidential services, as well as the  
157.4 impact on equity for overrepresented populations in the child protection and child welfare  
157.5 systems in Minnesota. The commissioner must report back to the legislature by January 15,  
157.6 2021.

157.7 Sec. 100. **DIRECTION TO THE COMMISSIONER; EVALUATION OF**  
157.8 **CONTINUOUS LICENSES.**

157.9 By January 1, 2021, the commissioner of human services shall consult with family child  
157.10 care license holders and county agencies to determine whether family child care licenses  
157.11 should automatically renew instead of requiring license holders to reapply for licensure. If  
157.12 the commissioner determines that family child care licenses should automatically renew,  
157.13 the commissioner must propose legislation for the 2021 legislative session to make the  
157.14 required amendments to statute and administrative rules, as necessary.

157.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.

157.16 Sec. 101. **REPEALER.**

157.17 Minnesota Statutes 2018, section 245F.02, subdivision 20, is repealed.

157.18 **ARTICLE 4**  
157.19 **CIVIL COMMITMENT**

157.20 Section 1. Minnesota Statutes 2018, section 253B.02, subdivision 4b, is amended to read:

157.21 Subd. 4b. **Community-based treatment program.** "Community-based treatment  
157.22 program" means treatment and services provided at the community level, including but not  
157.23 limited to community support services programs defined in section 245.462, subdivision 6;  
157.24 day treatment services defined in section 245.462, subdivision 8; outpatient services defined  
157.25 in section 245.462, subdivision 21; mental health crisis services under section 245.462,  
157.26 subdivision 14c; outpatient services defined in section 245.462, subdivision 21; assertive  
157.27 community treatment services under section 256B.0622; adult rehabilitation mental health  
157.28 services under section 256B.0623; home and community-based waivers; supportive housing;  
157.29 and residential treatment services as defined in section 245.462, subdivision 23.  
157.30 Community-based treatment program excludes services provided by a state-operated  
157.31 treatment program.

158.1 Sec. 2. Minnesota Statutes 2018, section 253B.02, subdivision 7, is amended to read:

158.2 Subd. 7. **Examiner.** "Examiner" means a person who is knowledgeable, trained, and  
158.3 practicing in the diagnosis and assessment or in the treatment of the alleged impairment,  
158.4 and who is: a licensed physician; a mental health professional as defined in section 245.462,  
158.5 subdivision 18, clauses (1) to (6); a licensed physician assistant; or an advanced practice  
158.6 registered nurse (APRN) as defined in section 148.171, subdivision 3, who is practicing in  
158.7 the emergency room of a hospital, so long as the hospital has a process for credentialing  
158.8 and recredentialing any APRN acting as an examiner in an emergency room.

158.9 (1) ~~a licensed physician;~~

158.10 (2) ~~a licensed psychologist who has a doctoral degree in psychology or who became a~~  
158.11 ~~licensed consulting psychologist before July 2, 1975; or~~

158.12 (3) ~~an advanced practice registered nurse certified in mental health or a licensed physician~~  
158.13 ~~assistant, except that only a physician or psychologist meeting these requirements may be~~  
158.14 ~~appointed by the court as described by sections 253B.07, subdivision 3; 253B.092,~~  
158.15 ~~subdivision 8, paragraph (b); 253B.17, subdivision 3; 253B.18, subdivision 2; and 253B.19,~~  
158.16 ~~subdivisions 1 and 2, and only a physician or psychologist may conduct an assessment as~~  
158.17 ~~described by Minnesota Rules of Criminal Procedure, rule 20.~~

158.18 Sec. 3. Minnesota Statutes 2018, section 253B.02, is amended by adding a subdivision to  
158.19 read:

158.20 Subd. 7a. **Court examiner.** "Court examiner" means a person appointed to serve the  
158.21 court, and who is a physician or licensed psychologist who has a doctoral degree in  
158.22 psychology.

158.23 Sec. 4. Minnesota Statutes 2018, section 253B.02, subdivision 8, is amended to read:

158.24 Subd. 8. **Head of the treatment facility or program.** "Head of the ~~treatment~~ facility  
158.25 or program" means the person who is charged with overall responsibility for the professional  
158.26 program of care and treatment of the ~~facility or the person's designee~~ treatment facility,  
158.27 state-operated treatment program, or community-based treatment program.

158.28 Sec. 5. Minnesota Statutes 2018, section 253B.02, subdivision 9, is amended to read:

158.29 Subd. 9. **Health officer.** "Health officer" means:

158.30 (1) a licensed physician;

159.1 (2) ~~a licensed psychologist~~ a mental health professional as defined in section 245.462,  
 159.2 subdivision 18, clauses (1) to (6);

159.3 (3) a licensed social worker;

159.4 (4) a registered nurse working in an emergency room of a hospital;

159.5 ~~(5) a psychiatric or public health nurse as defined in section 145A.02, subdivision 18;~~

159.6 ~~(6)~~ (5) an advanced practice registered nurse (APRN) as defined in section 148.171,  
 159.7 subdivision 3;

159.8 ~~(7)~~ (6) a mental health ~~professional~~ practitioner as defined in section 245.462, subdivision  
 159.9 17, providing mental health mobile crisis intervention services as described under section  
 159.10 256B.0624 with the consultation and approval by a mental health professional; or

159.11 ~~(8)~~ (7) a formally designated member of a prepetition screening unit established by  
 159.12 section 253B.07.

159.13 Sec. 6. Minnesota Statutes 2018, section 253B.02, subdivision 10, is amended to read:

159.14 Subd. 10. **Interested person.** "Interested person" means:

159.15 (1) an adult who has a specific interest in the patient or proposed patient, including but  
 159.16 not limited to; a public official, including a local welfare agency acting under section  
 159.17 626.5561, ~~and;~~ a health care or mental health provider or the provider's employee or agent;  
 159.18 the legal guardian, spouse, parent, legal counsel, adult child, or next of kin; or other person  
 159.19 designated by a patient or proposed patient; or

159.20 (2) a health plan company that is providing coverage for a proposed patient.

159.21 Sec. 7. Minnesota Statutes 2018, section 253B.02, subdivision 13, is amended to read:

159.22 Subd. 13. **Person who is ~~mentally ill~~ poses a risk of harm due to a mental illness.** (a)  
 159.23 A "person who is ~~mentally ill~~ poses a risk of harm due to a mental illness" means any person  
 159.24 who has an organic disorder of the brain or a substantial psychiatric disorder of thought,  
 159.25 mood, perception, orientation, or memory ~~which~~ that grossly impairs judgment, behavior,  
 159.26 capacity to recognize reality, or to reason or understand, ~~which~~ that is manifested by instances  
 159.27 of grossly disturbed behavior or faulty perceptions and who, due to this impairment, poses  
 159.28 a substantial likelihood of physical harm to self or others as demonstrated by:

159.29 (1) a failure to obtain necessary food, clothing, shelter, or medical care as a result of the  
 159.30 impairment;

160.1 (2) an inability for reasons other than indigence to obtain necessary food, clothing,  
160.2 shelter, or medical care as a result of the impairment and it is more probable than not that  
160.3 the person will suffer substantial harm, significant psychiatric deterioration or debilitation,  
160.4 or serious illness, unless appropriate treatment and services are provided;

160.5 (3) a recent attempt or threat to physically harm self or others; or

160.6 (4) recent and volitional conduct involving significant damage to substantial property.

160.7 (b) A person ~~is not mentally ill~~ does not pose a risk of harm due to mental illness under  
160.8 this section if the person's impairment is solely due to:

160.9 (1) epilepsy;

160.10 (2) developmental disability;

160.11 (3) brief periods of intoxication caused by alcohol, drugs, or other mind-altering  
160.12 substances; or

160.13 (4) dependence upon or addiction to any alcohol, drugs, or other mind-altering substances.

160.14 Sec. 8. Minnesota Statutes 2018, section 253B.02, subdivision 16, is amended to read:

160.15 Subd. 16. **Peace officer.** "Peace officer" means a sheriff or deputy sheriff, or municipal  
160.16 or other local police officer, or a State Patrol officer when engaged in the authorized duties  
160.17 of office.

160.18 Sec. 9. Minnesota Statutes 2018, section 253B.02, subdivision 17, is amended to read:

160.19 Subd. 17. **Person who ~~is mentally ill~~ has a mental illness and is dangerous to the**  
160.20 **public.** ~~(a)~~ A "person who ~~is mentally ill~~ has a mental illness and is dangerous to the public"  
160.21 is a person:

160.22 (1) who ~~is mentally ill~~ has an organic disorder of the brain or a substantial psychiatric  
160.23 disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment,  
160.24 behavior, capacity to recognize reality, or to reason or understand, and is manifested by  
160.25 instances of grossly disturbed behavior or faulty perceptions; and

160.26 (2) who as a result of that ~~mental illness~~ impairment presents a clear danger to the safety  
160.27 of others as demonstrated by the facts that (i) the person has engaged in an overt act causing  
160.28 or attempting to cause serious physical harm to another and (ii) there is a substantial  
160.29 likelihood that the person will engage in acts capable of inflicting serious physical harm on  
160.30 another.



161.1 ~~(b) A person committed as a sexual psychopathic personality or sexually dangerous~~  
161.2 ~~person as defined in subdivisions 18a and 18b is subject to the provisions of this chapter~~  
161.3 ~~that apply to persons who are mentally ill and dangerous to the public.~~

161.4 Sec. 10. Minnesota Statutes 2018, section 253B.02, subdivision 18, is amended to read:

161.5 Subd. 18. **Regional State-operated treatment center program.** ~~"Regional State-operated~~  
161.6 ~~treatment center program" means any state-operated facility for persons who are mentally~~  
161.7 ~~ill, developmentally disabled, or chemically dependent under the direct administrative~~  
161.8 ~~authority of the commissioner~~ means any state-operated program including community  
161.9 behavioral health hospitals, crisis centers, residential facilities, outpatient services, and other  
161.10 community-based services developed and operated by the state and under the commissioner's  
161.11 control for a person who has a mental illness, developmental disability, or chemical  
161.12 dependency.

161.13 Sec. 11. Minnesota Statutes 2018, section 253B.02, subdivision 19, is amended to read:

161.14 Subd. 19. **Treatment facility.** ~~"Treatment facility" means a non-state-operated hospital,~~  
161.15 ~~community mental health center, or other treatment provider~~ residential treatment provider,  
161.16 crisis residential withdrawal management center, or corporate foster care home qualified  
161.17 to provide care and treatment for persons who are mentally ill, developmentally disabled,  
161.18 or chemically dependent who have a mental illness, developmental disability, or chemical  
161.19 dependency.

161.20 Sec. 12. Minnesota Statutes 2018, section 253B.02, subdivision 21, is amended to read:

161.21 Subd. 21. **Pass.** "Pass" means any authorized temporary, unsupervised absence from a  
161.22 state-operated treatment facility program.

161.23 Sec. 13. Minnesota Statutes 2018, section 253B.02, subdivision 22, is amended to read:

161.24 Subd. 22. **Pass plan.** "Pass plan" means the part of a treatment plan for a ~~person~~ patient  
161.25 who has been committed as mentally ill and a person who has a mental illness and is  
161.26 dangerous to the public that specifies the terms and conditions under which the patient may  
161.27 be released on a pass.

161.28 Sec. 14. Minnesota Statutes 2018, section 253B.02, subdivision 23, is amended to read:

161.29 Subd. 23. **Pass-eligible status.** "Pass-eligible status" means the status under which a  
161.30 ~~person~~ patient committed as ~~mentally ill and~~ a person who has a mental illness and is

162.1 dangerous to the public may be released on passes after approval of a pass plan by the head  
162.2 of a state-operated treatment facility program.

162.3 Sec. 15. Minnesota Statutes 2018, section 253B.03, subdivision 1, is amended to read:

162.4 Subdivision 1. **Restraints.** (a) A patient has the right to be free from restraints. Restraints  
162.5 shall not be applied to a patient in a treatment facility or state-operated treatment program  
162.6 unless the head of the treatment facility, head of the state-operated treatment program, a  
162.7 member of the medical staff, or a licensed peace officer who has custody of the patient  
162.8 determines that ~~they~~ restraints are necessary for the safety of the patient or others.

162.9 (b) Restraints shall not be applied to patients with developmental disabilities except as  
162.10 permitted under section 245.825 and rules of the commissioner of human services. Consent  
162.11 must be obtained from the ~~person~~ patient or ~~person's~~ patient's guardian except for emergency  
162.12 procedures as permitted under rules of the commissioner adopted under section 245.825.

162.13 (c) Each use of a restraint and reason for it shall be made part of the clinical record of  
162.14 the patient under the signature of the head of the treatment facility.

162.15 Sec. 16. Minnesota Statutes 2018, section 253B.03, subdivision 2, is amended to read:

162.16 Subd. 2. **Correspondence.** A patient has the right to correspond freely without censorship.  
162.17 The head of the treatment facility or head of the state-operated treatment program may  
162.18 restrict correspondence if the patient's medical welfare requires this restriction. For ~~patients~~  
162.19 a patient in regional state-operated treatment centers program, that determination may be  
162.20 reviewed by the commissioner. Any limitation imposed on the exercise of a patient's  
162.21 correspondence rights and the reason for it shall be made a part of the clinical record of the  
162.22 patient. Any communication which is not delivered to a patient shall be immediately returned  
162.23 to the sender.

162.24 Sec. 17. Minnesota Statutes 2018, section 253B.03, subdivision 3, is amended to read:

162.25 Subd. 3. **Visitors and phone calls.** Subject to the general rules of the treatment facility  
162.26 or state-operated treatment program, a patient has the right to receive visitors and make  
162.27 phone calls. The head of the treatment facility or head of the state-operated treatment program  
162.28 may restrict visits and phone calls on determining that the medical welfare of the patient  
162.29 requires it. Any limitation imposed on the exercise of the patient's visitation and phone call  
162.30 rights and the reason for it shall be made a part of the clinical record of the patient.

163.1 Sec. 18. Minnesota Statutes 2018, section 253B.03, subdivision 4a, is amended to read:

163.2 Subd. 4a. **Disclosure of patient's admission.** Upon admission to a treatment facility or  
163.3 state-operated treatment program where federal law prohibits unauthorized disclosure of  
163.4 patient or resident identifying information to callers and visitors, the patient or resident, or  
163.5 the legal guardian of the patient or resident, shall be given the opportunity to authorize  
163.6 disclosure of the patient's or resident's presence in the facility to callers and visitors who  
163.7 may seek to communicate with the patient or resident. To the extent possible, the legal  
163.8 guardian of a patient or resident shall consider the opinions of the patient or resident regarding  
163.9 the disclosure of the patient's or resident's presence in the facility.

163.10 Sec. 19. Minnesota Statutes 2018, section 253B.03, subdivision 5, is amended to read:

163.11 Subd. 5. **Periodic assessment.** A patient has the right to periodic medical assessment,  
163.12 including assessment of the medical necessity of continuing care and, if the treatment facility,  
163.13 state-operated treatment program, or community-based treatment program declines to provide  
163.14 continuing care, the right to receive specific written reasons why continuing care is declined  
163.15 at the time of the assessment. The treatment facility, state-operated treatment program, or  
163.16 community-based treatment program shall assess the physical and mental condition of every  
163.17 patient as frequently as necessary, but not less often than annually. If the patient refuses to  
163.18 be examined, the treatment facility, state-operated treatment program, or community-based  
163.19 treatment program shall document in the patient's chart its attempts to examine the patient.  
163.20 If a ~~person~~ patient is committed as developmentally disabled for an indeterminate period  
163.21 of time, the three-year judicial review must include the annual reviews for each year ~~as~~  
163.22 ~~outlined in Minnesota Rules, part 9525.0075, subpart 6~~ regarding the patient's need for  
163.23 continued commitment.

163.24 Sec. 20. Minnesota Statutes 2018, section 253B.03, subdivision 6, is amended to read:

163.25 Subd. 6. **Consent for medical procedure.** (a) A patient has the right to give prior consent  
163.26 to any medical or surgical treatment, other than treatment for chemical dependency or  
163.27 nonintrusive treatment for mental illness.

163.28 (b) The following procedures shall be used to obtain consent for any treatment necessary  
163.29 to preserve the life or health of any committed patient:

163.30 (a) (1) the written, informed consent of a competent adult patient for the treatment is  
163.31 sufficient;

164.1 ~~(b)~~ (2) if the patient is subject to guardianship which includes the provision of medical  
164.2 care, the written, informed consent of the guardian for the treatment is sufficient;

164.3 ~~(e)~~ (3) if the head of the treatment facility or state-operated treatment program determines  
164.4 that the patient is not competent to consent to the treatment and the patient has not been  
164.5 adjudicated incompetent, written, informed consent for the surgery or medical treatment  
164.6 shall be obtained from the person appointed the health care power of attorney, the patient's  
164.7 agent under the health care directive, or the nearest proper relative. For this purpose, the  
164.8 following persons are proper relatives, in the order listed: the patient's spouse, parent, adult  
164.9 child, or adult sibling. If the nearest proper relatives cannot be located, refuse to consent to  
164.10 the procedure, or are unable to consent, the head of the treatment facility or state-operated  
164.11 treatment program or an interested person may petition the committing court for approval  
164.12 for the treatment or may petition a court of competent jurisdiction for the appointment of a  
164.13 guardian. The determination that the patient is not competent, and the reasons for the  
164.14 determination, shall be documented in the patient's clinical record;

164.15 ~~(d)~~ (4) consent to treatment of any minor patient shall be secured in accordance with  
164.16 sections 144.341 to 144.346. A minor 16 years of age or older may consent to hospitalization,  
164.17 routine diagnostic evaluation, and emergency or short-term acute care; and

164.18 ~~(e)~~ (5) in the case of an emergency when the persons ordinarily qualified to give consent  
164.19 cannot be located in sufficient time to address the emergency need, the head of the treatment  
164.20 facility or state-operated treatment program may give consent.

164.21 (c) No person who consents to treatment pursuant to the provisions of this subdivision  
164.22 shall be civilly or criminally liable for the performance or the manner of performing the  
164.23 treatment. No person shall be liable for performing treatment without consent if written,  
164.24 informed consent was given pursuant to this subdivision. This provision shall not affect any  
164.25 other liability which may result from the manner in which the treatment is performed.

164.26 Sec. 21. Minnesota Statutes 2018, section 253B.03, subdivision 6b, is amended to read:

164.27 Subd. 6b. **Consent for mental health treatment.** A competent ~~person~~ patient admitted  
164.28 voluntarily to a treatment facility or state-operated treatment program may be subjected to  
164.29 intrusive mental health treatment only with the ~~person's~~ patient's written informed consent.  
164.30 For purposes of this section, "intrusive mental health treatment" means ~~electroshock~~  
164.31 electroconvulsive therapy and neuroleptic medication and does not include treatment for a  
164.32 developmental disability. An incompetent ~~person~~ patient who has prepared a directive under  
164.33 subdivision 6d regarding intrusive mental health treatment ~~with intrusive therapies~~ must be  
164.34 treated in accordance with this section, except in cases of emergencies.

165.1 Sec. 22. Minnesota Statutes 2018, section 253B.03, subdivision 6d, is amended to read:

165.2 Subd. 6d. **Adult mental health treatment.** (a) A competent adult patient may make a  
165.3 declaration of preferences or instructions regarding intrusive mental health treatment. These  
165.4 preferences or instructions may include, but are not limited to, consent to or refusal of these  
165.5 treatments. A declaration of preferences or instructions may include a health care directive  
165.6 under chapter 145C or a psychiatric directive.

165.7 (b) A declaration may designate a proxy to make decisions about intrusive mental health  
165.8 treatment. A proxy designated to make decisions about intrusive mental health treatments  
165.9 and who agrees to serve as proxy may make decisions on behalf of a declarant consistent  
165.10 with any desires the declarant expresses in the declaration.

165.11 (c) A declaration is effective only if it is signed by the declarant and two witnesses. The  
165.12 witnesses must include a statement that they believe the declarant understands the nature  
165.13 and significance of the declaration. A declaration becomes operative when it is delivered  
165.14 to the declarant's physician or other mental health treatment provider. The physician or  
165.15 provider must comply with ~~the declaration~~ to the fullest extent possible, consistent with  
165.16 reasonable medical practice, the availability of treatments requested, and applicable law.  
165.17 The physician or provider shall continue to obtain the declarant's informed consent to all  
165.18 intrusive mental health treatment decisions if the declarant is capable of informed consent.  
165.19 A treatment provider ~~may~~ must not require a ~~person~~ patient to make a declaration under  
165.20 this subdivision as a condition of receiving services.

165.21 (d) The physician or other provider shall make the declaration a part of the declarant's  
165.22 medical record. If the physician or other provider is unwilling at any time to comply with  
165.23 the declaration, the physician or provider must promptly notify the declarant and document  
165.24 the notification in the declarant's medical record. ~~If the declarant has been committed as a~~  
165.25 ~~patient under this chapter, the physician or provider may subject a declarant to intrusive~~  
165.26 ~~treatment in a manner contrary to the declarant's expressed wishes, only upon order of the~~  
165.27 ~~committing court. If the declarant is not a committed patient under this chapter, The physician~~  
165.28 or provider may subject the declarant to intrusive treatment in a manner contrary to the  
165.29 declarant's expressed wishes, only if the declarant is committed as ~~mentally ill~~ a person who  
165.30 poses a risk of harm due to mental illness or mentally ill as a person who has a mental illness  
165.31 and is dangerous to the public and a court order authorizing the treatment has been issued  
165.32 or an emergency has been declared under section 253B.092, subdivision 3.

165.33 (e) A declaration under this subdivision may be revoked in whole or in part at any time  
165.34 and in any manner by the declarant if the declarant is competent at the time of revocation.

166.1 A revocation is effective when a competent declarant communicates the revocation to the  
166.2 attending physician or other provider. The attending physician or other provider shall note  
166.3 the revocation as part of the declarant's medical record.

166.4 (f) A provider who administers intrusive mental health treatment according to and in  
166.5 good faith reliance upon the validity of a declaration under this subdivision is held harmless  
166.6 from any liability resulting from a subsequent finding of invalidity.

166.7 (g) In addition to making a declaration under this subdivision, a competent adult may  
166.8 delegate parental powers under section 524.5-211 or may nominate a guardian under sections  
166.9 524.5-101 to 524.5-502.

166.10 Sec. 23. Minnesota Statutes 2018, section 253B.03, subdivision 7, is amended to read:

166.11 Subd. 7. **Program Treatment plan.** A ~~person~~ patient receiving services under this  
166.12 chapter has the right to receive proper care and treatment, best adapted, according to  
166.13 contemporary professional standards, to rendering further supervision unnecessary. The  
166.14 treatment facility, state-operated treatment program, or community-based treatment program  
166.15 shall devise a written ~~program~~ treatment plan for each ~~person~~ patient which describes in  
166.16 behavioral terms the case problems, the precise goals, including the expected period of time  
166.17 for treatment, and the specific measures to be employed. ~~Each plan shall be reviewed at~~  
166.18 ~~least quarterly to determine progress toward the goals, and to modify the program plan as~~  
166.19 ~~necessary.~~ The development and review of treatment plans must be conducted as required  
166.20 under the license or certification of the treatment facility, state-operated treatment program,  
166.21 or community-based treatment program. If there are no review requirements under the  
166.22 license or certification, the treatment plan must be reviewed quarterly. The ~~program~~ treatment  
166.23 plan shall be devised and reviewed with the designated agency and with the patient. The  
166.24 clinical record shall reflect the ~~program~~ treatment plan review. If the designated agency or  
166.25 the patient does not participate in the planning and review, the clinical record shall include  
166.26 reasons for nonparticipation and the plans for future involvement. The commissioner shall  
166.27 monitor the ~~program~~ treatment plan and review process for ~~regional centers~~ state-operated  
166.28 treatment programs to ~~insure~~ ensure compliance with the provisions of this subdivision.

166.29 Sec. 24. Minnesota Statutes 2018, section 253B.03, subdivision 10, is amended to read:

166.30 Subd. 10. **Notification.** (a) All ~~persons~~ patients admitted or committed to a treatment  
166.31 facility or state-operated treatment program, or temporarily confined under section 253B.045,  
166.32 shall be notified in writing of their rights regarding hospitalization and other treatment ~~at~~  
166.33 ~~the time of admission.~~

167.1 (b) This notification must include:

167.2 (1) patient rights specified in this section and section 144.651, including nursing home  
167.3 discharge rights;

167.4 (2) the right to obtain treatment and services voluntarily under this chapter;

167.5 (3) the right to voluntary admission and release under section 253B.04;

167.6 (4) rights in case of an emergency admission under section ~~253B.05~~ 253B.051, including  
167.7 the right to documentation in support of an emergency hold and the right to a summary  
167.8 hearing before a judge if the patient believes an emergency hold is improper;

167.9 (5) the right to request expedited review under section 62M.05 if additional days of  
167.10 inpatient stay are denied;

167.11 (6) the right to continuing benefits pending appeal and to an expedited administrative  
167.12 hearing under section 256.045 if the patient is a recipient of medical assistance or  
167.13 MinnesotaCare; and

167.14 (7) the right to an external appeal process under section 62Q.73, including the right to  
167.15 a second opinion.

167.16 Sec. 25. Minnesota Statutes 2018, section 253B.04, subdivision 1, is amended to read:

167.17 Subdivision 1. **Voluntary admission and treatment.** (a) Voluntary admission is preferred  
167.18 over involuntary commitment and treatment. Any person 16 years of age or older may  
167.19 request to be admitted to a treatment facility or state-operated treatment program as a  
167.20 voluntary patient for observation, evaluation, diagnosis, care and treatment without making  
167.21 formal written application. Any person under the age of 16 years may be admitted as a  
167.22 patient with the consent of a parent or legal guardian if it is determined by independent  
167.23 examination that there is reasonable evidence that (1) the proposed patient has a mental  
167.24 illness, ~~or is developmentally disabled~~ developmental disability, or ~~chemically dependent~~  
167.25 chemical dependency; and (2) the proposed patient is suitable for treatment. The head of  
167.26 the treatment facility or head of the state-operated treatment program shall not arbitrarily  
167.27 refuse any person seeking admission as a voluntary patient. In making decisions regarding  
167.28 admissions, the treatment facility or state-operated treatment program shall use clinical  
167.29 admission criteria consistent with the current applicable inpatient admission standards  
167.30 established by professional organizations including the American Psychiatric Association  
167.31 ~~or~~, the American Academy of Child and Adolescent Psychiatry, the Joint Commission, and  
167.32 the American Society of Addiction Medicine. These criteria must be no more restrictive  
167.33 than, and must be consistent with, the requirements of section 62Q.53. The treatment facility

168.1 or head of the state-operated treatment program may not refuse to admit a person voluntarily  
168.2 solely because the person does not meet the criteria for involuntary holds under section  
168.3 ~~253B.05~~ 253B.051 or the definition of a person who poses a risk of harm due to mental  
168.4 illness under section 253B.02, subdivision 13.

168.5 (b) In addition to the consent provisions of paragraph (a), a person who is 16 or 17 years  
168.6 of age who refuses to consent personally to admission may be admitted as a patient for  
168.7 mental illness or chemical dependency treatment with the consent of a parent or legal  
168.8 guardian if it is determined by an independent examination that there is reasonable evidence  
168.9 that the proposed patient is chemically dependent or has a mental illness and is suitable for  
168.10 treatment. The person conducting the examination shall notify the proposed patient and the  
168.11 parent or legal guardian of this determination.

168.12 (c) A person who is voluntarily participating in treatment for a mental illness is not  
168.13 subject to civil commitment under this chapter if the person:

168.14 (1) has given informed consent or, if lacking capacity, is a person for whom legally valid  
168.15 substitute consent has been given; and

168.16 (2) is participating in a medically appropriate course of treatment, including clinically  
168.17 appropriate and lawful use of neuroleptic medication and electroconvulsive therapy. The  
168.18 limitation on commitment in this paragraph does not apply if, based on clinical assessment,  
168.19 the court finds that it is unlikely that the ~~person~~ patient will remain in and cooperate with  
168.20 a medically appropriate course of treatment absent commitment and the standards for  
168.21 commitment are otherwise met. This paragraph does not apply to a person for whom  
168.22 commitment proceedings are initiated pursuant to rule 20.01 or 20.02 of the Rules of Criminal  
168.23 Procedure, or a person found by the court to meet the requirements under section 253B.02,  
168.24 subdivision 17.

168.25 (d) Legally valid substitute consent may be provided by a proxy under a health care  
168.26 directive, a guardian or conservator with authority to consent to mental health treatment,  
168.27 or consent to admission under subdivision 1a or 1b.

168.28 Sec. 26. Minnesota Statutes 2018, section 253B.04, subdivision 1a, is amended to read:

168.29 Subd. 1a. **Voluntary treatment or admission for persons with a mental illness.** (a)  
168.30 A person with a mental illness may seek or voluntarily agree to accept treatment or admission  
168.31 to a state-operated treatment program or treatment facility. If the mental health provider  
168.32 determines that the person lacks the capacity to give informed consent for the treatment or  
168.33 admission, and in the absence of a health care ~~power of attorney~~ directive or health care



169.1 power of attorney that authorizes consent, the designated agency or its designee may give  
169.2 informed consent for mental health treatment or admission to a treatment facility or  
169.3 state-operated treatment program on behalf of the person.

169.4 (b) The designated agency shall apply the following criteria in determining the person's  
169.5 ability to give informed consent:

169.6 (1) whether the person demonstrates an awareness of the person's illness, and the reasons  
169.7 for treatment, its risks, benefits and alternatives, and the possible consequences of refusing  
169.8 treatment; and

169.9 (2) whether the person communicates verbally or nonverbally a clear choice concerning  
169.10 treatment that is a reasoned one, not based on delusion, even though it may not be in the  
169.11 person's best interests.

169.12 (c) The basis for the designated agency's decision that the person lacks the capacity to  
169.13 give informed consent for treatment or admission, and that the patient has voluntarily  
169.14 accepted treatment or admission, must be documented in writing.

169.15 (d) A ~~mental health provider~~ treatment facility or state-operated treatment program that  
169.16 provides treatment in reliance on the written consent given by the designated agency under  
169.17 this subdivision or by a substitute decision maker appointed by the court is not civilly or  
169.18 criminally liable for performing treatment without consent. This paragraph does not affect  
169.19 any other liability that may result from the manner in which the treatment is performed.

169.20 (e) A ~~person~~ patient who receives treatment or is admitted to a treatment facility or  
169.21 state-operated treatment program under this subdivision or subdivision 1b has the right to  
169.22 refuse treatment at any time or to be released from a treatment facility or state-operated  
169.23 treatment program as provided under subdivision 2. The ~~person~~ patient or any interested  
169.24 person acting on the ~~person's~~ patient's behalf may seek court review within five days for a  
169.25 determination of whether the ~~person's~~ patient's agreement to accept treatment or admission  
169.26 is voluntary. At the time a ~~person~~ patient agrees to treatment or admission to a treatment  
169.27 facility or state-operated treatment program under this subdivision, the designated agency  
169.28 or its designee shall inform the ~~person~~ patient in writing of the ~~person's~~ patient's rights under  
169.29 this paragraph.

169.30 ~~(f) This subdivision does not authorize the administration of neuroleptimediations.~~  
169.31 ~~Neuroleptic medications may be administered only as provided in section 253B.092.~~

170.1 Sec. 27. Minnesota Statutes 2018, section 253B.04, subdivision 2, is amended to read:

170.2 Subd. 2. **Release.** Every patient admitted for mental illness or developmental disability  
170.3 under this section shall be informed in writing at the time of admission that the patient has  
170.4 a right to leave the treatment facility or state-operated treatment program within 12 hours  
170.5 of making a request, unless held under another provision of this chapter. Every patient  
170.6 admitted for chemical dependency under this section shall be informed in writing at the  
170.7 time of admission that the patient has a right to leave the treatment facility or state-operated  
170.8 treatment program within 72 hours, exclusive of Saturdays, Sundays, and legal holidays,  
170.9 of making a request, unless held under another provision of this chapter. The request shall  
170.10 be submitted in writing to the head of the treatment facility or state-operated treatment  
170.11 program or the person's designee.

170.12 Sec. 28. **[253B.041] SERVICES FOR ENGAGEMENT IN TREATMENT.**

170.13 Subdivision 1. Eligibility. (a) The purpose of engagement services is to avoid the need  
170.14 for commitment and to enable the proposed patient to voluntarily engage in needed treatment.  
170.15 An interested person may apply to the county where a proposed patient resides to request  
170.16 engagement services.

170.17 (b) To be eligible for engagement services, the proposed patient must be at least 18 years  
170.18 of age, have a mental illness, and either:

170.19 (1) be exhibiting symptoms of serious mental illness including hallucinations, mania,  
170.20 delusional thoughts, or be unable to obtain necessary food, clothing, shelter, medical care,  
170.21 or provide necessary hygiene due to the patient's mental illness; or

170.22 (2) have a history of failing to adhere to treatment for mental illness, in that:

170.23 (i) the proposed patient's mental illness has been a substantial factor in necessitating  
170.24 hospitalization, or incarceration in a state or local correctional facility, not including any  
170.25 period during which the person was hospitalized or incarcerated immediately preceding  
170.26 filing the application for engagement; or

170.27 (ii) the proposed patient is exhibiting symptoms or behavior that may lead to  
170.28 hospitalization, incarceration, or court-ordered treatment.

170.29 Subd. 2. **Administration.** (a) Upon receipt of a request for engagement services, the  
170.30 county's prepetition screening team shall conduct an investigation to determine whether the  
170.31 proposed patient is eligible. In making this determination, the screening team shall seek any  
170.32 relevant information from an interested person.

171.1 (b) If the screening team determines that the proposed patient is eligible, engagement  
171.2 services must begin and include, but are not limited to:

171.3 (1) assertive attempts to engage the patient in voluntary treatment for mental illness for  
171.4 at least 90 days. Engagement services must be person-centered and continue even if the  
171.5 patient is an inmate in a non-state-operated correctional facility;

171.6 (2) efforts to engage the patient's existing systems of support, including interested persons,  
171.7 unless the engagement provider determines that involvement is not helpful to the patient.  
171.8 This includes education on restricting means of harm, suicide prevention, and engagement;  
171.9 and

171.10 (3) collaboration with the patient to meet immediate needs including access to housing,  
171.11 food, income, disability verification, medications, and treatment for medical conditions.

171.12 (c) Engagement services regarding potential treatment options must take into account  
171.13 the patient's preferences for services and supports. The county may offer engagement services  
171.14 through the designated agency or another agency under contract. Engagement services staff  
171.15 must have training in person-centered care. Engagement services staff may include but are  
171.16 not limited to mobile crisis teams under section 245.462, certified peer specialists under  
171.17 section 256B.0615, community-based treatment programs, and homeless outreach workers.

171.18 (d) If the patient voluntarily consents to receive mental health treatment, the engagement  
171.19 services staff must facilitate the referral to an appropriate mental health treatment provider  
171.20 including support obtaining health insurance if the proposed patient is currently or may  
171.21 become uninsured. If the proposed patient initially consents to treatment, but fails to initiate  
171.22 or continue treatment, the engagement services team must continue outreach efforts to the  
171.23 patient.

171.24 Subd. 3. **Commitment.** Engagement services for a patient to seek treatment may be  
171.25 stopped if the proposed patient is in need of commitment and satisfies the commitment  
171.26 criteria under section 253B.09, subdivision 1. In such a case, the engagement services team  
171.27 must immediately notify the designated agency, initiate the prepetition screening process  
171.28 under section 253B.07, or seek an emergency hold if necessary to ensure the safety of the  
171.29 patient or others.

171.30 Subd. 4. **Evaluation.** Counties may, but are not required to, provide engagement services.  
171.31 The commissioner may conduct a pilot project evaluating the impact of engagement services  
171.32 in decreasing commitments, increasing engagement in treatment, and other measures.

172.1 Sec. 29. Minnesota Statutes 2018, section 253B.045, subdivision 2, is amended to read:

172.2 Subd. 2. **Facilities.** (a) Each county or a group of counties shall maintain or provide by  
172.3 contract a facility for confinement of persons held temporarily for observation, evaluation,  
172.4 diagnosis, treatment, and care. When the temporary confinement is provided at a ~~regional~~  
172.5 state-operated treatment center program, the commissioner shall charge the county of  
172.6 financial responsibility for the costs of confinement of ~~persons~~ patients hospitalized under  
172.7 ~~section 253B.05, subdivisions 1 and 2, sections 253B.051 and section 253B.07, subdivision~~  
172.8 ~~2b~~, except that the commissioner shall bill the responsible health plan first. Any charges  
172.9 not covered, including co-pays and deductibles shall be the responsibility of the county. If  
172.10 the ~~person~~ patient has health plan coverage, but the hospitalization does not meet the criteria  
172.11 in subdivision 6 or section 62M.07, 62Q.53, or 62Q.535, the county is responsible. ~~When~~  
172.12 ~~a person is temporarily confined in a Department of Corrections facility solely under~~  
172.13 ~~subdivision 1a, and not based on any separate correctional authority:~~

172.14 ~~(1) the commissioner of corrections may charge the county of financial responsibility~~  
172.15 ~~for the costs of confinement; and~~

172.16 ~~(2) the Department of Human Services shall use existing appropriations to fund all~~  
172.17 ~~remaining nonconfinement costs. The funds received by the commissioner for the~~  
172.18 ~~confinement and nonconfinement costs are appropriated to the department for these purposes.~~

172.19 (b) For the purposes of this subdivision, "county of financial responsibility" has the  
172.20 meaning specified in section 253B.02, subdivision 4c, or, if the ~~person~~ patient has no  
172.21 residence in this state, the county which initiated the confinement. The charge for  
172.22 confinement in a facility operated by the commissioner ~~of human services~~ shall be based  
172.23 on the commissioner's determination of the cost of care pursuant to section 246.50,  
172.24 subdivision 5. When there is a dispute as to which county is the county of financial  
172.25 responsibility, the county charged for the costs of confinement shall pay for them pending  
172.26 final determination of the dispute over financial responsibility.

172.27 Sec. 30. Minnesota Statutes 2018, section 253B.045, subdivision 3, is amended to read:

172.28 Subd. 3. **Cost of care.** Notwithstanding subdivision 2, a county shall be responsible for  
172.29 the cost of care as specified under section 246.54 for ~~persons~~ a patient hospitalized at a  
172.30 ~~regional state-operated treatment center program~~ in accordance with section 253B.09 and  
172.31 the ~~person's~~ patient's legal status has been changed to a court hold under section 253B.07,  
172.32 subdivision 2b, pending a judicial determination regarding continued commitment pursuant  
172.33 to sections 253B.12 and 253B.13.

173.1 Sec. 31. Minnesota Statutes 2018, section 253B.045, subdivision 5, is amended to read:

173.2 Subd. 5. **Health plan company; definition.** For purposes of this section, "health plan  
173.3 company" has the meaning given it in section 62Q.01, subdivision 4, and also includes a  
173.4 demonstration provider as defined in section 256B.69, subdivision 2, paragraph (b); and a  
173.5 county or group of counties participating in county-based purchasing according to section  
173.6 256B.692, ~~and a children's mental health collaborative under contract to provide medical~~  
173.7 ~~assistance for individuals enrolled in the prepaid medical assistance and MinnesotaCare~~  
173.8 ~~programs according to sections 245.493 to 245.495.~~

173.9 Sec. 32. Minnesota Statutes 2018, section 253B.045, subdivision 6, is amended to read:

173.10 Subd. 6. **Coverage.** (a) For purposes of this section, "mental health services" means all  
173.11 covered services that are intended to treat or ameliorate an emotional, behavioral, or  
173.12 psychiatric condition and that are covered by the policy, contract, or certificate of coverage  
173.13 of the enrollee's health plan company or by law.

173.14 (b) All health plan companies that provide coverage for mental health services must  
173.15 cover or provide mental health services ordered by a court of competent jurisdiction ~~under~~  
173.16 ~~a court order that is issued on the basis of a behavioral care evaluation performed by a~~  
173.17 ~~licensed psychiatrist or a doctoral level licensed psychologist, which includes a diagnosis~~  
173.18 ~~and an individual treatment plan for care in the most appropriate, least restrictive~~  
173.19 ~~environment. The health plan company must be given a copy of the court order and the~~  
173.20 ~~behavioral care evaluation. The health plan company shall be financially liable for the~~  
173.21 ~~evaluation if performed by a participating provider of the health plan company and shall be~~  
173.22 ~~financially liable for the care included in the court-ordered individual treatment plan if the~~  
173.23 ~~care is covered by the health plan company and ordered to be provided by a participating~~  
173.24 ~~provider or another provider as required by rule or law. This court-ordered coverage must~~  
173.25 not be subject to a separate medical necessity determination by a health plan company under  
173.26 its utilization procedures.

173.27 Sec. 33. **[253B.051] EMERGENCY ADMISSION.**

173.28 Subdivision 1. **Peace officer or health officer authority.** (a) If a peace officer or health  
173.29 officer has reason to believe, either through direct observation of the person's behavior or  
173.30 upon reliable information of the person's recent behavior and, if available, knowledge or  
173.31 reliable information concerning the person's past behavior or treatment that the person:

173.32 (1) has a mental illness or developmental disability and is in danger of harming self or  
173.33 others if the officer does not immediately detain the patient, the peace officer or health

174.1 officer may take the person into custody and transport the person to an examiner or a  
174.2 treatment facility, state-operated treatment program, or community-based treatment program;

174.3 (2) is chemically dependent or intoxicated in public and in danger of harming self or  
174.4 others if the officer does not immediately detain the patient, the peace officer or health  
174.5 officer may take the person into custody and transport the person to a treatment facility,  
174.6 state-operated treatment program, or community-based treatment program; or

174.7 (3) is chemically dependent or intoxicated in public and not in danger of harming self,  
174.8 others, or property, the peace officer or health officer may take the person into custody and  
174.9 transport the person to the person's home.

174.10 (b) An examiner's written statement or a health officer's written statement in compliance  
174.11 with the requirements of subdivision 2 is sufficient authority for a peace officer or health  
174.12 officer to take the person into custody and transport the person to a treatment facility,  
174.13 state-operated treatment program, or community-based treatment program.

174.14 (c) A peace officer or health officer who takes a person into custody and transports the  
174.15 person to a treatment facility, state-operated treatment program, or community-based  
174.16 treatment program under this subdivision shall make written application for admission of  
174.17 the person containing:

174.18 (1) the officer's statement specifying the reasons and circumstances under which the  
174.19 person was taken into custody;

174.20 (2) identifying information on specific individuals to the extent practicable, if danger to  
174.21 those individuals is a basis for the emergency hold; and

174.22 (3) the officer's name, the agency that employs the officer, and the telephone number or  
174.23 other contact information for purposes of receiving notice under subdivision 3.

174.24 (d) A copy of the examiner's written statement and officer's application shall be made  
174.25 available to the person taken into custody.

174.26 (e) The officer may provide the transportation personally or may arrange to have the  
174.27 person transported by a suitable medical or mental health transportation provider. As far as  
174.28 practicable, a peace officer who provides transportation for a person placed in a treatment  
174.29 facility, state-operated treatment program, or community-based treatment program under  
174.30 this subdivision must not be in uniform and must not use a vehicle visibly marked as a law  
174.31 enforcement vehicle.

174.32 Subd. 2. **Emergency hold.** (a) A treatment facility, state-operated treatment program,  
174.33 or community-based treatment program, other than a facility operated by the Minnesota sex

175.1 offender program, may admit or hold a patient, including a patient transported under  
175.2 subdivision 1, for emergency care and treatment if the head of the facility or program  
175.3 consents to holding the patient and an examiner provides a written statement in support of  
175.4 holding the patient.

175.5 (b) The written statement must indicate that:

175.6 (1) the examiner examined the patient not more than 15 days prior to admission;

175.7 (2) the examiner interviewed the patient, or if not, the specific reasons why the examiner  
175.8 did not interview the patient;

175.9 (3) the examiner has the opinion that the patient has a mental illness or developmental  
175.10 disability, or is chemically dependent and is in danger of causing harm to self or others if  
175.11 a facility or program does not immediately detain the patient. The statement must include  
175.12 observations of the patient's behavior and avoid conclusory language. The statement must  
175.13 be specific enough to provide an adequate record for review. If danger to specific individuals  
175.14 is a basis for the emergency hold, the statement must identify those individuals to the extent  
175.15 practicable; and

175.16 (4) the facility or program cannot obtain a court order in time to prevent the anticipated  
175.17 injury.

175.18 (c) Prior to an examiner writing a statement, if another person brought the patient to the  
175.19 treatment facility, state-operated treatment program, or community-based treatment program,  
175.20 the examiner shall make a good-faith effort to obtain information from that person, which  
175.21 the examiner must consider in deciding whether to place the patient on an emergency hold.  
175.22 To the extent available, the statement must include direct observations of the patient's  
175.23 behaviors, reliable knowledge of the patient's recent and past behavior, and information  
175.24 regarding the patient's psychiatric history, past treatment, and current mental health providers.  
175.25 The examiner shall also inquire about health care directives under chapter 145C and advance  
175.26 psychiatric directives under section 253B.03, subdivision 6d.

175.27 (d) The facility or program must give a copy of the examiner's written statement to the  
175.28 patient immediately upon initiating the emergency hold. The treatment facility, state-operated  
175.29 treatment program, or community-based treatment program shall maintain a copy of the  
175.30 examiner's written statement. The program or facility must inform the patient in writing of  
175.31 the right to (1) leave after 72 hours, (2) have a medical examination within 48 hours, and  
175.32 (3) request a change to voluntary status. The facility or program shall assist the patient in  
175.33 exercising the rights granted in this subdivision.

176.1 (e) The facility or program must not allow the patient nor require the patient's consent  
176.2 to participate in a clinical drug trial during an emergency admission or hold under this  
176.3 subdivision. If a patient gives consent to participate in a drug trial during a period of an  
176.4 emergency admission or hold, it is void and unenforceable. This paragraph does not prohibit  
176.5 a patient from continuing participation in a clinical drug trial if the patient was participating  
176.6 in the clinical drug trial at the time of the emergency admission or hold.

176.7 Subd. 3. **Duration of hold, release procedures, and change of status.** (a) If a peace  
176.8 officer or health officer transports a person to a treatment facility, state-operated treatment  
176.9 program, or community-based treatment program under subdivision 1, an examiner at the  
176.10 facility or program must examine the patient and make a determination about the need for  
176.11 an emergency hold as soon as possible and within 12 hours of the person's arrival. The peace  
176.12 officer or health officer hold ends upon whichever occurs first: (1) initiation of an emergency  
176.13 hold on the person under subdivision 2; (2) the person's voluntary admission; (3) the  
176.14 examiner's decision not to admit the person; or (4) 12 hours after the person's arrival.

176.15 (b) Under this section, the facility or program may hold a patient up to 72 hours, exclusive  
176.16 of Saturdays, Sundays, and legal holidays, after the examiner signs the written statement  
176.17 for an emergency hold of the patient. The facility or program must release a patient when  
176.18 the emergency hold expires unless the facility or program obtains a court order to hold the  
176.19 patient. The facility or program may not place the patient on a consecutive emergency hold  
176.20 under this section.

176.21 (c) If the interested person files a petition to civilly commit the patient, the court may  
176.22 issue a judicial hold order pursuant to section 253B.07, subdivision 2b.

176.23 (d) During the 72-hour hold, a court must not release a patient under this section unless  
176.24 the court received a written petition for the patient's release and the court has held a summary  
176.25 hearing regarding the patient's release.

176.26 (e) The written petition for the patient's release must include the patient's name, the basis  
176.27 for the hold, the location of the hold, and a statement explaining why the hold is improper.  
176.28 The petition must also include copies of any written documentation under subdivision 1 or  
176.29 2 that support the hold, unless the facility or program holding the patient refuses to supply  
176.30 the documentation. Upon receipt of a petition, the court must comply with the following:

176.31 (1) the court must hold the hearing as soon as practicable and the court may conduct the  
176.32 hearing by telephone conference call, interactive video conference, or similar method by  
176.33 which the participants are able to simultaneously hear each other;



177.1 (2) before deciding to release the patient, the court shall make every reasonable effort  
177.2 to provide notice of the proposed release and reasonable opportunity to be heard to:

177.3 (i) any specific individuals identified in a statement under subdivision 1 or 2 or individuals  
177.4 identified in the record who might be endangered if the person is not held;

177.5 (ii) the examiner whose written statement was the basis for the hold under subdivision  
177.6 2; and

177.7 (iii) the peace officer or health officer who applied for a hold under subdivision 1; and

177.8 (3) if the court decides to release the patient, the court shall direct the patient's release  
177.9 and shall issue written findings supporting the decision. The facility or program must not  
177.10 delay the patient's release pending the written order.

177.11 (f) Notwithstanding section 144.293, subdivisions 2 and 4, if a treatment facility,  
177.12 state-operated treatment program, or community-based treatment program releases or  
177.13 discharges a patient during the 72-hour hold; the examiner refuses to admit the patient; or  
177.14 the patient leaves without the consent of the treating health care provider, the head of the  
177.15 treatment facility, state-operated treatment program, or community-based treatment program  
177.16 shall immediately notify the agency that employs the peace officer or health officer who  
177.17 initiated the transport hold. This paragraph does not apply to the extent that the notice would  
177.18 violate federal law governing the confidentiality of alcohol and drug abuse patient records  
177.19 under Code of Federal Regulations, title 42, part 2.

177.20 (g) If a patient is intoxicated in public and a facility or program holds the patient under  
177.21 this section for detoxification, a treatment facility, state-operated treatment program, or  
177.22 community-based treatment program may release the patient without providing notice under  
177.23 paragraph (f) as soon as the treatment facility, state-operated treatment program, or  
177.24 community-based treatment program determines that the person is no longer in danger of  
177.25 causing harm to self or others. The facility or program must provide notice to the peace  
177.26 officer or health officer who transported the person, or to the appropriate law enforcement  
177.27 agency, if the officer or agency requests notification.

177.28 (h) A treatment facility or state-operated treatment program must change a patient's  
177.29 status to voluntary status as provided in section 253B.04 upon the patient's request in writing  
177.30 if the head of the facility or program consents to the change.

177.31 Sec. 34. Minnesota Statutes 2018, section 253B.06, subdivision 1, is amended to read:

177.32 Subdivision 1. **Persons who are mentally ill or developmentally disabled with mental**  
177.33 **illness or developmental disability.** A physician must examine every patient hospitalized

178.1 ~~as mentally ill or developmentally disabled~~ due to mental illness or developmental disability  
178.2 pursuant to section 253B.04 or 253B.05 ~~must be examined by a physician~~ 253B.051 as soon  
178.3 as possible but no more than 48 hours following the patient's admission. The physician ~~shall~~  
178.4 must be knowledgeable and trained in ~~the diagnosis of~~ diagnosing the ~~alleged disability~~  
178.5 ~~related to the need for~~ patient's mental illness or developmental disability, forming the basis  
178.6 of the patient's admission as a person who is mentally ill or developmentally disabled.

178.7 Sec. 35. Minnesota Statutes 2018, section 253B.06, subdivision 2, is amended to read:

178.8 Subd. 2. **Chemically dependent persons.** ~~Patients hospitalized~~ A treatment facility,  
178.9 state-operated treatment program, or community-based treatment program must examine a  
178.10 patient hospitalized as chemically dependent pursuant to section 253B.04 or ~~253B.05~~ shall  
178.11 ~~also be examined~~ 253B.051 within 48 hours of admission. At a minimum, ~~the examination~~  
178.12 ~~shall consist of a physical evaluation by facility staff~~ the facility or program must physically  
178.13 examine the patient according to procedures established by a physician, ~~and an evaluation~~  
178.14 ~~by staff~~ examining the patient must be knowledgeable and trained in the diagnosis of the  
178.15 alleged disability ~~related to the need for~~ forming the basis of the patient's admission as a  
178.16 chemically dependent person.

178.17 Sec. 36. Minnesota Statutes 2018, section 253B.06, subdivision 3, is amended to read:

178.18 Subd. 3. **Discharge.** At the end of a 48-hour period, ~~any~~ the facility or program shall  
178.19 discharge a patient admitted pursuant to section ~~253B.05~~ shall be discharged 253B.051 if  
178.20 an examination has not been held or if the examiner or evaluation staff person fails to notify  
178.21 the head of the ~~treatment~~ facility or program in writing that in the examiner's or staff person's  
178.22 opinion the patient is ~~apparently~~ in need of care, treatment, and evaluation as a ~~mentally ill,~~  
178.23 ~~developmentally disabled, or chemically dependent person who has a mental illness,~~  
178.24 developmental disability, or chemical dependency.

178.25 Sec. 37. Minnesota Statutes 2018, section 253B.07, subdivision 1, is amended to read:

178.26 Subdivision 1. **Prepetition screening.** (a) Prior to filing a petition for commitment of  
178.27 ~~or early intervention for~~ a proposed patient, an interested person shall apply to the designated  
178.28 agency in the county of financial responsibility or the county where the proposed patient is  
178.29 present for conduct of a preliminary investigation as provided in section 253B.23, subdivision  
178.30 1b, except when the proposed patient has been acquitted of a crime under section 611.026  
178.31 and the county attorney is required to file a petition for commitment. The designated agency  
178.32 shall appoint a screening team to conduct an investigation. The petitioner may not be a  
178.33 member of the screening team. The investigation must include:

179.1 (1) ~~a person~~ an interview with the proposed patient and other individuals who appear  
179.2 to have knowledge of the condition of the proposed patient, if practicable. In-person  
179.3 interviews with the proposed patient are preferred. If the proposed patient is not interviewed,  
179.4 specific reasons must be documented;

179.5 (2) identification and investigation of specific alleged conduct which is the basis for  
179.6 application;

179.7 (3) identification, exploration, and listing of the specific reasons for rejecting or  
179.8 recommending alternatives to involuntary placement;

179.9 (4) in the case of a commitment based on mental illness, ~~the following~~ information, ~~if~~  
179.10 ~~it is known or available~~, that may be relevant to the administration of neuroleptic medications,  
179.11 including the existence of a declaration under section 253B.03, subdivision 6d, or a health  
179.12 care directive under chapter 145C or a guardian, conservator, proxy, or agent with authority  
179.13 to make health care decisions for the proposed patient; information regarding the capacity  
179.14 of the proposed patient to make decisions regarding administration of neuroleptic medication;  
179.15 and whether the proposed patient is likely to consent or refuse consent to administration of  
179.16 the medication;

179.17 (5) seeking input from the proposed patient's health plan company to provide the court  
179.18 with information about ~~services the enrollee needs and the least restrictive alternatives~~ the  
179.19 patient's relevant treatment history and current treatment providers; and

179.20 (6) in the case of a commitment based on mental illness, information listed in clause (4)  
179.21 for other purposes relevant to treatment.

179.22 (b) In conducting the investigation required by this subdivision, the screening team shall  
179.23 have access to all relevant medical records of proposed patients currently in treatment  
179.24 facilities, state-operated treatment programs, or community-based treatment programs. The  
179.25 interviewer shall inform the proposed patient that any information provided by the proposed  
179.26 patient may be included in the prepetition screening report and may be considered in the  
179.27 commitment proceedings. Data collected pursuant to this clause shall be considered private  
179.28 data on individuals. The prepetition screening report is not admissible as evidence except  
179.29 by agreement of counsel or as permitted by this chapter or the rules of court and is not  
179.30 admissible in any court proceedings unrelated to the commitment proceedings.

179.31 (c) The prepetition screening team shall provide a notice, written in easily understood  
179.32 language, to the proposed patient, the petitioner, persons named in a declaration under  
179.33 chapter 145C or section 253B.03, subdivision 6d, and, with the proposed patient's consent,  
179.34 other interested parties. The team shall ask the patient if the patient wants the notice read

180.1 and shall read the notice to the patient upon request. The notice must contain information  
180.2 regarding the process, purpose, and legal effects of civil commitment ~~and early intervention~~.  
180.3 The notice must inform the proposed patient that:

180.4 (1) if a petition is filed, the patient has certain rights, including the right to a  
180.5 court-appointed attorney, the right to request a second court examiner, the right to attend  
180.6 hearings, and the right to oppose the proceeding and to present and contest evidence; and

180.7 (2) if the proposed patient is committed to a ~~state regional treatment center or group~~  
180.8 ~~home~~ state-operated treatment program, the patient may be billed for the cost of care and  
180.9 the state has the right to make a claim against the patient's estate for this cost.

180.10 The ombudsman for mental health and developmental disabilities shall develop a form  
180.11 for the notice which includes the requirements of this paragraph.

180.12 (d) When the prepetition screening team recommends commitment, a written report  
180.13 shall be sent to the county attorney for the county in which the petition is to be filed. The  
180.14 statement of facts contained in the written report must meet the requirements of subdivision  
180.15 2, paragraph (b).

180.16 (e) The prepetition screening team shall refuse to support a petition if the investigation  
180.17 does not disclose evidence sufficient to support commitment. Notice of the prepetition  
180.18 screening team's decision shall be provided to the prospective petitioner, any specific  
180.19 individuals identified in the examiner's statement, and to the proposed patient.

180.20 (f) If the interested person wishes to proceed with a petition contrary to the  
180.21 recommendation of the prepetition screening team, application may be made directly to the  
180.22 county attorney, who shall determine whether or not to proceed with the petition. Notice of  
180.23 the county attorney's determination shall be provided to the interested party.

180.24 (g) If the proposed patient has been acquitted of a crime under section 611.026, the  
180.25 county attorney shall apply to the designated county agency in the county in which the  
180.26 acquittal took place for a preliminary investigation unless substantially the same information  
180.27 relevant to the proposed patient's current mental condition, as could be obtained by a  
180.28 preliminary investigation, is part of the court record in the criminal proceeding or is contained  
180.29 in the report of a mental examination conducted in connection with the criminal proceeding.  
180.30 If a court petitions for commitment pursuant to the Rules of Criminal or Juvenile Procedure  
180.31 or a county attorney petitions pursuant to acquittal of a criminal charge under section 611.026,  
180.32 the prepetition investigation, if required by this section, shall be completed within seven  
180.33 days after the filing of the petition.

181.1 Sec. 38. Minnesota Statutes 2018, section 253B.07, subdivision 2, is amended to read:

181.2 Subd. 2. **The petition.** (a) Any interested person, except a member of the prepetition  
181.3 screening team, may file a petition for commitment in the district court of the county of  
181.4 financial responsibility or the county where the proposed patient is present. If the head of  
181.5 the treatment facility, state-operated treatment program, or community-based treatment  
181.6 program believes that commitment is required and no petition has been filed, ~~the head of~~  
181.7 ~~the treatment facility~~ that person shall petition for the commitment of the person proposed  
181.8 patient.

181.9 (b) The petition shall set forth the name and address of the proposed patient, the name  
181.10 and address of the patient's nearest relatives, and the reasons for the petition. The petition  
181.11 must contain factual descriptions of the proposed patient's recent behavior, including a  
181.12 description of the behavior, where it occurred, and the time period over which it occurred.  
181.13 Each factual allegation must be supported by observations of witnesses named in the petition.  
181.14 Petitions shall be stated in behavioral terms and shall not contain judgmental or conclusory  
181.15 statements.

181.16 (c) The petition shall be accompanied by a written statement by an examiner stating that  
181.17 the examiner has examined the proposed patient within the 15 days preceding the filing of  
181.18 the petition and is of the opinion that the proposed patient ~~is suffering~~ has a designated  
181.19 disability and should be committed to a treatment facility, state-operated treatment program,  
181.20 or community-based treatment program. The statement shall include the reasons for the  
181.21 opinion. In the case of a commitment based on mental illness, the petition and the examiner's  
181.22 statement shall include, ~~to the extent this information is available,~~ a statement and opinion  
181.23 regarding the proposed patient's need for treatment with neuroleptic medication and the  
181.24 patient's capacity to make decisions regarding the administration of neuroleptic medications,  
181.25 and the reasons for the opinion. If use of neuroleptic medications is recommended by the  
181.26 ~~treating physician~~ medical practitioner or other qualified medical provider, the petition for  
181.27 commitment must, if applicable, include or be accompanied by a request for proceedings  
181.28 under section 253B.092. Failure to include the required information regarding neuroleptic  
181.29 medications in the examiner's statement, or to include a request for an order regarding  
181.30 neuroleptic medications with the commitment petition, is not a basis for dismissing the  
181.31 commitment petition. If a petitioner has been unable to secure a statement from an examiner,  
181.32 the petition shall include documentation that a reasonable effort has been made to secure  
181.33 the supporting statement.

182.1 Sec. 39. Minnesota Statutes 2018, section 253B.07, subdivision 2a, is amended to read:

182.2 Subd. 2a. **Petition originating from criminal proceedings.** (a) If criminal charges are  
182.3 pending against a defendant, the court shall order simultaneous competency and civil  
182.4 commitment examinations in accordance with Minnesota Rules of Criminal Procedure, rule  
182.5 20.04, when the following conditions are met:

182.6 (1) the prosecutor or defense counsel doubts the defendant's competency and a motion  
182.7 is made challenging competency, or the court on its initiative raises the issue under rule  
182.8 20.01; and

182.9 (2) the prosecutor and defense counsel agree simultaneous examinations are appropriate.

182.10 No additional examination under subdivision 3 is required in a subsequent civil commitment  
182.11 proceeding unless a second examination is requested by defense counsel appointed following  
182.12 the filing of any petition for commitment.

182.13 (b) Only a court examiner may conduct an assessment as described in Minnesota Rules  
182.14 of Criminal Procedure, rules 20.01, subdivision 4, and 20.02, subdivision 2.

182.15 (c) Where a county is ordered to consider civil commitment following a determination  
182.16 of incompetency under Minnesota Rules of Criminal Procedure, rule 20.01, the county in  
182.17 which the criminal matter is pending is responsible to conduct prepetition screening and, if  
182.18 statutory conditions for commitment are satisfied, to file the commitment petition in that  
182.19 county. By agreement between county attorneys, prepetition screening and filing the petition  
182.20 may be handled in the county of financial responsibility or the county where the proposed  
182.21 patient is present.

182.22 ~~(b)~~ (d) Following an acquittal of a person of a criminal charge under section 611.026,  
182.23 the petition shall be filed by the county attorney of the county in which the acquittal took  
182.24 place and the petition shall be filed with the court in which the acquittal took place, and that  
182.25 court shall be the committing court for purposes of this chapter. When a petition is filed  
182.26 pursuant to subdivision 2 with the court in which acquittal of a criminal charge took place,  
182.27 the court shall assign the judge before whom the acquittal took place to hear the commitment  
182.28 proceedings unless that judge is unavailable.

182.29 Sec. 40. Minnesota Statutes 2018, section 253B.07, subdivision 2b, is amended to read:

182.30 Subd. 2b. **Apprehend and hold orders.** (a) The court may order the treatment facility  
182.31 or state-operated treatment program to hold the ~~person in a treatment facility~~ proposed  
182.32 patient or direct a health officer, peace officer, or other person to take the proposed patient  
182.33 into custody and transport the proposed patient to a treatment facility or state-operated

183.1 treatment program for observation, evaluation, diagnosis, care, treatment, and, if necessary,  
183.2 confinement, when:

183.3 (1) there has been a particularized showing by the petitioner that serious physical harm  
183.4 to the proposed patient or others is likely unless the proposed patient is immediately  
183.5 apprehended;

183.6 (2) the proposed patient has not voluntarily appeared for the examination or the  
183.7 commitment hearing pursuant to the summons; or

183.8 (3) a person is held pursuant to section ~~253B.05~~ 253B.051 and a request for a petition  
183.9 for commitment has been filed.

183.10 (b) The order of the court may be executed on any day and at any time by the use of all  
183.11 necessary means including the imposition of necessary restraint upon the proposed patient.  
183.12 Where possible, a peace officer taking the proposed patient into custody pursuant to this  
183.13 subdivision shall not be in uniform and shall not use a ~~motor~~ vehicle visibly marked as a  
183.14 ~~police~~ law enforcement vehicle. Except as provided in section 253D.10, subdivision 2, in  
183.15 the case of an individual on a judicial hold due to a petition for civil commitment under  
183.16 chapter 253D, assignment of custody during the hold is to the commissioner ~~of human~~  
183.17 ~~services~~. The commissioner is responsible for determining the appropriate placement within  
183.18 a secure treatment facility under the authority of the commissioner.

183.19 (c) A proposed patient must not be allowed or required to consent to nor participate in  
183.20 a clinical drug trial while an order is in effect under this subdivision. A consent given while  
183.21 an order is in effect is void and unenforceable. This paragraph does not prohibit a patient  
183.22 from continuing participation in a clinical drug trial if the patient was participating in the  
183.23 clinical drug trial at the time the order was issued under this subdivision.

183.24 Sec. 41. Minnesota Statutes 2018, section 253B.07, subdivision 2d, is amended to read:

183.25 Subd. 2d. **Change of venue.** Either party may move to have the venue of the petition  
183.26 changed to the district court of the Minnesota county where the person currently lives,  
183.27 whether independently or pursuant to a placement. The county attorney of the proposed  
183.28 county of venue must be notified of the motion and provided the opportunity to respond  
183.29 before the court rules on the motion. The court shall grant the motion if it determines that  
183.30 the transfer is appropriate and is in the interests of justice. If the petition has been filed  
183.31 pursuant to the Rules of Criminal or Juvenile Procedure, venue may not be changed without  
183.32 the agreement of the county attorney of the proposed county of venue and the approval of  
183.33 the court in which the juvenile or criminal proceedings are pending.

184.1 Sec. 42. Minnesota Statutes 2018, section 253B.07, subdivision 3, is amended to read:

184.2 Subd. 3. **Court-appointed examiners.** After a petition has been filed, the court shall  
184.3 appoint ~~an~~ a court examiner. Prior to the hearing, the court shall inform the proposed patient  
184.4 of the right to an independent second examination. At the proposed patient's request, the  
184.5 court shall appoint a second court examiner of the patient's choosing to be paid for by the  
184.6 county at a rate of compensation fixed by the court.

184.7 Sec. 43. Minnesota Statutes 2018, section 253B.07, subdivision 5, is amended to read:

184.8 Subd. 5. **Prehearing examination; report.** The examination shall be held at a treatment  
184.9 facility or other suitable place the court determines is not likely to harm the health of the  
184.10 proposed patient. The county attorney and the patient's attorney may be present during the  
184.11 examination. Either party may waive this right. Unless otherwise agreed by the parties, a  
184.12 ~~court-appointed~~ court examiner shall file the report with the court not less than 48 hours  
184.13 prior to the commitment hearing. The court shall ensure that copies of the court examiner's  
184.14 report are provided to the county attorney, the proposed patient, and the patient's counsel.

184.15 Sec. 44. Minnesota Statutes 2018, section 253B.07, subdivision 7, is amended to read:

184.16 Subd. 7. **Preliminary hearing.** (a) No proposed patient may be held in a treatment  
184.17 facility or state-operated treatment program under a judicial hold pursuant to subdivision  
184.18 2b longer than 72 hours, exclusive of Saturdays, Sundays, and legal holidays, unless the  
184.19 court holds a preliminary hearing and determines that the standard is met to hold the ~~person~~  
184.20 proposed patient.

184.21 (b) The proposed patient, patient's counsel, the petitioner, the county attorney, and any  
184.22 other persons as the court directs shall be given at least 24 hours written notice of the  
184.23 preliminary hearing. The notice shall include the alleged grounds for confinement. The  
184.24 proposed patient shall be represented at the preliminary hearing by counsel. The court may  
184.25 admit reliable hearsay evidence, including written reports, for the purpose of the preliminary  
184.26 hearing.

184.27 (c) The court, on its motion or on the motion of any party, may exclude or excuse a  
184.28 proposed patient who is seriously disruptive or who is incapable of comprehending and  
184.29 participating in the proceedings. In such instances, the court shall, with specificity on the  
184.30 record, state the behavior of the proposed patient or other circumstances which justify  
184.31 proceeding in the absence of the proposed patient.



185.1 (d) The court may continue the judicial hold of the proposed patient if it finds, by a  
185.2 preponderance of the evidence, that serious physical harm to the proposed patient or others  
185.3 is likely if the proposed patient is not immediately confined. If a proposed patient was  
185.4 acquitted of a crime against the person under section 611.026 immediately preceding the  
185.5 filing of the petition, the court may presume that serious physical harm to the patient or  
185.6 others is likely if the proposed patient is not immediately confined.

185.7 (e) Upon a showing that a ~~person~~ proposed patient subject to a petition for commitment  
185.8 may need treatment with neuroleptic medications and that the ~~person~~ proposed patient may  
185.9 lack capacity to make decisions regarding that treatment, the court may appoint a substitute  
185.10 decision-maker as provided in section 253B.092, subdivision 6. The substitute decision-maker  
185.11 shall meet with the proposed patient and provider and make a report to the court at the  
185.12 hearing under section 253B.08 regarding whether the administration of neuroleptic  
185.13 medications is appropriate under the criteria of section 253B.092, subdivision 7. If the  
185.14 substitute decision-maker consents to treatment with neuroleptic medications and the  
185.15 proposed patient does not refuse the medication, neuroleptic medication may be administered  
185.16 to the proposed patient. If the substitute decision-maker does not consent or the proposed  
185.17 patient refuses, neuroleptic medication may not be administered without a court order, or  
185.18 in an emergency as set forth in section 253B.092, subdivision 3.

185.19 Sec. 45. Minnesota Statutes 2018, section 253B.08, subdivision 1, is amended to read:

185.20 Subdivision 1. **Time for commitment hearing.** (a) The hearing on the commitment  
185.21 petition shall be held within 14 days from the date of the filing of the petition, except that  
185.22 the hearing on a commitment petition pursuant to section 253D.07 shall be held within 90  
185.23 days from the date of the filing of the petition. For good cause shown, the court may extend  
185.24 the time of hearing up to an additional 30 days. The proceeding shall be dismissed if the  
185.25 proposed patient has not had a hearing on a commitment petition within the allowed time.

185.26 (b) The proposed patient, or the head of the treatment facility or state-operated treatment  
185.27 program in which the ~~person~~ patient is held, may demand in writing at any time that the  
185.28 hearing be held immediately. Unless the hearing is held within five days of the date of the  
185.29 demand, exclusive of Saturdays, Sundays, and legal holidays, the petition shall be  
185.30 automatically dismissed if the patient is being held in a treatment facility or state-operated  
185.31 treatment program pursuant to court order. For good cause shown, the court may extend  
185.32 the time of hearing on the demand for an additional ten days. This paragraph does not apply  
185.33 to a commitment petition brought under section 253B.18 or chapter 253D.

186.1 Sec. 46. Minnesota Statutes 2018, section 253B.08, subdivision 2a, is amended to read:

186.2 Subd. 2a. **Place of hearing.** The hearing shall be conducted in a manner consistent with  
186.3 orderly procedure. The hearing shall be held at a courtroom meeting standards prescribed  
186.4 by local court rule which may be at a treatment facility or state-operated treatment program.  
186.5 The hearing may be conducted by interactive video conference under General Rules of  
186.6 Practice, rule 131, and Minnesota Rules of Civil Commitment, rule 14.

186.7 Sec. 47. Minnesota Statutes 2018, section 253B.08, subdivision 5, is amended to read:

186.8 Subd. 5. **Absence permitted.** (a) The court may permit the proposed patient to waive  
186.9 the right to attend the hearing if it determines that the waiver is freely given. At the time of  
186.10 the hearing, the proposed patient shall not be so under the influence of drugs, medication,  
186.11 or other treatment so as to be hampered in participating in the proceedings. When the ~~licensed~~  
186.12 ~~physician or licensed psychologist attending the patient~~ professional responsible for the  
186.13 proposed patient's treatment is of the opinion that the discontinuance of ~~drugs,~~ medication,  
186.14 or other treatment is not in the best interest of the proposed patient, the court, at the time of  
186.15 the hearing, shall be presented a record of all ~~drugs,~~ medication or other treatment which  
186.16 the proposed patient has received during the 48 hours immediately prior to the hearing.

186.17 (b) The court, on its own motion or on the motion of any party, may exclude or excuse  
186.18 a proposed patient who is seriously disruptive or who is incapable of comprehending and  
186.19 participating in the proceedings. In such instances, the court shall, with specificity on the  
186.20 record, state the behavior of the proposed patient or other circumstances justifying proceeding  
186.21 in the absence of the proposed patient.

186.22 Sec. 48. Minnesota Statutes 2018, section 253B.08, subdivision 5a, is amended to read:

186.23 Subd. 5a. **Witnesses.** The proposed patient or the patient's counsel and the county attorney  
186.24 may present and cross-examine witnesses, including court examiners, at the hearing. The  
186.25 court may in its discretion receive the testimony of any other person. Opinions of  
186.26 ~~court-appointed~~ court examiners may not be admitted into evidence unless the court examiner  
186.27 is present to testify, except by agreement of the parties.

186.28 Sec. 49. Minnesota Statutes 2018, section 253B.09, subdivision 1, is amended to read:

186.29 Subdivision 1. **Standard of proof.** (a) If the court finds by clear and convincing evidence  
186.30 that the proposed patient is a person ~~who is mentally ill, developmentally disabled, or~~  
186.31 ~~chemically dependent~~ who poses a risk of harm due to mental illness, or is a person who  
186.32 has a developmental disability or chemical dependency, and after careful consideration of

187.1 reasonable alternative dispositions, including but not limited to, dismissal of petition;  
187.2 voluntary outpatient care;<sup>2</sup> voluntary admission to a treatment facility, state-operated  
187.3 treatment program, or community-based treatment program; appointment of a guardian or  
187.4 conservator;<sup>2</sup> or release before commitment as provided for in subdivision 4, it finds that  
187.5 there is no suitable alternative to judicial commitment, the court shall commit the patient  
187.6 to the least restrictive treatment program or alternative programs which can meet the patient's  
187.7 treatment needs consistent with section 253B.03, subdivision 7.

187.8 (b) In deciding on the least restrictive program, the court shall consider a range of  
187.9 treatment alternatives including, but not limited to, community-based nonresidential  
187.10 treatment, community residential treatment, partial hospitalization, acute care hospital,  
187.11 assertive community treatment teams, and regional state-operated treatment center services  
187.12 programs. The court shall also consider the proposed patient's treatment preferences and  
187.13 willingness to participate voluntarily in the treatment ordered. The court may not commit  
187.14 a patient to a facility or program that is not capable of meeting the patient's needs.

187.15 (c) If, after careful consideration of reasonable alternative dispositions, the court finds  
187.16 no suitable alternative to judicial commitment and the court finds that the least restrictive  
187.17 alternative as determined in paragraph (a) is a treatment facility or community-based  
187.18 treatment program that is less restrictive or more community based than a state-operated  
187.19 treatment program, and there is a treatment facility or a community-based treatment program  
187.20 willing to accept the civilly committed patient, the court may commit the patient to both  
187.21 the treatment facility or community-based treatment program and to the commissioner, in  
187.22 the event that treatment in a state-operated treatment program becomes the least restrictive  
187.23 alternative. If there is a change in the patient's level of care, then:

187.24 (1) if the patient needs a higher level of care requiring admission to a state-operated  
187.25 treatment program, custody of the patient and authority and responsibility for the commitment  
187.26 may be transferred to the commissioner for as long as the patient needs a higher level of  
187.27 care; and

187.28 (2) when the patient no longer needs treatment in a state-operated treatment program,  
187.29 the program may provisionally discharge the patient to an appropriate placement or release  
187.30 the patient to the treatment facility or community-based treatment program if the program  
187.31 continues to be willing and able to readmit the patient, in which case the commitment, its  
187.32 authority, and responsibilities revert to the non-state-operated treatment program. Both  
187.33 agencies accepting commitment shall coordinate admission and discharge planning to  
187.34 facilitate timely access to the other's services to meet the patient's needs and shall coordinate  
187.35 treatment planning consistent with section 253B.03, subdivision 7.

188.1 ~~(e)~~ (d) If the commitment as mentally ill, chemically dependent, or developmentally  
188.2 disabled is to a service facility provided by the commissioner of human services a person  
188.3 is committed to a state-operated treatment program as a person who poses a risk of harm  
188.4 due to mental illness or as a person who has a developmental disability or chemical  
188.5 dependency, the court shall order the commitment to the commissioner. The commissioner  
188.6 shall designate the placement of the person to the court.

188.7 ~~(d)~~ (e) If the court finds a proposed patient to be a person who ~~is mentally ill~~ poses a  
188.8 risk of harm due to mental illness under section 253B.02, subdivision 13, ~~paragraph (a),~~  
188.9 ~~clause (2) or (4)~~, the court shall commit the patient to a treatment facility or community-based  
188.10 treatment program that meets the proposed patient's needs. For purposes of this paragraph,  
188.11 ~~a community-based program may include inpatient mental health services at a community~~  
188.12 ~~hospital.~~

188.13 Sec. 50. Minnesota Statutes 2018, section 253B.09, subdivision 2, is amended to read:

188.14 Subd. 2. **Findings.** (a) The court shall find the facts specifically, and separately state its  
188.15 conclusions of law. Where commitment is ordered, the findings of fact and conclusions of  
188.16 law shall specifically state the proposed patient's conduct which is a basis for determining  
188.17 that each of the requisites for commitment is met.

188.18 (b) If commitment is ordered, the findings shall also identify less restrictive alternatives  
188.19 considered and rejected by the court and the reasons for rejecting each alternative.

188.20 (c) If the proceedings are dismissed, the court may direct that the person be transported  
188.21 back to a suitable location including to the person's home.

188.22 Sec. 51. Minnesota Statutes 2018, section 253B.09, subdivision 3a, is amended to read:

188.23 Subd. 3a. **Reporting judicial commitments; private treatment program or**  
188.24 **facility.** Notwithstanding section 253B.23, subdivision 9, when a court commits a patient  
188.25 to a non-state-operated treatment facility or program ~~or facility other than a state-operated~~  
188.26 ~~program or facility~~, the court shall report the commitment to the commissioner through the  
188.27 supreme court information system for purposes of providing commitment information for  
188.28 firearm background checks under section 245.041. If the patient is committed to a  
188.29 state-operated treatment program, the court shall send a copy of the commitment order to  
188.30 the commissioner.

189.1 Sec. 52. Minnesota Statutes 2018, section 253B.09, subdivision 5, is amended to read:

189.2 Subd. 5. **Initial commitment period.** The initial commitment begins on the date that  
189.3 the court issues its order or warrant under section 253B.10, subdivision 1. For ~~persons a~~  
189.4 person committed as ~~mentally ill, developmentally disabled, a person who poses a risk of~~  
189.5 harm due to mental illness, a developmental disability, or chemically dependent chemical  
189.6 dependency, the initial commitment shall not exceed six months.

189.7 Sec. 53. Minnesota Statutes 2018, section 253B.092, is amended to read:

189.8 **253B.092 ADMINISTRATION OF NEUROLEPTIC MEDICATION.**

189.9 Subdivision 1. **General.** Neuroleptic medications may be administered, only as provided  
189.10 in this section, to patients subject to ~~early intervention or~~ civil commitment as ~~mentally ill,~~  
189.11 ~~mentally ill and dangerous, a sexually dangerous person, or a person with a sexual~~  
189.12 ~~psychopathic personality~~ under this chapter or chapter 253D. For purposes of this section,  
189.13 "patient" includes a proposed patient who is the subject of a petition for ~~early intervention~~  
189.14 ~~or~~ commitment and a committed person as defined in section 253D.02, subdivision 4.

189.15 Subd. 2. **Administration without judicial review.** (a) Neuroleptic medications may be  
189.16 administered without judicial review in the following circumstances:

189.17 (1) the patient has the capacity to make an informed decision under subdivision 4;

189.18 (2) the patient does not have the present capacity to consent to the administration of  
189.19 neuroleptic medication, but prepared a health care power of attorney, a health care directive  
189.20 under chapter 145C, or a declaration under section 253B.03, subdivision 6d, requesting  
189.21 treatment or authorizing an agent or proxy to request treatment, and the agent or proxy has  
189.22 requested the treatment;

189.23 (3) the patient has been prescribed neuroleptic medication prior to admission to a  
189.24 treatment facility, but lacks the present capacity to consent to the administration of that  
189.25 neuroleptic medication; continued administration of the medication is in the patient's best  
189.26 interest; and the patient does not refuse administration of the medication. In this situation,  
189.27 the previously prescribed neuroleptic medication may be continued for up to 14 days while  
189.28 the treating ~~physician~~ medical practitioner:

189.29 (i) is obtaining a substitute decision-maker appointed by the court under subdivision 6;  
189.30 or

189.31 (ii) is requesting a court order authorizing administering neuroleptic medication or an  
189.32 amendment to a current court order authorizing administration of neuroleptic medication;

190.1 (4) a substitute decision-maker appointed by the court consents to the administration of  
190.2 the neuroleptic medication and the patient does not refuse administration of the medication;  
190.3 or

190.4 (5) the substitute decision-maker does not consent or the patient is refusing medication,  
190.5 and the patient is in an emergency situation.

190.6 (b) For the purposes of paragraph (a), clause (3), if a person requests a substitute  
190.7 decision-maker or requests a court order administering neuroleptic medication within 14  
190.8 days, the treating medical practitioner may continue administering the medication to the  
190.9 patient through the hearing date or until the court otherwise issues an order.

190.10 Subd. 3. **Emergency administration.** A treating ~~physician~~ medical practitioner may  
190.11 administer neuroleptic medication to a patient who does not have capacity to make a decision  
190.12 regarding administration of the medication if the patient is in an emergency situation.  
190.13 Medication may be administered for so long as the emergency continues to exist, up to 14  
190.14 days, if the treating ~~physician~~ medical practitioner determines that the medication is necessary  
190.15 to prevent serious, immediate physical harm to the patient or to others. If a request for  
190.16 authorization to administer medication is made to the court within the 14 days, the treating  
190.17 ~~physician~~ medical practitioner may continue the medication through the date of the first  
190.18 court hearing, if the emergency continues to exist. If the request for authorization to  
190.19 administer medication is made to the court in conjunction with a petition for commitment  
190.20 ~~or early intervention~~ and the court makes a determination at the preliminary hearing under  
190.21 section 253B.07, subdivision 7, that there is sufficient cause to continue the ~~physician's~~  
190.22 medical practitioner's order until the hearing under section 253B.08, the treating ~~physician~~  
190.23 medical practitioner may continue the medication until that hearing, if the emergency  
190.24 continues to exist. The treatment facility, state-operated treatment program, or  
190.25 community-based treatment program shall document the emergency in the patient's medical  
190.26 record in specific behavioral terms.

190.27 Subd. 4. **Patients with capacity to make informed decision.** A patient who has the  
190.28 capacity to make an informed decision regarding the administration of neuroleptic medication  
190.29 may consent or refuse consent to administration of the medication. The informed consent  
190.30 of a patient must be in writing.

190.31 Subd. 5. **Determination of capacity.** (a) There is a rebuttable presumption that a patient  
190.32 ~~is presumed to have~~ has the capacity to make decisions regarding administration of  
190.33 neuroleptic medication.

191.1 (b) ~~In determining~~ A ~~person's~~ patient has the capacity to make decisions regarding the  
191.2 administration of neuroleptic medication, ~~the court shall consider~~ if the patient:

191.3 (1) ~~whether the person demonstrates~~ has an awareness of the nature of the ~~person's~~  
191.4 patient's situation, including the reasons for hospitalization, and the possible consequences  
191.5 of refusing treatment with neuroleptic medications;

191.6 (2) ~~whether the person demonstrates~~ has an understanding of treatment with neuroleptic  
191.7 medications and the risks, benefits, and alternatives; and

191.8 (3) ~~whether the person~~ communicates verbally or nonverbally a clear choice regarding  
191.9 treatment with neuroleptic medications that is a reasoned one not based on ~~delusion~~ a  
191.10 symptom of the patient's mental illness, even though it may not be in the ~~person's~~ patient's  
191.11 best interests.

191.12 (c) Disagreement with the ~~physician's~~ medical practitioner's recommendation alone is  
191.13 not evidence of an unreasonable decision.

191.14 Subd. 6. **Patients without capacity to make informed decision; substitute**

191.15 **decision-maker.** (a) Upon request of any person, and upon a showing that administration  
191.16 of neuroleptic medications may be recommended and that the ~~person~~ patient may lack  
191.17 capacity to make decisions regarding the administration of neuroleptic medication, the court  
191.18 shall appoint a substitute decision-maker with authority to consent to the administration of  
191.19 neuroleptic medication as provided in this section. A hearing is not required for an  
191.20 appointment under this paragraph. The substitute decision-maker must be an individual or  
191.21 a community or institutional multidisciplinary panel designated by the local mental health  
191.22 authority. In appointing a substitute decision-maker, the court shall give preference to a  
191.23 guardian ~~or conservator~~, proxy, or health care agent with authority to make health care  
191.24 decisions for the patient. The court may provide for the payment of a reasonable fee to the  
191.25 substitute decision-maker for services under this section or may appoint a volunteer.

191.26 (b) If the ~~person's treating physician~~ patient's treating medical practitioner recommends  
191.27 treatment with neuroleptic medication, the substitute decision-maker may give or withhold  
191.28 consent to the administration of the medication, based on the standards under subdivision  
191.29 7. If the substitute decision-maker gives informed consent to the treatment and the ~~person~~  
191.30 patient does not refuse, the substitute decision-maker shall provide written consent to the  
191.31 ~~treating physician~~ medical practitioner and the medication may be administered. The  
191.32 substitute decision-maker shall also notify the court that consent has been given. If the  
191.33 substitute decision-maker refuses or withdraws consent or the ~~person~~ patient refuses the

192.1 medication, neuroleptic medication ~~may~~ must not be administered to the ~~person without~~  
192.2 patient except with a court order or in an emergency.

192.3 (c) A substitute decision-maker appointed under this section has access to the relevant  
192.4 sections of the patient's health records on the past or present administration of medication.  
192.5 The designated agency or a person involved in the patient's physical or mental health care  
192.6 may disclose information to the substitute decision-maker for the sole purpose of performing  
192.7 the responsibilities under this section. The substitute decision-maker may not disclose health  
192.8 records obtained under this paragraph except to the extent necessary to carry out the duties  
192.9 under this section.

192.10 (d) At a hearing under section 253B.08, the petitioner has the burden of proving incapacity  
192.11 by a preponderance of the evidence. If a substitute decision-maker has been appointed by  
192.12 the court, the court shall make findings regarding the patient's capacity to make decisions  
192.13 regarding the administration of neuroleptic medications and affirm or reverse its appointment  
192.14 of a substitute decision-maker. If the court affirms the appointment of the substitute  
192.15 decision-maker, and if the substitute decision-maker has consented to the administration of  
192.16 the medication and the patient has not refused, the court shall make findings that the substitute  
192.17 decision-maker has consented and the treatment is authorized. If a substitute decision-maker  
192.18 has not yet been appointed, upon request the court shall make findings regarding the patient's  
192.19 capacity and appoint a substitute decision-maker if appropriate.

192.20 (e) If an order for civil commitment ~~or early intervention~~ did not provide for the  
192.21 appointment of a substitute decision-maker or for the administration of neuroleptic  
192.22 medication, ~~the~~ a treatment facility, state-operated treatment program, or community-based  
192.23 treatment program may later request the appointment of a substitute decision-maker upon  
192.24 a showing that administration of neuroleptic medications is recommended and that the  
192.25 ~~person~~ patient lacks capacity to make decisions regarding the administration of neuroleptic  
192.26 medications. A hearing is not required in order to administer the neuroleptic medication  
192.27 unless requested under subdivision 10 or if the substitute decision-maker withholds or  
192.28 refuses consent or the ~~person~~ patient refuses the medication.

192.29 (f) The substitute decision-maker's authority to consent to treatment lasts for the duration  
192.30 of the court's order of appointment or until modified by the court.

192.31 ~~If the substitute decision-maker withdraws consent or the patient refuses consent,~~  
192.32 ~~neuroleptic medication may not be administered without a court order.~~

192.33 (g) If there is no hearing after the preliminary hearing, then the court shall, upon the  
192.34 request of any interested party, review the reasonableness of the substitute decision-maker's



193.1 decision based on the standards under subdivision 7. The court shall enter an order upholding  
193.2 or reversing the decision within seven days.

193.3 Subd. 7. **When ~~person~~ patient lacks capacity to make decisions about medication.** (a)  
193.4 When a ~~person~~ patient lacks capacity to make decisions regarding the administration of  
193.5 neuroleptic medication, the substitute decision-maker or the court shall use the standards  
193.6 in this subdivision in making a decision regarding administration of the medication.

193.7 (b) If the ~~person~~ patient clearly stated what the ~~person~~ patient would choose to do in this  
193.8 situation when the ~~person~~ patient had the capacity to make a reasoned decision, the ~~person's~~  
193.9 patient's wishes must be followed. Evidence of the ~~person's~~ patient's wishes may include  
193.10 written instruments, including a durable power of attorney for health care under chapter  
193.11 145C or a declaration under section 253B.03, subdivision 6d.

193.12 (c) If evidence of the ~~person's~~ patient's wishes regarding the administration of neuroleptic  
193.13 medications is conflicting or lacking, the decision must be based on what a reasonable  
193.14 person would do, taking into consideration:

193.15 (1) the ~~person's~~ patient's family, community, moral, religious, and social values;

193.16 (2) the medical risks, benefits, and alternatives to the proposed treatment;

193.17 (3) past efficacy and any extenuating circumstances of past use of neuroleptic  
193.18 medications; and

193.19 (4) any other relevant factors.

193.20 Subd. 8. **Procedure when patient refuses neuroleptic medication.** (a) If the substitute  
193.21 decision-maker or the patient refuses to consent to treatment with neuroleptic medications,  
193.22 and absent an emergency as set forth in subdivision 3, neuroleptic medications may not be  
193.23 administered without a court order. Upon receiving a written request for a hearing, the court  
193.24 shall schedule the hearing within 14 days of the request. The matter may be heard as part  
193.25 of any other district court proceeding under this chapter. By agreement of the parties or for  
193.26 good cause shown, the court may extend the time of hearing an additional 30 days.

193.27 (b) The patient must be examined by a court examiner prior to the hearing. If the patient  
193.28 refuses to participate in an examination, the court examiner may rely on the patient's medical  
193.29 records to reach an opinion as to the appropriateness of neuroleptic medication. The patient  
193.30 is entitled to counsel and a second court examiner, if requested by the patient or patient's  
193.31 counsel.

193.32 (c) The court may base its decision on relevant and admissible evidence, including the  
193.33 testimony of a treating ~~physician~~ medical practitioner or other qualified physician, a member

194.1 of the patient's treatment team, a ~~court-appointed~~ court examiner, witness testimony, or the  
194.2 patient's medical records.

194.3 (d) If the court finds that the patient has the capacity to decide whether to take neuroleptic  
194.4 medication or that the patient lacks capacity to decide and the standards for making a decision  
194.5 to administer the medications under subdivision 7 are not met, the ~~treating~~ treatment facility,  
194.6 state-operated treatment program, or community-based treatment program may not administer  
194.7 medication without the patient's informed written consent or without the declaration of an  
194.8 emergency, or until further review by the court.

194.9 (e) If the court finds that the patient lacks capacity to decide whether to take neuroleptic  
194.10 medication and has applied the standards set forth in subdivision 7, the court may authorize  
194.11 the ~~treating~~ treatment facility, state-operated treatment program, or community-based  
194.12 treatment program and any other ~~community or treatment~~ facility or program to which the  
194.13 patient may be transferred or provisionally discharged, to involuntarily administer the  
194.14 medication to the patient. A copy of the order must be given to the patient, the patient's  
194.15 attorney, the county attorney, and the treatment facility, state-operated treatment program,  
194.16 or community-based treatment program. The treatment facility, state-operated treatment  
194.17 program, or community-based treatment program may not begin administration of the  
194.18 neuroleptic medication until it notifies the patient of the court's order authorizing the  
194.19 treatment.

194.20 (f) A finding of lack of capacity under this section must not be construed to determine  
194.21 the patient's competence for any other purpose.

194.22 (g) The court may authorize the administration of neuroleptic medication until the  
194.23 termination of a determinate commitment. If the patient is committed for an indeterminate  
194.24 period, the court may authorize treatment of neuroleptic medication for not more than two  
194.25 years, subject to the patient's right to petition the court for review of the order. The treatment  
194.26 facility, state-operated treatment program, or community-based treatment program must  
194.27 submit annual reports to the court, which shall provide copies to the patient and the respective  
194.28 attorneys.

194.29 (h) The court may limit the maximum dosage of neuroleptic medication that may be  
194.30 administered.

194.31 (i) If physical force is required to administer the neuroleptic medication, the facility or  
194.32 program may only use injectable medications. If physical force is needed to administer the  
194.33 medication, medication may only take place be administered in a treatment facility or  
194.34 therapeutic setting where the person's condition can be reassessed and appropriate medical

195.1 staff personnel qualified to administer medication are available, including in the community,  
195.2 a county jail, or a correctional facility. The facility or program may not use a nasogastric  
195.3 tube to administer neuroleptic medication involuntarily.

195.4 Subd. 9. **Immunity.** A substitute decision-maker who consents to treatment is not civilly  
195.5 or criminally liable for the performance of or the manner of performing the treatment. A  
195.6 person is not liable for performing treatment without consent if the substitute decision-maker  
195.7 has given written consent. This provision does not affect any other liability that may result  
195.8 from the manner in which the treatment is performed.

195.9 Subd. 10. **Review.** A patient or other person may petition the court under section 253B.17  
195.10 for review of any determination under this section or for a decision regarding the  
195.11 administration of neuroleptic medications, appointment of a substitute decision-maker, or  
195.12 the patient's capacity to make decisions regarding administration of neuroleptic medications.

195.13 Sec. 54. Minnesota Statutes 2018, section 253B.0921, is amended to read:

195.14 **253B.0921 ACCESS TO MEDICAL RECORDS.**

195.15 A treating ~~physician~~ medical practitioner who makes medical decisions regarding the  
195.16 prescription and administration of medication for treatment of a mental illness has access  
195.17 to the relevant sections of a patient's health records on past administration of medication at  
195.18 any ~~treatment~~ facility, program, or treatment provider, if the patient lacks the capacity to  
195.19 authorize the release of records. Upon request of a treating ~~physician~~ medical practitioner  
195.20 under this section, a ~~treatment~~ facility, program, or treatment provider shall supply complete  
195.21 information relating to the past records on administration of medication of a patient subject  
195.22 to this chapter. A patient who has the capacity to authorize the release of data retains the  
195.23 right to make decisions regarding access to medical records as provided by sections 144.291  
195.24 to 144.298.

195.25 Sec. 55. Minnesota Statutes 2018, section 253B.095, subdivision 3, is amended to read:

195.26 Subd. 3. **Duration.** The maximum duration of a stayed order under this section is six  
195.27 months. The court may continue the order for a maximum of an additional 12 months if,  
195.28 after notice and hearing, under sections 253B.08 and 253B.09 the court finds that (1) the  
195.29 person continues to ~~be mentally ill, chemically dependent, or developmentally disabled,~~  
195.30 have a mental illness, developmental disability, or chemical dependency, and (2) an order  
195.31 is needed ~~to protect the patient or others~~ because the person is likely to attempt to physically  
195.32 harm self or others or fail to obtain necessary food, clothing, shelter, or medical care unless  
195.33 the person is under the supervision of a stayed commitment.

196.1 Sec. 56. Minnesota Statutes 2018, section 253B.097, subdivision 1, is amended to read:

196.2 Subdivision 1. **Findings.** In addition to the findings required under section 253B.09,  
196.3 subdivision 2, an order committing a person to a community-based treatment program must  
196.4 include:

196.5 (1) a written plan for services to the patient;

196.6 (2) a finding that the proposed treatment is available and accessible to the patient and  
196.7 that public or private financial resources are available to pay for the proposed treatment;

196.8 (3) conditions the patient must meet in order to obtain an early release from commitment  
196.9 or to avoid a hearing for further commitment; and

196.10 (4) consequences of the patient's failure to follow the commitment order. Consequences  
196.11 may include commitment to another setting for treatment.

196.12 Sec. 57. Minnesota Statutes 2018, section 253B.097, subdivision 2, is amended to read:

196.13 Subd. 2. **Case manager.** When a court commits a patient with mental illness to a  
196.14 community-based treatment program, the court shall appoint a case manager from the county  
196.15 agency or other entity under contract with the county agency to provide case management  
196.16 services.

196.17 Sec. 58. Minnesota Statutes 2018, section 253B.097, subdivision 3, is amended to read:

196.18 Subd. 3. **Reports.** The case manager shall report to the court at least once every 90 days.  
196.19 The case manager shall immediately report to the court a substantial failure of the patient  
196.20 or provider to comply with the conditions of the commitment.

196.21 Sec. 59. Minnesota Statutes 2018, section 253B.097, subdivision 6, is amended to read:

196.22 Subd. 6. **Immunity from liability.** No treatment facility, community-based treatment  
196.23 program, or person is financially liable, personally or otherwise, for the patient's actions of  
196.24 ~~the patient~~ if the facility or person follows accepted community standards of professional  
196.25 practice in the management, supervision, and treatment of the patient. For purposes of this  
196.26 subdivision, "person" means official, staff, employee of the treatment facility,  
196.27 community-based treatment program, physician, or other individual who is responsible for  
196.28 ~~the a patient's~~ management, supervision, or treatment ~~of a patient's community-based~~  
196.29 ~~treatment~~ under this section.

197.1 Sec. 60. Minnesota Statutes 2018, section 253B.10, is amended to read:

197.2 **253B.10 PROCEDURES UPON COMMITMENT.**

197.3 Subdivision 1. **Administrative requirements.** (a) When a person is committed, the  
197.4 court shall issue a warrant or an order committing the patient to the custody of the head of  
197.5 the treatment facility, state-operated treatment program, or community-based treatment  
197.6 program. The warrant or order shall state that the patient meets the statutory criteria for  
197.7 civil commitment.

197.8 (b) The commissioner shall prioritize patients being admitted from jail or a correctional  
197.9 institution who are:

197.10 (1) ordered confined in a ~~state hospital~~ state-operated treatment program for an  
197.11 examination under Minnesota Rules of Criminal Procedure, rules 20.01, subdivision 4,  
197.12 paragraph (a), and 20.02, subdivision 2;

197.13 (2) under civil commitment for competency treatment and continuing supervision under  
197.14 Minnesota Rules of Criminal Procedure, rule 20.01, subdivision 7;

197.15 (3) found not guilty by reason of mental illness under Minnesota Rules of Criminal  
197.16 Procedure, rule 20.02, subdivision 8, and under civil commitment or are ordered to be  
197.17 detained in a ~~state hospital or other facility~~ state-operated treatment program pending  
197.18 completion of the civil commitment proceedings; or

197.19 (4) committed under this chapter to the commissioner after dismissal of the patient's  
197.20 criminal charges.

197.21 Patients described in this paragraph must be admitted to a ~~service operated by the~~  
197.22 ~~commissioner~~ state-operated treatment program within 48 hours. The commitment must be  
197.23 ordered by the court as provided in section 253B.09, subdivision 1, paragraph ~~(e)~~ (d).

197.24 (c) Upon the arrival of a patient at the designated treatment facility, state-operated  
197.25 treatment program, or community-based treatment program, the head of the facility or  
197.26 program shall retain the duplicate of the warrant and endorse receipt upon the original  
197.27 warrant or acknowledge receipt of the order. The endorsed receipt or acknowledgment must  
197.28 be filed in the court of commitment. After arrival, the patient shall be under the control and  
197.29 custody of the head of the ~~treatment~~ facility or program.

197.30 (d) Copies of the petition for commitment, the court's findings of fact and conclusions  
197.31 of law, the court order committing the patient, the report of the court examiners, and the  
197.32 prepetition report, and any medical and behavioral information available shall be provided  
197.33 at the time of admission of a patient to the designated treatment facility or program to which

198.1 the patient is committed. This information shall also be provided by the head of the treatment  
198.2 facility to treatment facility staff in a consistent and timely manner and pursuant to all  
198.3 applicable laws. Upon a patient's referral to the commissioner of human services for  
198.4 admission pursuant to subdivision 1, paragraph (b), any inpatient hospital, treatment facility,  
198.5 jail, or correctional facility that has provided care or supervision to the patient in the previous  
198.6 two years shall, when requested by the treatment facility or commissioner, provide copies  
198.7 of the patient's medical and behavioral records to the Department of Human Services for  
198.8 purposes of preadmission planning. This information shall be provided by the head of the  
198.9 treatment facility to treatment facility staff in a consistent and timely manner and pursuant  
198.10 to all applicable laws.

198.11 Subd. 2. **Transportation.** (a) When a patient is about to be placed in a treatment facility,  
198.12 state-operated treatment program, or community-based treatment program, the court may  
198.13 order the designated agency, the treatment facility, state-operated treatment program, or  
198.14 community-based treatment program, or any responsible adult to transport the patient to  
198.15 the treatment facility. A protected transport provider may transport the patient according to  
198.16 section 256B.0625, subdivision 17. Whenever possible, a peace officer who provides the  
198.17 transportation shall not be in uniform and shall not use a vehicle visibly marked as a police  
198.18 law enforcement vehicle. The proposed patient may be accompanied by one or more  
198.19 interested persons.

198.20 (b) When a patient who is at a regional state-operated treatment center program requests  
198.21 a hearing for adjudication of a patient's status pursuant to section 253B.17, the commissioner  
198.22 shall provide transportation.

198.23 Subd. 3. **Notice of admission.** Whenever a committed person has been admitted to a  
198.24 treatment facility, state-operated treatment program, or community-based treatment program  
198.25 under the provisions of section 253B.09 or 253B.18, the head of the treatment facility or  
198.26 program shall immediately notify the patient's spouse, health care agent, or parent and the  
198.27 county of financial responsibility if the county may be liable for a portion of the cost of  
198.28 treatment. If the committed person was admitted upon the petition of a spouse, health care  
198.29 agent, or parent, the head of the treatment facility, state-operated treatment program, or  
198.30 community-based treatment program shall notify an interested person other than the  
198.31 petitioner.

198.32 Subd. 3a. **Interim custody and treatment of committed person.** When the patient is  
198.33 present in a treatment facility or state-operated treatment program at the time of the court's  
198.34 commitment order, unless the court orders otherwise, the commitment order constitutes

199.1 authority for that facility or program to confine and provide treatment to the patient until  
199.2 the patient is transferred to the facility or program to which the patient has been committed.

199.3 Subd. 4. **Private treatment.** Patients or other responsible persons are required to pay  
199.4 the necessary charges for patients committed or transferred to ~~private~~ treatment facilities  
199.5 or community-based treatment programs. ~~Private~~ Treatment facilities or community-based  
199.6 treatment programs may not refuse to accept a committed person solely based on the person's  
199.7 court-ordered status. Insurers must provide treatment and services as ordered by the court  
199.8 under section 253B.045, subdivision 6, or as required under chapter 62M.

199.9 Subd. 5. **Transfer to voluntary status.** At any time prior to the expiration of the initial  
199.10 commitment period, a patient who has not been committed as ~~mentally ill~~ a person who has  
199.11 a mental illness and is dangerous to the public or ~~as~~ a sexually dangerous person or ~~as~~ a  
199.12 sexual psychopathic personality may be transferred to voluntary status upon the patient's  
199.13 application in writing with the consent of the head of the facility or program to which the  
199.14 person is committed. Upon transfer, the head of the treatment facility, state-operated treatment  
199.15 program, or community-based treatment program shall immediately notify the court in  
199.16 writing and the court shall terminate the proceedings.

199.17 Sec. 61. Minnesota Statutes 2018, section 253B.12, subdivision 1, is amended to read:

199.18 Subdivision 1. **Reports.** (a) If a patient who was committed as a person ~~who is mentally~~  
199.19 ~~ill, developmentally disabled, or chemically dependent~~ who poses a risk of harm due to a  
199.20 mental illness, or as a person who has a developmental disability or chemical dependency,  
199.21 is discharged from commitment within the first 60 days after the date of the initial  
199.22 commitment order, the head of the treatment facility, state-operated treatment program, or  
199.23 community-based treatment program shall file a written report with the committing court  
199.24 describing the patient's need for further treatment. A copy of the report must be provided  
199.25 to the county attorney, the patient, and the patient's counsel.

199.26 (b) If a patient who was committed as a person ~~who is mentally ill, developmentally~~  
199.27 ~~disabled, or chemically dependent~~ who poses a risk of harm due to a mental illness, or as a  
199.28 person who has a developmental disability or chemical dependency, remains in treatment  
199.29 more than 60 days after the date of the commitment, then at least 60 days, but not more than  
199.30 90 days, after the date of the order, the head of the facility or program that has custody of  
199.31 the patient shall file a written report with the committing court and provide a copy to the  
199.32 county attorney, the patient, and the patient's counsel. The report must set forth in detailed  
199.33 narrative form at least the following:

199.34 (1) the diagnosis of the patient with the supporting data;

- 200.1 (2) the anticipated discharge date;
- 200.2 (3) an individualized treatment plan;
- 200.3 (4) a detailed description of the discharge planning process with suggested after care
- 200.4 plan;
- 200.5 (5) whether the patient is in need of further care and treatment, the treatment facility
- 200.6 ~~which~~, state-operated treatment program, or community-based treatment program that is
- 200.7 needed, and evidence to support the response;
- 200.8 (6) whether the patient satisfies the statutory requirement for continued commitment ~~to~~
- 200.9 ~~a treatment facility~~, with documentation to support the opinion; ~~and~~
- 200.10 (7) a statement from the patient related to accepting treatment, if possible; and
- 200.11 ~~(7)~~ (8) whether the administration of neuroleptic medication is clinically indicated,
- 200.12 whether the patient is able to give informed consent to that medication, and the basis for
- 200.13 these opinions.
- 200.14 (c) Prior to the termination of the initial commitment order or final discharge of the
- 200.15 patient, the head of the ~~treatment facility~~ or program that has custody or care of the patient
- 200.16 shall file a written report with the committing court with a copy to the county attorney, the
- 200.17 patient, and the patient's counsel that sets forth the information required in paragraph (b).
- 200.18 (d) If the patient has been provisionally discharged from a ~~treatment facility~~ or program,
- 200.19 the report shall be filed by the designated agency, which may submit the discharge report
- 200.20 as part of its report.
- 200.21 (e) ~~If no written report is filed within the required time, or~~ If a report describes the patient
- 200.22 as not in need of further ~~institutional care and~~ court-ordered treatment, the proceedings must
- 200.23 be terminated by the committing court and the patient discharged from the treatment facility,
- 200.24 state-operated treatment program, or community-based treatment program, unless the patient
- 200.25 chooses to voluntarily receive services.
- 200.26 (f) If no written report is filed within the required time, the court must notify the county,
- 200.27 facility or program to which the person is committed, and designated agency and require a
- 200.28 report be filed within five business days. If a report is not filed within five business days a
- 200.29 hearing must be held within three business days.

200.30 Sec. 62. Minnesota Statutes 2018, section 253B.12, subdivision 3, is amended to read:

200.31 Subd. 3. **Examination.** Prior to the review hearing, the court shall inform the patient of

200.32 the right to an independent examination by ~~an~~ a court examiner chosen by the patient and



201.1 appointed in accordance with provisions of section 253B.07, subdivision 3. The report of  
201.2 the court examiner may be submitted at the hearing.

201.3 Sec. 63. Minnesota Statutes 2018, section 253B.12, subdivision 4, is amended to read:

201.4 Subd. 4. **Hearing; standard of proof.** (a) The committing court shall not make a final  
201.5 determination of the need to continue commitment unless the court finds by clear and  
201.6 convincing evidence that (1) the ~~person~~ patient continues to ~~be mentally ill, developmentally~~  
201.7 ~~disabled, or chemically dependent~~ have a mental illness, developmental disability, or chemical  
201.8 dependency; (2) involuntary commitment is necessary for the protection of the patient or  
201.9 others; and (3) there is no alternative to involuntary commitment.

201.10 (b) In determining whether a ~~person~~ patient continues to ~~be mentally ill, chemically~~  
201.11 ~~dependent, or developmentally disabled,~~ require commitment due to mental illness,  
201.12 developmental disability, or chemical dependency, the court need not find that there has  
201.13 been a recent attempt or threat to physically harm self or others, or a recent failure to provide  
201.14 necessary ~~personal~~ food, clothing, shelter, or medical care. Instead, the court must find that  
201.15 the patient is likely to attempt to physically harm self or others, or to fail to ~~provide~~ obtain  
201.16 necessary ~~personal~~ food, clothing, shelter, or medical care unless involuntary commitment  
201.17 is continued.

201.18 Sec. 64. Minnesota Statutes 2018, section 253B.12, subdivision 7, is amended to read:

201.19 Subd. 7. **Record required.** Where continued commitment is ordered, the findings of  
201.20 fact and conclusions of law shall specifically state the conduct of the proposed patient which  
201.21 is the basis for the final determination, that the statutory criteria of commitment continue  
201.22 to be met, and that less restrictive alternatives have been considered and rejected by the  
201.23 court. Reasons for rejecting each alternative shall be stated. A copy of the final order for  
201.24 continued commitment shall be forwarded to the head of the ~~treatment~~ facility or program  
201.25 to which the person is committed and, if the patient has been provisionally discharged, to  
201.26 the designated agency responsible for monitoring the provisional discharge.

201.27 Sec. 65. Minnesota Statutes 2018, section 253B.13, subdivision 1, is amended to read:

201.28 Subdivision 1. ~~Mentally ill or chemically dependent Persons with mental illness or~~  
201.29 ~~chemical dependency.~~ (a) If at the conclusion of a review hearing the court finds that the  
201.30 person continues to ~~be mentally ill or chemically dependent~~ have mental illness or chemical  
201.31 dependency and in need of treatment or supervision, the court shall determine the length of

202.1 continued commitment. No period of commitment shall exceed this length of time or 12  
202.2 months, whichever is less.

202.3 (b) At the conclusion of the prescribed period under paragraph (a), commitment may  
202.4 not be continued unless a new petition is filed pursuant to section 253B.07 and hearing and  
202.5 determination made on it. If the petition was filed before the end of the previous commitment  
202.6 and, for good cause shown, the court has not completed the hearing and the determination  
202.7 by the end of the commitment period, the court may for good cause extend the previous  
202.8 commitment for up to 14 days to allow the completion of the hearing and the issuance of  
202.9 the determination. The standard of proof for the new petition is the standard specified in  
202.10 section 253B.12, subdivision 4. Notwithstanding the provisions of section 253B.09,  
202.11 subdivision 5, the initial commitment period under the new petition shall be the probable  
202.12 length of commitment necessary or 12 months, whichever is less. The standard of proof at  
202.13 the hearing on the new petition shall be the standard specified in section 253B.12, subdivision  
202.14 4.

202.15 Sec. 66. Minnesota Statutes 2018, section 253B.14, is amended to read:

202.16 **253B.14 TRANSFER OF COMMITTED PERSONS.**

202.17 The commissioner may transfer any committed person, other than a person committed  
202.18 as ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public, ~~or as~~  
202.19 a sexually dangerous person or as a sexual psychopathic personality, from one ~~regional~~  
202.20 state-operated treatment center program to any other state-operated treatment facility under  
202.21 ~~the commissioner's jurisdiction which is~~ program capable of providing proper care and  
202.22 treatment. When a committed person is transferred from one state-operated treatment facility  
202.23 program to another, written notice shall be given to the committing court, the county attorney,  
202.24 the patient's counsel, and to the person's parent, health care agent, or spouse or, if none is  
202.25 known, to an interested person, and the designated agency.

202.26 Sec. 67. Minnesota Statutes 2018, section 253B.141, is amended to read:

202.27 **253B.141 AUTHORITY TO DETAIN AND TRANSPORT A MISSING PATIENT.**

202.28 Subdivision 1. **Report of absence.** (a) If a patient committed under this chapter or  
202.29 detained in a treatment facility or state-operated treatment program under a judicial hold is  
202.30 absent without authorization, and either: (1) does not return voluntarily within 72 hours of  
202.31 the time the unauthorized absence began; or (2) is considered by the head of the ~~treatment~~  
202.32 facility or program to be a danger to self or others, then the head of the ~~treatment~~ facility  
202.33 or program shall report the absence to the local law enforcement agency. The head of the

203.1 ~~treatment~~ facility or program shall also notify the committing court that the patient is absent  
203.2 and that the absence has been reported to the local law enforcement agency. The committing  
203.3 court may issue an order directing the law enforcement agency to transport the patient to  
203.4 an appropriate treatment facility, state-operated treatment program, or community-based  
203.5 treatment program.

203.6 (b) Upon receiving a report that a patient subject to this section is absent without  
203.7 authorization, the local law enforcement agency shall enter information on the patient into  
203.8 the missing persons file of the National Crime Information Center computer according to  
203.9 the missing persons practices.

203.10 Subd. 2. **Apprehension; return to facility or program.** (a) Upon receiving the report  
203.11 of absence from the head of the treatment facility, state-operated treatment program, or  
203.12 community-based treatment program or the committing court, a patient may be apprehended  
203.13 and held by a peace officer in any jurisdiction pending return to the facility or program from  
203.14 which the patient is absent without authorization. A patient may also be returned to any  
203.15 ~~facility operated by the commissioner~~ state-operated treatment program or any other treatment  
203.16 facility or community-based treatment program willing to accept the person. A person who  
203.17 ~~is mentally ill~~ has a mental illness and is dangerous to the public and detained under this  
203.18 subdivision may be held in a jail or lockup only if:

203.19 (1) there is no other feasible place of detention for the patient;

203.20 (2) the detention is for less than 24 hours; and

203.21 (3) there are protections in place, including segregation of the patient, to ensure the  
203.22 safety of the patient.

203.23 (b) If a patient is detained under this subdivision, the head of the ~~treatment~~ facility or  
203.24 program from which the patient is absent shall arrange to pick up the patient within 24 hours  
203.25 of the time detention was begun and shall be responsible for securing transportation for the  
203.26 patient to the facility or program. The expense of detaining and transporting a patient shall  
203.27 be the responsibility of the ~~treatment~~ facility or program from which the patient is absent.  
203.28 The expense of detaining and transporting a patient to a state-operated treatment facility  
203.29 ~~operated by the Department of Human Services~~ program shall be paid by the commissioner  
203.30 unless paid by the patient or persons on behalf of the patient.

203.31 Subd. 3. **Notice of apprehension.** Immediately after an absent patient is located, the  
203.32 head of the ~~treatment~~ facility or program from which the patient is absent, or the law  
203.33 enforcement agency that located or returned the absent patient, shall notify the law  
203.34 enforcement agency that first received the absent patient report under this section and that

204.1 agency shall cancel the missing persons entry from the National Crime Information Center  
204.2 computer.

204.3 Sec. 68. Minnesota Statutes 2018, section 253B.15, subdivision 1, is amended to read:

204.4 Subdivision 1. **Provisional discharge.** (a) The head of the treatment facility,  
204.5 state-operated treatment program, or community-based treatment program may provisionally  
204.6 discharge any patient without discharging the commitment, unless the patient was found  
204.7 by the committing court to be a person who ~~is mentally ill and~~ has a mental illness and is  
204.8 dangerous to the public, or a sexually dangerous person, or a sexual psychopathic personality.

204.9 (b) When a patient committed to the commissioner becomes ready for provisional  
204.10 discharge before being placed in a state-operated treatment program, the head of the treatment  
204.11 facility or community-based treatment program where the patient is placed pending transfer  
204.12 to the commissioner may provisionally discharge the patient pursuant to this subdivision.

204.13 (c) Each patient released on provisional discharge shall have a written ~~aftercare~~  
204.14 provisional discharge plan developed with input from the patient and the designated agency  
204.15 which specifies the services and treatment to be provided as part of the ~~aftercare~~ provisional  
204.16 discharge plan, the financial resources available to pay for the services specified, the expected  
204.17 period of provisional discharge, the precise goals for the granting of a final discharge, and  
204.18 conditions or restrictions on the patient during the period of the provisional discharge. The  
204.19 ~~aftercare~~ provisional discharge plan shall be provided to the patient, the patient's attorney,  
204.20 and the designated agency.

204.21 (d) The ~~aftercare~~ provisional discharge plan shall be reviewed on a quarterly basis by  
204.22 the patient, designated agency and other appropriate persons. The ~~aftercare~~ provisional  
204.23 discharge plan shall contain the grounds upon which a provisional discharge may be revoked.  
204.24 The provisional discharge shall terminate on the date specified in the plan unless specific  
204.25 action is taken to revoke or extend it.

204.26 Sec. 69. Minnesota Statutes 2018, section 253B.15, subdivision 1a, is amended to read:

204.27 Subd. 1a. **Representative of designated agency.** Before a provisional discharge is  
204.28 granted, a representative of the designated agency must be identified to ensure continuity  
204.29 of care by being involved with the treatment facility, state-operated treatment program, or  
204.30 community-based treatment program and the patient prior to the provisional discharge. The  
204.31 representative of the designated agency shall coordinate plans for and monitor the patient's  
204.32 aftercare program. When the patient is on a provisional discharge, the representative of the

205.1 designated agency shall provide the treatment report to the court required under section  
205.2 253B.12, subdivision 1.

205.3 Sec. 70. Minnesota Statutes 2018, section 253B.15, subdivision 2, is amended to read:

205.4 Subd. 2. **Revocation of provisional discharge.** (a) The designated agency may ~~revoke~~  
205.5 initiate with the court a revocation of a provisional discharge if revocation is the least  
205.6 restrictive alternative and either:

205.7 (1) the patient has violated material conditions of the provisional discharge, and the  
205.8 violation creates the need to return the patient to a more restrictive setting or more intensive  
205.9 community services; or

205.10 (2) there exists a serious likelihood that the safety of the patient or others will be  
205.11 jeopardized, in that either the patient's need for food, clothing, shelter, or medical care are  
205.12 not being met, or will not be met in the near future, or the patient has attempted or threatened  
205.13 to seriously physically harm self or others; ~~and.~~

205.14 ~~(3) revocation is the least restrictive alternative available.~~

205.15 (b) Any interested person may request that the designated agency revoke the patient's  
205.16 provisional discharge. Any person making a request shall provide the designated agency  
205.17 with a written report setting forth the specific facts, including witnesses, dates and locations,  
205.18 supporting a revocation, demonstrating that every effort has been made to avoid revocation  
205.19 and that revocation is the least restrictive alternative available.

205.20 Sec. 71. Minnesota Statutes 2018, section 253B.15, subdivision 3, is amended to read:

205.21 Subd. 3. **Procedure; notice.** Revocation shall be commenced by the designated agency's  
205.22 written notice of intent to revoke provisional discharge given or sent to the patient, the  
205.23 patient's attorney, ~~and the treatment facility~~ or program from which the patient was  
205.24 provisionally discharged, and the current community services provider. The notice shall set  
205.25 forth the grounds upon which the intention to revoke is based, and shall inform the patient  
205.26 of the rights of a patient under this chapter.

205.27 Sec. 72. Minnesota Statutes 2018, section 253B.15, subdivision 3a, is amended to read:

205.28 Subd. 3a. **Report to the court.** Within 48 hours, excluding weekends and legal holidays,  
205.29 of giving notice to the patient, the designated agency shall file with the court a copy of the  
205.30 notice and a report setting forth the specific facts, including witnesses, dates and locations,  
205.31 which (1) support revocation, (2) demonstrate that revocation is the least restrictive alternative

206.1 available, and (3) show that specific efforts were made to avoid revocation. The designated  
206.2 agency shall provide copies of the report to the patient, the patient's attorney, the county  
206.3 attorney, and the treatment facility or program from which the patient was provisionally  
206.4 discharged within 48 hours of giving notice to the patient under subdivision 3.

206.5 Sec. 73. Minnesota Statutes 2018, section 253B.15, subdivision 3b, is amended to read:

206.6 Subd. 3b. **Review.** The patient or patient's attorney may request judicial review of the  
206.7 intended revocation by filing a petition for review and an affidavit with the committing  
206.8 court. The affidavit shall state specific grounds for opposing the revocation. If the patient  
206.9 does not file a petition for review within five days of receiving the notice under subdivision  
206.10 3, revocation of the provisional discharge is final and the court, without hearing, may order  
206.11 the patient into a ~~treatment~~ facility or program from which the patient was provisionally  
206.12 discharged, another treatment facility, state-operated treatment program, or community-based  
206.13 treatment program that consents to receive the patient, or more intensive community  
206.14 treatment. If the patient files a petition for review, the court shall review the petition and  
206.15 determine whether a genuine issue exists as to the propriety of the revocation. The burden  
206.16 of proof is on the designated agency to show that no genuine issue exists as to the propriety  
206.17 of the revocation. If the court finds that no genuine issue exists as to the propriety of the  
206.18 revocation, the revocation of the provisional discharge is final.

206.19 Sec. 74. Minnesota Statutes 2018, section 253B.15, subdivision 3c, is amended to read:

206.20 Subd. 3c. **Hearing.** (a) If the court finds under subdivision 3b that a genuine issue exists  
206.21 as to the propriety of the revocation, the court shall hold a hearing on the petition within  
206.22 three days after the patient files the petition. The court may continue the review hearing for  
206.23 an additional five days upon any party's showing of good cause. At the hearing, the burden  
206.24 of proof is on the designated agency to show a factual basis for the revocation. At the  
206.25 conclusion of the hearing, the court shall make specific findings of fact. The court shall  
206.26 affirm the revocation if it finds:

206.27 (1) a factual basis for revocation due to:

206.28 (i) a violation of the material conditions of the provisional discharge that creates a need  
206.29 for the patient to return to a more restrictive setting or more intensive community services;  
206.30 or

206.31 (ii) a probable danger of harm to the patient or others if the provisional discharge is not  
206.32 revoked; and

207.1 (2) that revocation is the least restrictive alternative available.

207.2 (b) If the court does not affirm the revocation, the court shall order the patient returned  
207.3 to provisional discharge status.

207.4 Sec. 75. Minnesota Statutes 2018, section 253B.15, subdivision 5, is amended to read:

207.5 Subd. 5. **Return to facility.** When the designated agency gives or sends notice of the  
207.6 intent to revoke a patient's provisional discharge, it may also apply to the committing court  
207.7 for an order directing that the patient be returned to a the facility or program from which  
207.8 the patient was provisionally discharged or another treatment facility, state-operated treatment  
207.9 program, or community-based treatment program that consents to receive the patient. The  
207.10 court may order the patient returned to a facility or program prior to a review hearing only  
207.11 upon finding that immediate return ~~to a facility~~ is necessary because there is a serious  
207.12 likelihood that the safety of the patient or others will be jeopardized, in that (1) the patient's  
207.13 need for food, clothing, shelter, or medical care is not being met, or will not be met in the  
207.14 near future, or (2) the patient has attempted or threatened to seriously harm self or others.  
207.15 If a voluntary return is not arranged, the head of the treatment facility, state-operated  
207.16 treatment program, or community-based treatment program may request a health officer or  
207.17 a peace officer to return the patient to the ~~treatment~~ facility or program from which the  
207.18 patient was released or to any other treatment facility ~~which,~~ state-operated treatment  
207.19 program, or community-based treatment program that consents to receive the patient. If  
207.20 necessary, the head of the treatment facility, state-operated treatment program, or  
207.21 community-based treatment program may request the committing court to direct a health  
207.22 officer or peace officer in the county where the patient is located to return the patient to the  
207.23 ~~treatment~~ facility or program or to another treatment facility ~~which,~~ state-operated treatment  
207.24 program, or community-based treatment program that consents to receive the patient. The  
207.25 expense of returning the patient to a ~~regional~~ state-operated treatment ~~center~~ program shall  
207.26 be paid by the commissioner unless paid by the patient or the patient's relatives. If the court  
207.27 orders the patient to return to the ~~treatment~~ facility or program, or if a health officer or peace  
207.28 officer returns the patient to the ~~treatment~~ facility or program, and the patient wants judicial  
207.29 review of the revocation, the patient or the patient's attorney must file the petition for review  
207.30 and affidavit required under subdivision 3b within 14 days of receipt of the notice of the  
207.31 intent to revoke.

208.1 Sec. 76. Minnesota Statutes 2018, section 253B.15, subdivision 7, is amended to read:

208.2 Subd. 7. **Modification and extension of provisional discharge.** (a) A provisional  
208.3 discharge may be modified upon agreement of the parties.

208.4 (b) A provisional discharge may be extended only in those circumstances where the  
208.5 patient has not achieved the goals set forth in the provisional discharge plan or continues  
208.6 to need the supervision or assistance provided by an extension of the provisional discharge.  
208.7 In determining whether the provisional discharge is to be extended, the ~~head of the facility~~  
208.8 designated agency shall consider the willingness and ability of the patient to voluntarily  
208.9 obtain needed care and treatment.

208.10 ~~(c) The designated agency shall recommend extension of a provisional discharge only~~  
208.11 ~~after a preliminary conference with the patient and other appropriate persons. The patient~~  
208.12 ~~shall be given the opportunity to object or make suggestions for alternatives to extension.~~

208.13 ~~(d)~~ (c) The designated agency must provide any recommendation for proposed extension  
208.14 shall be made in writing to the ~~head of the facility~~ and to the patient and the patient's attorney  
208.15 at least 30 days prior to the expiration of the provisional discharge unless the patient cannot  
208.16 be located or is unavailable to receive the notice. The ~~written recommendation submitted~~  
208.17 proposal for extension shall include: the specific grounds for ~~recommending~~ proposing the  
208.18 extension, ~~the date of the preliminary conference and results,~~ the anniversary date of the  
208.19 provisional discharge, the termination date of the provisional discharge, and the proposed  
208.20 length of extension. If the grounds for ~~recommending~~ proposing the extension occur less  
208.21 than 30 days before its expiration, the designated agency must submit the written  
208.22 ~~recommendation shall occur~~ proposal for extension as soon as practicable.

208.23 ~~(e) The head of the facility~~ (d) The designated agency shall extend a provisional discharge  
208.24 only after providing the patient an opportunity for a meeting to object or make suggestions  
208.25 for alternatives to an extension. The designated agency shall ~~issue~~ provide a written decision  
208.26 to the patient and the patient's attorney regarding extension within five days after receiving  
208.27 ~~the recommendation from the designated agency~~ the patient's input or after holding a meeting  
208.28 with the patient or after the patient has declined to provide input or participate in the meeting.  
208.29 The designated agency may seek input from the community-based treatment team or other  
208.30 persons the patient chooses.



209.1 Sec. 77. Minnesota Statutes 2018, section 253B.15, is amended by adding a subdivision  
209.2 to read:

209.3 Subd. 8a. **Provisional discharge extension.** If the provisional discharge extends until  
209.4 the end of the period of commitment and, before the commitment expires, the court extends  
209.5 the commitment under section 253B.12 or issues a new commitment order under section  
209.6 253B.13, the provisional discharge shall continue for the duration of the new or extended  
209.7 period of commitment ordered unless the commitment order provides otherwise or the  
209.8 designated agency revokes the patient's provisional discharge pursuant to this section. To  
209.9 continue the patient's provisional discharge under this subdivision, the designated agency  
209.10 is not required to comply with the procedures in subdivision 7.

209.11 Sec. 78. Minnesota Statutes 2018, section 253B.15, subdivision 9, is amended to read:

209.12 Subd. 9. **Expiration of provisional discharge.** (a) Except as otherwise provided, a  
209.13 provisional discharge is absolute when it expires. If, while on provisional discharge or  
209.14 extended provisional discharge, a patient is discharged as provided in section 253B.16, the  
209.15 discharge shall be absolute.

209.16 (b) The designated agency shall give notice of the expiration of the provisional discharge  
209.17 shall be given by the head of the treatment facility to the committing court; the petitioner,  
209.18 if known; the patient's attorney; the county attorney in the county of commitment; ~~the~~  
209.19 ~~commissioner;~~ and the designated agency facility or program that provisionally discharged  
209.20 the patient.

209.21 Sec. 79. Minnesota Statutes 2018, section 253B.15, subdivision 10, is amended to read:

209.22 Subd. 10. **Voluntary return.** (a) With the consent of the head of the treatment facility  
209.23 or state-operated treatment program, a patient may voluntarily return to inpatient status at  
209.24 the treatment facility as follows:

209.25 (1) as a voluntary patient, in which case the patient's commitment is discharged;

209.26 (2) as a committed patient, in which case the patient's provisional discharge is voluntarily  
209.27 revoked; or

209.28 (3) on temporary return from provisional discharge, in which case both the commitment  
209.29 and the provisional discharge remain in effect.

209.30 (b) Prior to readmission, the patient shall be informed of status upon readmission.

210.1 Sec. 80. Minnesota Statutes 2018, section 253B.16, is amended to read:

210.2 **253B.16 DISCHARGE OF COMMITTED PERSONS.**

210.3 Subdivision 1. **Date.** The head of a treatment facility, state-operated treatment program,  
210.4 or community-based treatment program shall discharge any patient admitted as a person  
210.5 ~~who is mentally ill or chemically dependent, or a person with a~~ who poses a risk of harm  
210.6 due to mental illness, or a person who has a chemical dependency or a developmental  
210.7 disability ~~admitted under Minnesota Rules of Criminal Procedure, rules 20.01 and 20.02,~~  
210.8 ~~to the secure bed component of the Minnesota extended treatment options~~ when the head  
210.9 of the facility or program certifies that the person is no longer in need of care and treatment  
210.10 under commitment or at the conclusion of any period of time specified in the commitment  
210.11 order, whichever occurs first. The head of a ~~treatment facility~~ or program shall discharge  
210.12 any person admitted as ~~developmentally disabled, except those admitted under Minnesota~~  
210.13 ~~Rules of Criminal Procedure, rules 20.01 and 20.02, to the secure bed component of the~~  
210.14 ~~Minnesota extended treatment options,~~ a person with a developmental disability when that  
210.15 person's screening team has determined, under section 256B.092, subdivision 8, that the  
210.16 person's needs can be met by services provided in the community and a plan has been  
210.17 developed in consultation with the interdisciplinary team to place the person in the available  
210.18 community services.

210.19 Subd. 2. **Notification of discharge.** Prior to the discharge or provisional discharge of  
210.20 any committed ~~person~~ patient, the head of the treatment facility, state-operated treatment  
210.21 program, or community-based treatment program shall notify the designated agency and  
210.22 the patient's spouse or health care agent, or if there is no spouse or health care agent, then  
210.23 an adult child, or if there is none, the next of kin of the patient, of the proposed discharge.  
210.24 The facility or program shall send the notice ~~shall be sent to the last known address of the~~  
210.25 ~~person to be notified by certified mail with return receipt. The notice~~ in writing and shall  
210.26 include the following: (1) the proposed date of discharge or provisional discharge; (2) the  
210.27 date, time and place of the meeting of the staff who have been treating the patient to discuss  
210.28 discharge and discharge planning; (3) the fact that the patient will be present at the meeting;  
210.29 and (4) the fact that the next of kin or health care agent may attend that staff meeting and  
210.30 present any information relevant to the discharge of the patient. ~~The notice shall be sent at~~  
210.31 ~~least one week prior to the date set for the meeting.~~

211.1 Sec. 81. Minnesota Statutes 2018, section 253B.17, is amended to read:

211.2 **253B.17 RELEASE; JUDICIAL DETERMINATION.**

211.3 Subdivision 1. **Petition.** Any patient, except one committed as a sexually dangerous  
211.4 person or a person with a sexual psychopathic personality or as a person who ~~is mentally~~  
211.5 ~~ill and~~ has a mental illness and is dangerous to the public as provided in section 253B.18,  
211.6 subdivision 3, or any interested person may petition the committing court or the court to  
211.7 which venue has been transferred for an order that the patient is not in need of continued  
211.8 care and treatment under commitment or for an order that an individual is no longer a person  
211.9 ~~who is mentally ill, developmentally disabled, or chemically dependent~~ who poses a risk  
211.10 of harm due to mental illness, or a person who has a developmental disability or chemical  
211.11 dependency, or for any other relief. A patient committed as a person ~~who is mentally ill or~~  
211.12 ~~mentally ill and~~ who poses a risk of harm due to mental illness, a person who has a mental  
211.13 illness and is dangerous ~~or~~ to the public, a sexually dangerous person, or a person with a  
211.14 sexual psychopathic personality may petition the committing court or the court to which  
211.15 venue has been transferred for a hearing concerning the administration of neuroleptic  
211.16 medication.

211.17 Subd. 2. **Notice of hearing.** Upon the filing of the petition, the court shall fix the time  
211.18 and place for the hearing on it. Ten days' notice of the hearing shall be given to the county  
211.19 attorney, the patient, patient's counsel, the person who filed the initial commitment petition,  
211.20 the head of the ~~treatment~~ facility or program to which the person is committed, and other  
211.21 persons as the court directs. Any person may oppose the petition.

211.22 Subd. 3. **Court examiners.** The court shall appoint ~~an~~ a court examiner and, at the  
211.23 patient's request, shall appoint a second court examiner of the patient's choosing to be paid  
211.24 for by the county at a rate of compensation to be fixed by the court. Unless otherwise agreed  
211.25 by the parties, ~~the examiners~~ a court examiner shall file a report with the court not less than  
211.26 48 hours prior to the hearing under this section.

211.27 Subd. 4. **Evidence.** The patient, patient's counsel, the petitioner, and the county attorney  
211.28 shall be entitled to be present at the hearing and to present and cross-examine witnesses,  
211.29 including court examiners. The court may hear any relevant testimony and evidence ~~which~~  
211.30 ~~is~~ offered at the hearing.

211.31 Subd. 5. **Order.** Upon completion of the hearing, the court shall enter an order stating  
211.32 its findings and decision and mail ~~it~~ the order to the head of the treatment facility,  
211.33 state-operated treatment program, or community-based treatment program.

212.1 Sec. 82. Minnesota Statutes 2018, section 253B.18, subdivision 1, is amended to read:

212.2 Subdivision 1. **Procedure.** (a) Upon the filing of a petition alleging that a proposed  
212.3 patient is a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public,  
212.4 the court shall hear the petition as provided in sections 253B.07 and 253B.08. If the court  
212.5 finds by clear and convincing evidence that the proposed patient is a person who ~~is mentally~~  
212.6 ~~ill and~~ has a mental illness and is dangerous to the public, it shall commit the person to a  
212.7 secure treatment facility or to a treatment facility or state-operated treatment program willing  
212.8 to accept the patient under commitment. The court shall commit the patient to a secure  
212.9 treatment facility unless the patient ~~establishes~~ or others establish by clear and convincing  
212.10 evidence that a less restrictive state-operated treatment program or treatment program facility  
212.11 is available that is consistent with the patient's treatment needs and the requirements of  
212.12 public safety. In any case where the petition was filed immediately following the acquittal  
212.13 of the proposed patient for a crime against the person pursuant to a verdict of not guilty by  
212.14 reason of mental illness, the verdict constitutes evidence that the proposed patient is a person  
212.15 who ~~is mentally ill and~~ has a mental illness and is dangerous to the public within the meaning  
212.16 of this section. The proposed patient has the burden of going forward in the presentation of  
212.17 evidence. The standard of proof remains as required by this chapter. Upon commitment,  
212.18 admission procedures shall be carried out pursuant to section 253B.10.

212.19 (b) Once a patient is admitted to a treatment facility or state-operated treatment program  
212.20 pursuant to a commitment under this subdivision, treatment must begin regardless of whether  
212.21 a review hearing will be held under subdivision 2.

212.22 Sec. 83. Minnesota Statutes 2018, section 253B.18, subdivision 2, is amended to read:

212.23 Subd. 2. **Review; hearing.** (a) A written treatment report shall be filed by the treatment  
212.24 facility or state-operated treatment program with the committing court within 60 days after  
212.25 commitment. If the person is in the custody of the commissioner of corrections when the  
212.26 initial commitment is ordered under subdivision 1, the written treatment report must be filed  
212.27 within 60 days after the person is admitted to ~~a secure~~ the state-operated treatment program  
212.28 or treatment facility. The court shall hold a hearing to make a final determination as to  
212.29 whether the ~~person~~ patient should remain committed as a person who ~~is mentally ill and~~  
212.30 has a mental illness and is dangerous to the public. The hearing shall be held within the  
212.31 earlier of 14 days of the court's receipt of the written treatment report, or within 90 days of  
212.32 the date of initial commitment or admission, unless otherwise agreed by the parties.

212.33 (b) The court may, with agreement of the county attorney and the patient's attorney ~~for~~  
212.34 ~~the patient~~:

213.1 (1) waive the review hearing under this subdivision and immediately order an  
213.2 indeterminate commitment under subdivision 3; or

213.3 (2) continue the review hearing for up to one year.

213.4 (c) If the court finds that the patient should be committed as a person ~~who is mentally~~  
213.5 ~~ill~~ who poses a risk of harm due to mental illness, but not as a person who ~~is mentally ill~~  
213.6 ~~and has a mental illness and is dangerous to the public~~, the court may commit the ~~person~~  
213.7 patient as a person ~~who is mentally ill~~ who poses a risk of harm due to mental illness and  
213.8 ~~the person shall be deemed~~ court shall deem the patient not to ~~have been found to be~~  
213.9 dangerous to the public for the purposes of subdivisions 4a to 15. Failure of the treatment  
213.10 facility or state-operated treatment program to provide the required treatment report at the  
213.11 end of the 60-day period shall not result in automatic discharge of the patient.

213.12 Sec. 84. Minnesota Statutes 2018, section 253B.18, subdivision 3, is amended to read:

213.13 Subd. 3. **Indeterminate commitment.** If the court finds at the final determination hearing  
213.14 held pursuant to subdivision 2 that the patient continues to be a person who ~~is mentally ill~~  
213.15 ~~and has a mental illness and is dangerous to the public~~, then the court shall order commitment  
213.16 of the proposed patient for an indeterminate period of time. After a final determination that  
213.17 a patient is a person who ~~is mentally ill and has a mental illness and is dangerous to the~~  
213.18 public, the patient shall be transferred, provisionally discharged or discharged, only as  
213.19 provided in this section.

213.20 Sec. 85. Minnesota Statutes 2018, section 253B.18, subdivision 4a, is amended to read:

213.21 Subd. 4a. **Release on pass; notification.** A patient who has been committed as a person  
213.22 who ~~is mentally ill and has a mental illness and is dangerous to the public~~ and who is confined  
213.23 at a secure treatment facility or has been transferred out of a ~~state-operated services~~ secure  
213.24 treatment facility according to section 253B.18, subdivision 6, shall not be released on a  
213.25 pass unless the pass is part of a pass plan that has been approved by the medical director of  
213.26 the secure treatment facility. The pass plan must have a specific therapeutic purpose  
213.27 consistent with the treatment plan, must be established for a specific period of time, and  
213.28 must have specific levels of liberty delineated. The county case manager must be invited  
213.29 to participate in the development of the pass plan. At least ten days prior to a determination  
213.30 on the plan, the medical director shall notify the designated agency, the committing court,  
213.31 the county attorney of the county of commitment, an interested person, the local law  
213.32 enforcement agency where the facility is located, the county attorney and the local law  
213.33 enforcement agency in the location where the pass is to occur, the petitioner, and the

214.1 petitioner's counsel of the plan, the nature of the passes proposed, and their right to object  
214.2 to the plan. If any notified person objects prior to the proposed date of implementation, the  
214.3 person shall have an opportunity to appear, personally or in writing, before the medical  
214.4 director, within ten days of the objection, to present grounds for opposing the plan. The  
214.5 pass plan shall not be implemented until the objecting person has been furnished that  
214.6 opportunity. Nothing in this subdivision shall be construed to give a patient an affirmative  
214.7 right to a pass plan.

214.8 Sec. 86. Minnesota Statutes 2018, section 253B.18, subdivision 4b, is amended to read:

214.9 Subd. 4b. **Pass-eligible status; notification.** (a) The following patients committed to a  
214.10 secure treatment facility shall not be placed on pass-eligible status unless that status has  
214.11 been approved by the medical director of the secure treatment facility:

214.12 ~~(a)~~ (1) a patient who has been committed as a person who ~~is mentally ill and~~ has a mental  
214.13 illness and is dangerous to the public and who:

214.14 ~~(1)~~ (i) was found incompetent to proceed to trial for a felony or was found not guilty by  
214.15 reason of mental illness of a felony immediately prior to the filing of the commitment  
214.16 petition;

214.17 ~~(2)~~ (ii) was convicted of a felony immediately prior to or during commitment as a person  
214.18 who ~~is mentally ill and~~ has a mental illness and is dangerous to the public; or

214.19 ~~(3)~~ (iii) is subject to a commitment to the commissioner of corrections; and

214.20 ~~(b)~~ (2) a patient who has been committed as a psychopathic personality, a sexually  
214.21 psychopathic personality, or a sexually dangerous person.

214.22 (b) At least ten days prior to a determination on the status, the medical director shall  
214.23 notify the committing court, the county attorney of the county of commitment, the designated  
214.24 agency, an interested person, the petitioner, and the petitioner's counsel of the proposed  
214.25 status, and their right to request review by the special review board. If within ten days of  
214.26 receiving notice any notified person requests review by filing a notice of objection with the  
214.27 commissioner and the head of the secure treatment facility, a hearing shall be held before  
214.28 the special review board. The proposed status shall not be implemented unless it receives  
214.29 a favorable recommendation by a majority of the board and approval by the commissioner.  
214.30 The order of the commissioner is appealable as provided in section 253B.19.

214.31 (c) Nothing in this subdivision shall be construed to give a patient an affirmative right  
214.32 to seek pass-eligible status from the special review board.

215.1 Sec. 87. Minnesota Statutes 2018, section 253B.18, subdivision 4c, is amended to read:

215.2 Subd. 4c. **Special review board.** (a) The commissioner shall establish one or more  
215.3 panels of a special review board. The board shall consist of three members experienced in  
215.4 the field of mental illness. One member of each special review board panel shall be a  
215.5 psychiatrist or a doctoral level psychologist with forensic experience and one member shall  
215.6 be an attorney. No member shall be affiliated with the Department of Human Services. The  
215.7 special review board shall meet at least every six months and at the call of the commissioner.  
215.8 It shall hear and consider all petitions for a reduction in custody or to appeal a revocation  
215.9 of provisional discharge. A "reduction in custody" means transfer from a secure treatment  
215.10 facility, discharge, and provisional discharge. Patients may be transferred by the  
215.11 commissioner between secure treatment facilities without a special review board hearing.

215.12 Members of the special review board shall receive compensation and reimbursement  
215.13 for expenses as established by the commissioner.

215.14 (b) The special review board must review each denied petition under subdivision 5 for  
215.15 barriers and obstacles preventing the patient from progressing in treatment. Based on the  
215.16 cases before the board in the previous year, the special review board shall provide to the  
215.17 commissioner an annual summation of the barriers to treatment progress, and  
215.18 recommendations to achieve the common goal of making progress in treatment.

215.19 (c) A petition filed by a person committed as ~~mentally ill and~~ a person who has a mental  
215.20 illness and is dangerous to the public under this section must be heard as provided in  
215.21 subdivision 5 and, as applicable, subdivision 13. A petition filed by a person committed as  
215.22 a sexual psychopathic personality or as a sexually dangerous person under chapter 253D,  
215.23 or committed as both ~~mentally ill and~~ a person who has a mental illness and is dangerous  
215.24 to the public under this section and as a sexual psychopathic personality or as a sexually  
215.25 dangerous person must be heard as provided in section 253D.27.

215.26 Sec. 88. Minnesota Statutes 2018, section 253B.18, subdivision 5, is amended to read:

215.27 Subd. 5. **Petition; notice of hearing; attendance; order.** (a) A petition for a reduction  
215.28 in custody or revocation of provisional discharge shall be filed with the commissioner and  
215.29 may be filed by the patient or by the head of the treatment facility or state-operated treatment  
215.30 program to which the person was committed or has been transferred. A patient may not  
215.31 petition the special review board for six months following commitment under subdivision  
215.32 3 or following the final disposition of any previous petition and subsequent appeal by the  
215.33 patient. The head of the state-operated treatment program or head of the treatment facility  
215.34 must schedule a hearing before the special review board for any patient who has not appeared

216.1 before the special review board in the previous three years, and schedule a hearing at least  
216.2 every three years thereafter. The medical director may petition at any time.

216.3 (b) Fourteen days prior to the hearing, the committing court, the county attorney of the  
216.4 county of commitment, the designated agency, interested person, the petitioner, and the  
216.5 petitioner's counsel shall be given written notice by the commissioner of the time and place  
216.6 of the hearing before the special review board. Only those entitled to statutory notice of the  
216.7 hearing or those administratively required to attend may be present at the hearing. The  
216.8 patient may designate interested persons to receive notice by providing the names and  
216.9 addresses to the commissioner at least 21 days before the hearing. The board shall provide  
216.10 the commissioner with written findings of fact and recommendations within 21 days of the  
216.11 hearing. The commissioner shall issue an order no later than 14 days after receiving the  
216.12 recommendation of the special review board. A copy of the order shall be mailed to every  
216.13 person entitled to statutory notice of the hearing within five days after ~~the~~ the order is signed.  
216.14 No order by the commissioner shall be effective sooner than 30 days after the order is signed,  
216.15 unless the county attorney, the patient, and the commissioner agree that it may become  
216.16 effective sooner.

216.17 (c) The special review board shall hold a hearing on each petition prior to making its  
216.18 recommendation to the commissioner. The special review board proceedings are not contested  
216.19 cases as defined in chapter 14. Any person or agency receiving notice that submits  
216.20 documentary evidence to the special review board prior to the hearing shall also provide  
216.21 copies to the patient, the patient's counsel, the county attorney of the county of commitment,  
216.22 the case manager, and the commissioner.

216.23 (d) Prior to the final decision by the commissioner, the special review board may be  
216.24 reconvened to consider events or circumstances that occurred subsequent to the hearing.

216.25 (e) In making their recommendations and order, the special review board and  
216.26 commissioner must consider any statements received from victims under subdivision 5a.

216.27 Sec. 89. Minnesota Statutes 2018, section 253B.18, subdivision 5a, is amended to read:

216.28 Subd. 5a. **Victim notification of petition and release; right to submit statement.** (a)  
216.29 As used in this subdivision:

216.30 (1) "crime" has the meaning given to "violent crime" in section 609.1095, and includes  
216.31 criminal sexual conduct in the fifth degree and offenses within the definition of "crime  
216.32 against the person" in section 253B.02, subdivision 4a, and also includes offenses listed in



217.1 section 253D.02, subdivision 8, paragraph (b), regardless of whether they are sexually  
217.2 motivated;

217.3 (2) "victim" means a person who has incurred loss or harm as a result of a crime the  
217.4 behavior for which forms the basis for a commitment under this section or chapter 253D;  
217.5 and

217.6 (3) "convicted" and "conviction" have the meanings given in section 609.02, subdivision  
217.7 5, and also include juvenile court adjudications, findings under Minnesota Rules of Criminal  
217.8 Procedure, rule 20.02, that the elements of a crime have been proved, and findings in  
217.9 commitment cases under this section or chapter 253D that an act or acts constituting a crime  
217.10 occurred.

217.11 (b) A county attorney who files a petition to commit a person under this section or chapter  
217.12 253D shall make a reasonable effort to provide prompt notice of filing the petition to any  
217.13 victim of a crime for which the person was convicted. In addition, the county attorney shall  
217.14 make a reasonable effort to promptly notify the victim of the resolution of the petition.

217.15 (c) Before provisionally discharging, discharging, granting pass-eligible status, approving  
217.16 a pass plan, or otherwise permanently or temporarily releasing a person committed under  
217.17 this section from a state-operated treatment program or treatment facility, the head of the  
217.18 state-operated treatment program or head of the treatment facility shall make a reasonable  
217.19 effort to notify any victim of a crime for which the person was convicted that the person  
217.20 may be discharged or released and that the victim has a right to submit a written statement  
217.21 regarding decisions of the medical director, special review board, or commissioner with  
217.22 respect to the person. To the extent possible, the notice must be provided at least 14 days  
217.23 before any special review board hearing or before a determination on a pass plan.

217.24 Notwithstanding section 611A.06, subdivision 4, the commissioner shall provide the judicial  
217.25 appeal panel with victim information in order to comply with the provisions of this section.  
217.26 The judicial appeal panel shall ensure that the data on victims remains private as provided  
217.27 for in section 611A.06, subdivision 4.

217.28 (d) This subdivision applies only to victims who have requested notification through  
217.29 the Department of Corrections electronic victim notification system, or by contacting, in  
217.30 writing, the county attorney in the county where the conviction for the crime occurred. A  
217.31 request for notice under this subdivision received by the commissioner of corrections through  
217.32 the Department of Corrections electronic victim notification system shall be promptly  
217.33 forwarded to the prosecutorial authority with jurisdiction over the offense to which the  
217.34 notice relates or, following commitment, the head of the state-operated treatment program

218.1 or head of the treatment facility. A county attorney who receives a request for notification  
218.2 under this paragraph following commitment shall promptly forward the request to the  
218.3 commissioner of human services.

218.4 (e) The rights under this subdivision are in addition to rights available to a victim under  
218.5 chapter 611A. This provision does not give a victim all the rights of a "notified person" or  
218.6 a person "entitled to statutory notice" under subdivision 4a, 4b, or 5 or section 253D.14.

218.7 Sec. 90. Minnesota Statutes 2018, section 253B.18, subdivision 6, is amended to read:

218.8 Subd. 6. **Transfer.** (a) A patient who is ~~mentally ill and~~ a person who has a mental  
218.9 illness and is dangerous to the public shall not be transferred out of a secure treatment facility  
218.10 unless it appears to the satisfaction of the commissioner, after a hearing and favorable  
218.11 recommendation by a majority of the special review board, that the transfer is appropriate.  
218.12 Transfer may be to ~~other regional centers under the commissioner's control~~ another  
218.13 state-operated treatment program. In those instances where a commitment also exists to the  
218.14 Department of Corrections, transfer may be to a facility designated by the commissioner of  
218.15 corrections.

218.16 (b) The following factors must be considered in determining whether a transfer is  
218.17 appropriate:

218.18 (1) the person's clinical progress and present treatment needs;

218.19 (2) the need for security to accomplish continuing treatment;

218.20 (3) the need for continued institutionalization;

218.21 (4) which facility can best meet the person's needs; and

218.22 (5) whether transfer can be accomplished with a reasonable degree of safety for the  
218.23 public.

218.24 Sec. 91. Minnesota Statutes 2018, section 253B.18, subdivision 7, is amended to read:

218.25 Subd. 7. **Provisional discharge.** (a) A patient who is ~~mentally ill and~~ a person who has  
218.26 a mental illness and is dangerous to the public shall not be provisionally discharged unless  
218.27 it appears to the satisfaction of the commissioner, after a hearing and a favorable  
218.28 recommendation by a majority of the special review board, that the patient is capable of  
218.29 making an acceptable adjustment to open society.

218.30 (b) The following factors are to be considered in determining whether a provisional  
218.31 discharge shall be recommended: (1) whether the patient's course of hospitalization and

219.1 present mental status indicate there is no longer a need for treatment and supervision in the  
219.2 patient's current treatment setting; and (2) whether the conditions of the provisional discharge  
219.3 plan will provide a reasonable degree of protection to the public and will enable the patient  
219.4 to adjust successfully to the community.

219.5 Sec. 92. Minnesota Statutes 2018, section 253B.18, subdivision 8, is amended to read:

219.6 Subd. 8. **Provisional discharge plan.** A provisional discharge plan shall be developed,  
219.7 implemented, and monitored by the designated agency in conjunction with the patient, the  
219.8 treatment facility or state-operated treatment program to which the person is committed,  
219.9 and other appropriate persons. The designated agency shall, at least quarterly, review the  
219.10 provisional discharge plan with the patient and submit a written report to ~~the commissioner~~  
219.11 ~~and the treatment facility or program~~ concerning the patient's status and compliance with  
219.12 each term of the provisional discharge plan.

219.13 Sec. 93. Minnesota Statutes 2018, section 253B.18, subdivision 10, is amended to read:

219.14 Subd. 10. **Provisional discharge; revocation.** (a) The head of the treatment facility or  
219.15 state-operated treatment program from which the person was provisionally discharged may  
219.16 revoke a provisional discharge if any of the following grounds exist:

219.17 (i) the patient has departed from the conditions of the provisional discharge plan;

219.18 (ii) the patient is exhibiting signs of a mental illness which may require in-hospital  
219.19 evaluation or treatment; or

219.20 (iii) the patient is exhibiting behavior which may be dangerous to self or others.

219.21 (b) Revocation shall be commenced by a notice of intent to revoke provisional discharge,  
219.22 which shall be served upon the patient, patient's counsel, and the designated agency. The  
219.23 notice shall set forth the grounds upon which the intention to revoke is based, and shall  
219.24 inform the patient of the rights of a patient under this chapter.

219.25 (c) In all nonemergency situations, prior to revoking a provisional discharge, the head  
219.26 of the treatment facility or program shall obtain a revocation report from the designated  
219.27 agency outlining the specific reasons for recommending the revocation, including but not  
219.28 limited to the specific facts upon which the revocation recommendation is based.

219.29 (d) The patient must be provided a copy of the revocation report and informed orally  
219.30 and in writing of the rights of a patient under this section.

220.1 Sec. 94. Minnesota Statutes 2018, section 253B.18, subdivision 11, is amended to read:

220.2 Subd. 11. **Exceptions.** If an emergency exists, the head of the treatment facility or  
220.3 state-operated treatment program may revoke the provisional discharge and, either orally  
220.4 or in writing, order that the patient be immediately returned to the ~~treatment~~ facility or  
220.5 program. In emergency cases, a revocation report ~~documenting reasons for revocation~~ shall  
220.6 be submitted by the designated agency within seven days after the patient is returned to the  
220.7 ~~treatment~~ facility or program.

220.8 Sec. 95. Minnesota Statutes 2018, section 253B.18, subdivision 12, is amended to read:

220.9 Subd. 12. **Return of patient.** After revocation of a provisional discharge or if the patient  
220.10 is absent without authorization, the head of the treatment facility or state-operated treatment  
220.11 program may request the patient to return to the ~~treatment~~ facility or program voluntarily.  
220.12 The head of the treatment facility or state-operated treatment program may request a health  
220.13 officer, ~~a welfare officer~~, or a peace officer to return the patient to the ~~treatment~~ facility or  
220.14 program. If a voluntary return is not arranged, the head of the treatment facility or  
220.15 state-operated treatment program shall inform the committing court of the revocation or  
220.16 absence and the court shall direct a health or peace officer in the county where the patient  
220.17 is located to return the patient to the ~~treatment~~ facility or program or to another state-operated  
220.18 treatment program or to another treatment facility willing to accept the patient. The expense  
220.19 of returning the patient to a ~~regional~~ state-operated treatment ~~center~~ program shall be paid  
220.20 by the commissioner unless paid by the patient or other persons on the patient's behalf.

220.21 Sec. 96. Minnesota Statutes 2018, section 253B.18, subdivision 14, is amended to read:

220.22 Subd. 14. **Voluntary readmission.** (a) With the consent of the head of the treatment  
220.23 facility or state-operated treatment program, a patient may voluntarily return from provisional  
220.24 discharge for a period of up to 30 days, or up to 60 days with the consent of the designated  
220.25 agency. If the patient is not returned to provisional discharge status within 60 days, the  
220.26 provisional discharge is revoked. Within 15 days of receiving notice of the change in status,  
220.27 the patient may request a review of the matter before the special review board. The board  
220.28 may recommend a return to a provisional discharge status.

220.29 (b) The treatment facility or state-operated treatment program is not required to petition  
220.30 for a further review by the special review board unless the patient's return to the community  
220.31 results in substantive change to the existing provisional discharge plan. All the terms and  
220.32 conditions of the provisional discharge order shall remain unchanged if the patient is released  
220.33 again.

221.1 Sec. 97. Minnesota Statutes 2018, section 253B.18, subdivision 15, is amended to read:

221.2 Subd. 15. **Discharge.** (a) A patient who is ~~mentally ill and~~ a person who has a mental  
221.3 illness and is dangerous to the public shall not be discharged unless it appears to the  
221.4 satisfaction of the commissioner, after a hearing and a favorable recommendation by a  
221.5 majority of the special review board, that the patient is capable of making an acceptable  
221.6 adjustment to open society, is no longer dangerous to the public, and is no longer in need  
221.7 of treatment and supervision.

221.8 (b) In determining whether a discharge shall be recommended, the special review board  
221.9 and commissioner shall consider whether specific conditions exist to provide a reasonable  
221.10 degree of protection to the public and to assist the patient in adjusting to the community. If  
221.11 the desired conditions do not exist, the discharge shall not be granted.

221.12 Sec. 98. Minnesota Statutes 2018, section 253B.19, subdivision 2, is amended to read:

221.13 Subd. 2. **Petition; hearing.** (a) A ~~person~~ patient committed as ~~mentally ill and~~ a person  
221.14 who has a mental illness and is dangerous to the public under section 253B.18, or the county  
221.15 attorney of the county from which the ~~person~~ patient was committed or the county of financial  
221.16 responsibility, may petition the judicial appeal panel for a rehearing and reconsideration of  
221.17 a decision by the commissioner under section 253B.18, subdivision 5. The judicial appeal  
221.18 panel must not consider petitions for relief other than those considered by the commissioner  
221.19 from which the appeal is taken. The petition must be filed with the supreme court within  
221.20 30 days after the decision of the commissioner is signed. The hearing must be held within  
221.21 45 days of the filing of the petition unless an extension is granted for good cause.

221.22 (b) For an appeal under paragraph (a), the supreme court shall refer the petition to the  
221.23 chief judge of the judicial appeal panel. The chief judge shall notify the patient, the county  
221.24 attorney of the county of commitment, the designated agency, the commissioner, the head  
221.25 of the ~~treatment~~ facility or program to which the patient was committed, any interested  
221.26 person, and other persons the chief judge designates, of the time and place of the hearing  
221.27 on the petition. The notice shall be given at least 14 days prior to the date of the hearing.

221.28 (c) Any person may oppose the petition. The patient, the patient's counsel, the county  
221.29 attorney of the committing county or the county of financial responsibility, and the  
221.30 commissioner shall participate as parties to the proceeding pending before the judicial appeal  
221.31 panel and shall, except when the patient is committed solely as ~~mentally ill and~~ a person  
221.32 who has a mental illness and is dangerous to the public, no later than 20 days before the  
221.33 hearing on the petition, inform the judicial appeal panel and the opposing party in writing  
221.34 whether they support or oppose the petition and provide a summary of facts in support of

222.1 their position. The judicial appeal panel may appoint court examiners and may adjourn the  
222.2 hearing from time to time. It shall hear and receive all relevant testimony and evidence and  
222.3 make a record of all proceedings. The patient, the patient's counsel, and the county attorney  
222.4 of the committing county or the county of financial responsibility have the right to be present  
222.5 and may present and cross-examine all witnesses and offer a factual and legal basis in  
222.6 support of their positions. The petitioning party seeking discharge or provisional discharge  
222.7 bears the burden of going forward with the evidence, which means presenting a prima facie  
222.8 case with competent evidence to show that the person is entitled to the requested relief. If  
222.9 the petitioning party has met this burden, the party opposing discharge or provisional  
222.10 discharge bears the burden of proof by clear and convincing evidence that the discharge or  
222.11 provisional discharge should be denied. A party seeking transfer under section 253B.18,  
222.12 subdivision 6, must establish by a preponderance of the evidence that the transfer is  
222.13 appropriate.

222.14 Sec. 99. Minnesota Statutes 2018, section 253B.20, subdivision 1, is amended to read:

222.15 Subdivision 1. **Notice to court.** When a committed person is discharged, provisionally  
222.16 discharged, or transferred to another treatment facility, or partially hospitalized state-operated  
222.17 treatment program, or community-based treatment program, or when the person patient  
222.18 dies, is absent without authorization, or is returned, the treatment facility, state-operated  
222.19 treatment program, or community-based treatment program having custody of the patient  
222.20 shall notify the committing court, the county attorney, and the patient's attorney.

222.21 Sec. 100. Minnesota Statutes 2018, section 253B.20, subdivision 2, is amended to read:

222.22 Subd. 2. **Necessities.** The ~~head of the~~ state-operated treatment facility program shall  
222.23 make necessary arrangements at the expense of the state to insure that no patient is discharged  
222.24 or provisionally discharged without suitable clothing. The head of the state-operated treatment  
222.25 facility program shall, if necessary, provide the patient with a sufficient sum of money to  
222.26 secure transportation home, or to another destination of the patient's choice, if the destination  
222.27 is located within a reasonable distance of the state-operated treatment facility program. The  
222.28 commissioner shall establish procedures by rule to help the patient receive all public  
222.29 assistance benefits provided by state or federal law to which the patient is entitled by  
222.30 residence and circumstances. The rule shall be uniformly applied in all counties. All counties  
222.31 shall provide temporary relief whenever necessary to meet the intent of this subdivision.

223.1 Sec. 101. Minnesota Statutes 2018, section 253B.20, subdivision 3, is amended to read:

223.2 Subd. 3. **Notice to designated agency.** The head of the treatment facility, state-operated  
223.3 treatment program, or community-based treatment program, upon the provisional discharge  
223.4 of any committed person, shall notify the designated agency before the patient leaves the  
223.5 ~~treatment~~ facility or program. Whenever possible the notice shall be given at least one week  
223.6 before the patient is to leave the facility or program.

223.7 Sec. 102. Minnesota Statutes 2018, section 253B.20, subdivision 4, is amended to read:

223.8 Subd. 4. **Aftercare services.** Prior to the date of discharge or provisional discharge of  
223.9 any committed person, the designated agency of the county of financial responsibility, in  
223.10 cooperation with the head of the treatment facility, state-operated treatment program, or  
223.11 community-based treatment program, and the patient's ~~physician~~ mental health professional,  
223.12 if notified pursuant to subdivision 6, shall establish a continuing plan of aftercare services  
223.13 for the patient including a plan for medical and psychiatric treatment, nursing care, vocational  
223.14 assistance, and other assistance the patient needs. The designated agency shall provide case  
223.15 management services, supervise and assist the patient in finding employment, suitable  
223.16 shelter, and adequate medical and psychiatric treatment, and aid in the patient's readjustment  
223.17 to the community.

223.18 Sec. 103. Minnesota Statutes 2018, section 253B.20, subdivision 6, is amended to read:

223.19 Subd. 6. **Notice to ~~physician~~ mental health professional.** The head of the treatment  
223.20 facility, state-operated treatment program, or community-based treatment program shall  
223.21 notify the ~~physician~~ mental health professional of any committed person at the time of the  
223.22 patient's discharge or provisional discharge, unless the patient objects to the notice.

223.23 Sec. 104. Minnesota Statutes 2018, section 253B.21, subdivision 1, is amended to read:

223.24 Subdivision 1. **Administrative procedures.** If the patient is entitled to care by any  
223.25 agency of the United States in this state, the commitment warrant shall be in triplicate,  
223.26 committing the patient to the joint custody of the head of the treatment facility, state-operated  
223.27 treatment program, or community-based treatment program and the federal agency. If the  
223.28 federal agency is unable or unwilling to receive the patient at the time of commitment, the  
223.29 patient may subsequently be transferred to it upon its request.

224.1 Sec. 105. Minnesota Statutes 2018, section 253B.21, subdivision 2, is amended to read:

224.2 Subd. 2. **Applicable regulations.** Any person, when admitted to an institution of a  
224.3 federal agency within or without this state, shall be subject to the rules and regulations of  
224.4 the federal agency, except that nothing in this section shall deprive any person of rights  
224.5 secured to patients of ~~state~~ state-operated treatment programs, treatment facilities, and  
224.6 community-based treatment programs by this chapter.

224.7 Sec. 106. Minnesota Statutes 2018, section 253B.21, subdivision 3, is amended to read:

224.8 Subd. 3. **Powers.** The chief officer of any treatment facility operated by a federal agency  
224.9 to which any person is admitted shall have the same powers as the heads of ~~treatment~~  
224.10 ~~facilities~~ state-operated treatment programs within this state with respect to admission,  
224.11 retention of custody, transfer, parole, or discharge of the committed person.

224.12 Sec. 107. Minnesota Statutes 2018, section 253B.212, subdivision 1, is amended to read:

224.13 Subdivision 1. **Cost of care; commitment by tribal court order; Red Lake Band of**  
224.14 **Chippewa Indians.** The commissioner of human services may contract with and receive  
224.15 payment from the Indian Health Service of the United States Department of Health and  
224.16 Human Services for the care and treatment of those members of the Red Lake Band of  
224.17 Chippewa Indians who have been committed by tribal court order to the Indian Health  
224.18 Service for care and treatment of mental illness, developmental disability, or chemical  
224.19 dependency. The contract shall provide that the Indian Health Service may not transfer any  
224.20 person for admission to a ~~regional center~~ state-operated treatment program unless the  
224.21 commitment procedure utilized by the tribal court provided due process protections similar  
224.22 to those afforded by sections ~~253B.05~~ 253B.051 to 253B.10.

224.23 Sec. 108. Minnesota Statutes 2018, section 253B.212, subdivision 1a, is amended to read:

224.24 Subd. 1a. **Cost of care; commitment by tribal court order; White Earth Band of**  
224.25 **Ojibwe Indians.** The commissioner of human services may contract with and receive  
224.26 payment from the Indian Health Service of the United States Department of Health and  
224.27 Human Services for the care and treatment of those members of the White Earth Band of  
224.28 Ojibwe Indians who have been committed by tribal court order to the Indian Health Service  
224.29 for care and treatment of mental illness, developmental disability, or chemical dependency.  
224.30 The tribe may also contract directly with the commissioner for treatment of those members  
224.31 of the White Earth Band who have been committed by tribal court order to the White Earth  
224.32 Department of Health for care and treatment of mental illness, developmental disability, or



225.1 chemical dependency. The contract shall provide that the Indian Health Service and the  
225.2 White Earth Band shall not transfer any person for admission to a ~~regional center~~  
225.3 state-operated treatment program unless the commitment procedure utilized by the tribal  
225.4 court provided due process protections similar to those afforded by sections ~~253B.05~~  
225.5 253B.051 to 253B.10.

225.6 Sec. 109. Minnesota Statutes 2018, section 253B.212, subdivision 1b, is amended to read:

225.7 Subd. 1b. **Cost of care; commitment by tribal court order; any federally recognized**  
225.8 **Indian tribe within the state of Minnesota.** The commissioner of human services may  
225.9 contract with and receive payment from the Indian Health Service of the United States  
225.10 Department of Health and Human Services for the care and treatment of those members of  
225.11 any federally recognized Indian tribe within the state, who have been committed by tribal  
225.12 court order to the Indian Health Service for care and treatment of mental illness,  
225.13 developmental disability, or chemical dependency. The tribe may also contract directly with  
225.14 the commissioner for treatment of those members of any federally recognized Indian tribe  
225.15 within the state who have been committed by tribal court order to the respective tribal  
225.16 Department of Health for care and treatment of mental illness, developmental disability, or  
225.17 chemical dependency. The contract shall provide that the Indian Health Service and any  
225.18 federally recognized Indian tribe within the state shall not transfer any person for admission  
225.19 to a ~~regional center~~ state-operated treatment program unless the commitment procedure  
225.20 utilized by the tribal court provided due process protections similar to those afforded by  
225.21 sections ~~253B.05~~ 253B.051 to 253B.10.

225.22 Sec. 110. Minnesota Statutes 2018, section 253B.212, subdivision 2, is amended to read:

225.23 Subd. 2. **Effect given to tribal commitment order.** (a) When, under an agreement  
225.24 entered into pursuant to subdivision 1, 1a, or 1b, the Indian Health Service or the placing  
225.25 tribe applies to a ~~regional center~~ state-operated treatment program for admission of a person  
225.26 committed to the jurisdiction of the health service by the tribal court ~~as a person who is~~  
225.27 ~~mentally ill, developmentally disabled, or chemically dependent~~ due to mental illness,  
225.28 developmental disability, or chemical dependency, the commissioner may treat the patient  
225.29 with the consent of the Indian Health Service or the placing tribe.

225.30 (b) A person admitted to a ~~regional center~~ state-operated treatment program pursuant to  
225.31 this section has all the rights accorded by section 253B.03. In addition, treatment reports,  
225.32 prepared in accordance with the requirements of section 253B.12, subdivision 1, shall be  
225.33 filed with the Indian Health Service or the placing tribe within 60 days of commencement

226.1 of the patient's stay at the facility program. A subsequent treatment report shall be filed with  
226.2 the Indian Health Service or the placing tribe within six months of the patient's admission  
226.3 to the facility program or prior to discharge, whichever comes first. Provisional discharge  
226.4 or transfer of the patient may be authorized by the head of the treatment facility program  
226.5 only with the consent of the Indian Health Service or the placing tribe. Discharge from the  
226.6 facility program to the Indian Health Service or the placing tribe may be authorized by the  
226.7 head of the treatment facility program after notice to and consultation with the Indian Health  
226.8 Service or the placing tribe.

226.9 Sec. 111. Minnesota Statutes 2018, section 253B.22, subdivision 1, is amended to read:

226.10 Subdivision 1. **Establishment.** The commissioner shall establish a review board of three  
226.11 or more persons for ~~each regional center~~ the Anoka-Metro Regional Treatment Center,  
226.12 Minnesota Security Hospital, and Minnesota sex offender program to review the admission  
226.13 and retention of ~~its~~ patients of that program receiving services under this chapter. One  
226.14 member shall be qualified in the diagnosis of mental illness, developmental disability, or  
226.15 chemical dependency, and one member shall be an attorney. The commissioner may, upon  
226.16 written request from the appropriate federal authority, establish a review panel for any  
226.17 federal treatment facility within the state to review the admission and retention of patients  
226.18 hospitalized under this chapter. For any review board established for a federal treatment  
226.19 facility, one of the persons appointed by the commissioner shall be the commissioner of  
226.20 veterans affairs or the commissioner's designee.

226.21 Sec. 112. Minnesota Statutes 2018, section 253B.22, subdivision 2, is amended to read:

226.22 Subd. 2. **Right to appear.** Each ~~treatment facility program~~ specified in subdivision 1  
226.23 shall be visited by the review board at least once every six months. Upon request each  
226.24 patient in the ~~treatment facility program~~ shall have the right to appear before the review  
226.25 board during the visit.

226.26 Sec. 113. Minnesota Statutes 2018, section 253B.22, subdivision 3, is amended to read:

226.27 Subd. 3. **Notice.** The head of ~~the treatment facility~~ each program specified in subdivision  
226.28 1 shall notify each patient at the time of admission by a simple written statement of the  
226.29 patient's right to appear before the review board and the next date when the board will visit  
226.30 ~~the treatment facility~~ that program. A request to appear before the board need not be in  
226.31 writing. Any employee of the ~~treatment facility program~~ receiving a patient's request to  
226.32 appear before the board shall notify the head of the ~~treatment facility program~~ of the request.

227.1 Sec. 114. Minnesota Statutes 2018, section 253B.22, subdivision 4, is amended to read:

227.2 Subd. 4. **Review.** The board shall review the admission and retention of patients at ~~its~~  
227.3 ~~respective treatment facility~~ the program. The board may examine the records of all patients  
227.4 admitted and may examine personally at its own instigation all patients who from the records  
227.5 or otherwise appear to justify reasonable doubt as to continued need of confinement in a  
227.6 ~~treatment facility~~ the program. The review board shall report its findings to the commissioner  
227.7 and to the head of the ~~treatment facility~~ program. The board may also receive reports from  
227.8 patients, interested persons, and ~~treatment facility~~ employees of the program, and investigate  
227.9 conditions affecting the care of patients.

227.10 Sec. 115. Minnesota Statutes 2018, section 253B.23, subdivision 1, is amended to read:

227.11 Subdivision 1. **Costs of hearings.** (a) In each proceeding under this chapter the court  
227.12 shall allow and order paid to each witness subpoenaed the fees and mileage prescribed by  
227.13 law; to each examiner a reasonable sum for services and for travel; to persons conveying  
227.14 the patient to the place of detention, disbursements for the travel, board, and lodging of the  
227.15 patient and of themselves and their authorized assistants; and to the patient's counsel, when  
227.16 appointed by the court, a reasonable sum for travel and for the time spent in court or in  
227.17 preparing for the hearing. Upon the court's order, the county auditor shall issue a warrant  
227.18 on the county treasurer for payment of the amounts allowed, excluding the costs of the court  
227.19 examiner, which must be paid by the state courts.

227.20 (b) Whenever venue of a proceeding has been transferred under this chapter, the costs  
227.21 of the proceedings shall be reimbursed to the county where the proceedings were conducted  
227.22 by the county of financial responsibility.

227.23 Sec. 116. Minnesota Statutes 2018, section 253B.23, subdivision 1b, is amended to read:

227.24 Subd. 1b. **Responsibility for conducting prepetition screening and filing commitment**  
227.25 ~~and early intervention petitions.~~ (a) The county of financial responsibility is responsible  
227.26 to conduct prepetition screening pursuant to section 253B.07, subdivision 1, and, if statutory  
227.27 conditions for ~~early intervention~~ or commitment are satisfied, to file a petition pursuant to  
227.28 section ~~253B.064, subdivision 1, paragraph (a);~~ 253B.07, subdivision ~~1~~ 2, paragraph (a);  
227.29 or 253D.07.

227.30 (b) Except in cases under chapter 253D, if the county of financial responsibility refuses  
227.31 or fails to conduct prepetition screening or file a petition, or if it is unclear which county is  
227.32 the county of financial responsibility, the county where the proposed patient is present is

228.1 responsible to conduct the prepetition screening and, if statutory conditions for ~~early~~  
228.2 ~~intervention~~ or commitment are satisfied, file the petition.

228.3 (c) In cases under chapter 253D, if the county of financial responsibility refuses or fails  
228.4 to file a petition, or if it is unclear which county is the county of financial responsibility,  
228.5 then (1) the county where the conviction for which the person is incarcerated was entered,  
228.6 or (2) the county where the proposed patient is present, if the person is not currently  
228.7 incarcerated based on conviction, is responsible to file the petition if statutory conditions  
228.8 for commitment are satisfied.

228.9 (d) When a proposed patient is an inmate confined to an adult correctional facility under  
228.10 the control of the commissioner of corrections and commitment proceedings are initiated  
228.11 or proposed to be initiated pursuant to section 241.69, the county where the correctional  
228.12 facility is located may agree to perform the responsibilities specified in paragraph (a).

228.13 (e) Any dispute concerning financial responsibility for the costs of the proceedings and  
228.14 treatment will be resolved pursuant to chapter 256G.

228.15 (f) This subdivision and the sections of law cited in this subdivision address venue only.  
228.16 Nothing in this chapter is intended to limit the statewide jurisdiction of district courts over  
228.17 civil commitment matters.

228.18 Sec. 117. Minnesota Statutes 2018, section 253B.23, subdivision 2, is amended to read:

228.19 Subd. 2. **Legal results of commitment status.** (a) Except as otherwise provided in this  
228.20 chapter and in sections 246.15 and 246.16, no person by reason of commitment or treatment  
228.21 pursuant to this chapter shall be deprived of any legal right, including but not limited to the  
228.22 right to dispose of property, sue and be sued, execute instruments, make purchases, enter  
228.23 into contractual relationships, vote, and hold a driver's license. Commitment or treatment  
228.24 of any patient pursuant to this chapter is not a judicial determination of legal incompetency  
228.25 except to the extent provided in section 253B.03, subdivision 6.

228.26 (b) Proceedings for determination of legal incompetency and the appointment of a  
228.27 guardian for a person subject to commitment under this chapter may be commenced before,  
228.28 during, or after commitment proceedings have been instituted and may be conducted jointly  
228.29 with the commitment proceedings. The court shall notify the head of the ~~treatment~~ facility  
228.30 or program to which the patient is committed of a finding that the patient is incompetent.

228.31 (c) Where the person to be committed is a minor or owns property of value and it appears  
228.32 to the court that the person is not competent to manage a personal estate, the court shall  
228.33 appoint a general conservator of the person's estate as provided by law.

229.1 Sec. 118. Minnesota Statutes 2018, section 253B.24, is amended to read:

229.2 **253B.24 TRANSMITTAL OF DATA TO NATIONAL INSTANT CRIMINAL**  
229.3 **BACKGROUND CHECK SYSTEM.**

229.4 When a court:

229.5 (1) commits a person under this chapter as ~~being mentally ill, developmentally disabled,~~  
229.6 ~~mentally ill and dangerous, or chemically dependent~~ due to mental illness, developmental  
229.7 disability, or chemical dependency, or as a person who has a mental illness and is dangerous  
229.8 to the public;

229.9 (2) determines in a criminal case that a person is incompetent to stand trial or not guilty  
229.10 by reason of mental illness; or

229.11 (3) restores a person's ability to possess a firearm under section 609.165, subdivision  
229.12 1d, or 624.713, subdivision 4,

229.13 the court shall ensure that this information is electronically transmitted within three business  
229.14 days to the National Instant Criminal Background Check System.

229.15 Sec. 119. Minnesota Statutes 2018, section 253D.02, subdivision 6, is amended to read:

229.16 Subd. 6. **Court examiner.** "Court examiner" has the meaning given in section 253B.02,  
229.17 subdivision ~~7~~ 7a.

229.18 Sec. 120. Minnesota Statutes 2018, section 253D.07, subdivision 2, is amended to read:

229.19 Subd. 2. **Petition.** Upon the filing of a petition alleging that a proposed respondent is a  
229.20 sexually dangerous person or a person with a sexual psychopathic personality, ~~the court~~  
229.21 ~~shall hear the petition as provided~~ all of the applicable procedures contained in sections  
229.22 253B.07 and 253B.08 apply to the commitment proceeding.

229.23 Sec. 121. Minnesota Statutes 2018, section 253D.10, subdivision 2, is amended to read:

229.24 Subd. 2. **Correctional facilities.** (a) A person who is being petitioned for commitment  
229.25 under this chapter and who is placed under a judicial hold order under section 253B.07,  
229.26 subdivision 2b or 7, may be confined at a Department of Corrections or a county correctional  
229.27 or detention facility, rather than a secure treatment facility, until a determination of the  
229.28 commitment petition as specified in this subdivision.

230.1 (b) A court may order that a person who is being petitioned for commitment under this  
230.2 chapter be confined in a Department of Corrections facility pursuant to the judicial hold  
230.3 order under the following circumstances and conditions:

230.4 (1) The person is currently serving a sentence in a Department of Corrections facility  
230.5 and the court determines that the person has made a knowing and voluntary (i) waiver of  
230.6 the right to be held in a secure treatment facility and (ii) election to be held in a Department  
230.7 of Corrections facility. The order confining the person in the Department of Corrections  
230.8 facility shall remain in effect until the court vacates the order or the person's criminal sentence  
230.9 and conditional release term expire.

230.10 In no case may the person be held in a Department of Corrections facility pursuant only  
230.11 to this subdivision, and not pursuant to any separate correctional authority, for more than  
230.12 210 days.

230.13 (2) A person who has elected to be confined in a Department of Corrections facility  
230.14 under this subdivision may revoke the election by filing a written notice of intent to revoke  
230.15 the election with the court and serving the notice upon the Department of Corrections and  
230.16 the county attorney. The court shall order the person transferred to a secure treatment facility  
230.17 within 15 days of the date that the notice of revocation was filed with the court, except that,  
230.18 if the person has additional time to serve in prison at the end of the 15-day period, the person  
230.19 shall not be transferred to a secure treatment facility until the person's prison term expires.  
230.20 After a person has revoked an election to remain in a Department of Corrections facility  
230.21 under this subdivision, the court may not adopt another election to remain in a Department  
230.22 of Corrections facility without the agreement of both parties and the Department of  
230.23 Corrections.

230.24 (3) Upon petition by the commissioner of corrections, after notice to the parties and  
230.25 opportunity for hearing and for good cause shown, the court may order that the person's  
230.26 place of confinement be changed from the Department of Corrections to a secure treatment  
230.27 facility.

230.28 (4) While at a Department of Corrections facility pursuant to this subdivision, the person  
230.29 shall remain subject to all rules and practices applicable to correctional inmates in the facility  
230.30 in which the person is placed including, but not limited to, the powers and duties of the  
230.31 commissioner of corrections under section 241.01, powers relating to use of force under  
230.32 section 243.52, and the right of the commissioner of corrections to determine the place of  
230.33 confinement in a prison, reformatory, or other facility.

231.1 (5) A person may not be confined in a Department of Corrections facility under this  
231.2 provision beyond the end of the person's executed sentence or the end of any applicable  
231.3 conditional release period, whichever is later. If a person confined in a Department of  
231.4 Corrections facility pursuant to this provision reaches the person's supervised release date  
231.5 and is subject to a period of conditional release, the period of conditional release shall  
231.6 commence on the supervised release date even though the person remains in the Department  
231.7 of Corrections facility pursuant to this provision. At the end of the later of the executed  
231.8 sentence or any applicable conditional release period, the person shall be transferred to a  
231.9 secure treatment facility.

231.10 (6) Nothing in this section may be construed to establish a right of an inmate in a state  
231.11 correctional facility to participate in sex offender treatment. This section must be construed  
231.12 in a manner consistent with the provisions of section 244.03.

231.13 (c) When a person is temporarily confined in a Department of Corrections facility solely  
231.14 under this subdivision and not based on any separate correctional authority, the commissioner  
231.15 of corrections may charge the county of financial responsibility for the costs of confinement,  
231.16 and the Department of Human Services shall use existing appropriations to fund all remaining  
231.17 nonconfinement costs. The funds received by the commissioner for the confinement and  
231.18 nonconfinement costs are appropriated to the department for these purposes.

231.19 ~~(e)~~ (d) The committing county may offer a person who is being petitioned for commitment  
231.20 under this chapter and who is placed under a judicial hold order under section 253B.07,  
231.21 subdivision 2b or 7, the option to be held in a county correctional or detention facility rather  
231.22 than a secure treatment facility, under such terms as may be agreed to by the county, the  
231.23 commitment petitioner, and the commitment respondent. If a person makes such an election  
231.24 under this paragraph, the court hold order shall specify the terms of the agreement, including  
231.25 the conditions for revoking the election.

231.26 Sec. 122. Minnesota Statutes 2018, section 253D.28, subdivision 2, is amended to read:

231.27 Subd. 2. **Procedure.** (a) The supreme court shall refer a petition for rehearing and  
231.28 reconsideration to the chief judge of the judicial appeal panel. The chief judge shall notify  
231.29 the committed person, the county attorneys of the county of commitment and county of  
231.30 financial responsibility, the commissioner, the executive director, any interested person,  
231.31 and other persons the chief judge designates, of the time and place of the hearing on the  
231.32 petition. The notice shall be given at least 14 days prior to the date of the hearing. The  
231.33 hearing may be conducted by interactive video conference under General Rules of Practice,  
231.34 rule 131, and Minnesota Rules of Civil Commitment, rule 14.

232.1 (b) Any person may oppose the petition. The committed person, the committed person's  
232.2 counsel, the county attorneys of the committing county and county of financial responsibility,  
232.3 and the commissioner shall participate as parties to the proceeding pending before the  
232.4 judicial appeal panel and shall, no later than 20 days before the hearing on the petition,  
232.5 inform the judicial appeal panel and the opposing party in writing whether they support or  
232.6 oppose the petition and provide a summary of facts in support of their position.

232.7 (c) The judicial appeal panel may appoint court examiners and may adjourn the hearing  
232.8 from time to time. It shall hear and receive all relevant testimony and evidence and make  
232.9 a record of all proceedings. The committed person, the committed person's counsel, and the  
232.10 county attorney of the committing county or the county of financial responsibility have the  
232.11 right to be present and may present and cross-examine all witnesses and offer a factual and  
232.12 legal basis in support of their positions.

232.13 (d) The petitioning party seeking discharge or provisional discharge bears the burden  
232.14 of going forward with the evidence, which means presenting a prima facie case with  
232.15 competent evidence to show that the person is entitled to the requested relief. If the petitioning  
232.16 party has met this burden, the party opposing discharge or provisional discharge bears the  
232.17 burden of proof by clear and convincing evidence that the discharge or provisional discharge  
232.18 should be denied.

232.19 (e) A party seeking transfer under section 253D.29 must establish by a preponderance  
232.20 of the evidence that the transfer is appropriate.

232.21 Sec. 123. **REVISOR INSTRUCTION.**

232.22 The revisor of statutes shall renumber Minnesota Statutes, section 253B.02, so that the  
232.23 subdivisions are alphabetical. The revisor shall correct any cross-references that arise as a  
232.24 result of the renumbering.

232.25 Sec. 124. **REPEALER.**

232.26 Minnesota Statutes 2018, sections 253B.02, subdivisions 6 and 12a; 253B.05, subdivisions  
232.27 1, 2, 2b, 3, and 4; 253B.064; 253B.065; 253B.066; 253B.09, subdivision 3; 253B.12,  
232.28 subdivision 2; 253B.15, subdivision 11; and 253B.20, subdivision 7, are repealed.



## ARTICLE 5

## MALTREATMENT OF MINORS ACT REORGANIZATION

Section 1. [260E.01] POLICY.

(a) The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through maltreatment. While it is recognized that most parents want to keep their children safe, sometimes circumstances or conditions interfere with their ability to do so. When this occurs, the health and safety of the children must be of paramount concern. Intervention and prevention efforts must address immediate concerns for child safety and the ongoing risk of maltreatment and should engage the protective capacities of families. In furtherance of this public policy, it is the intent of the legislature under this chapter to:

(1) protect children and promote child safety;

(2) strengthen the family;

(3) make the home, school, and community safe for children by promoting responsible child care in all settings; and

(4) provide, when necessary, a safe temporary or permanent home environment for maltreated children.

(b) In addition, it is the policy of this state to:

(1) require the reporting of maltreatment of children in the home, school, and community settings;

(2) provide for the voluntary reporting of maltreatment of children;

(3) require an investigation when the report alleges sexual abuse or substantial child endangerment;

(4) provide a family assessment, if appropriate, when the report does not allege sexual abuse or substantial child endangerment; and

(5) provide protective, family support, and family preservation services when needed in appropriate cases.

Sec. 2. [260E.02] MULTIDISCIPLINARY CHILD PROTECTION TEAM.

Subdivision 1. Establishment of team. A county shall establish a multidisciplinary child protection team that may include, but not be limited to, the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees,

234.1 representatives of health and education, representatives of mental health or other appropriate  
234.2 human service or community-based agencies, and parent groups. As used in this section, a  
234.3 "community-based agency" may include, but is not limited to, schools, social service  
234.4 agencies, family service and mental health collaboratives, children's advocacy centers, early  
234.5 childhood and family education programs, Head Start, or other agencies serving children  
234.6 and families. A member of the team must be designated as the lead person of the team  
234.7 responsible for the planning process to develop standards for the team's activities with  
234.8 battered women's and domestic abuse programs and services.

234.9 Subd. 2. **Duties of team.** A multidisciplinary child protection team may provide public  
234.10 and professional education, develop resources for prevention, intervention, and treatment,  
234.11 and provide case consultation to the local welfare agency or other interested community-based  
234.12 agencies. The community-based agencies may request case consultation from the  
234.13 multidisciplinary child protection team regarding a child or family for whom the  
234.14 community-based agency is providing services. As used in this section, "case consultation"  
234.15 means a case review process in which recommendations are made concerning services to  
234.16 be provided to the identified children and family. Case consultation may be performed by  
234.17 a committee or subcommittee of members representing human services, including mental  
234.18 health and chemical dependency; law enforcement, including probation and parole; the  
234.19 county attorney; a children's advocacy center; health care; education; community-based  
234.20 agencies and other necessary agencies; and persons directly involved in an individual case  
234.21 as designated by other members performing case consultation.

234.22 Subd. 3. **Sexually exploited youth outreach program.** A multidisciplinary child  
234.23 protection team may assist the local welfare agency, local law enforcement agency, or an  
234.24 appropriate private organization in developing a program of outreach services for sexually  
234.25 exploited youth, including homeless, runaway, and truant youth who are at risk of sexual  
234.26 exploitation. For the purposes of this subdivision, at least one representative of a youth  
234.27 intervention program or, where this type of program is unavailable, one representative of a  
234.28 nonprofit agency serving youth in crisis shall be appointed to and serve on the  
234.29 multidisciplinary child protection team in addition to the standing members of the team.  
234.30 These services may include counseling, medical care, short-term shelter, alternative living  
234.31 arrangements, and drop-in centers. A juvenile's receipt of intervention services under this  
234.32 subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

234.33 Subd. 4. **Information sharing.** (a) The local welfare agency may make available to the  
234.34 case consultation committee or subcommittee all records collected and maintained by the  
234.35 agency under this chapter and in connection with case consultation. A case consultation

235.1 committee or subcommittee member may share information acquired in the member's  
235.2 professional capacity with the committee or subcommittee to assist in case consultation.

235.3 (b) Case consultation committee or subcommittee members must annually sign a data  
235.4 sharing agreement, approved by the commissioner of human services, assuring compliance  
235.5 with chapter 13. Not public data, as defined in section 13.02, subdivision 8a, may be shared  
235.6 with members appointed to the committee or subcommittee in connection with an individual  
235.7 case when the members have signed the data sharing agreement.

235.8 (c) All data acquired by the case consultation committee or subcommittee in exercising  
235.9 case consultation duties are confidential as defined in section 13.02, subdivision 3, and shall  
235.10 not be disclosed except to the extent necessary to perform case consultation, and shall not  
235.11 be subject to subpoena or discovery.

235.12 (d) No members of a case consultation committee or subcommittee meeting shall disclose  
235.13 what transpired at a case consultation meeting, except to the extent necessary to carry out  
235.14 the case consultation plan. The proceedings and records of the case consultation meeting  
235.15 are not subject to discovery, and may not be introduced into evidence in any civil or criminal  
235.16 action against a professional or local welfare agency arising out of the matter or matters  
235.17 which are the subject of consideration of the case consultation meeting. Information,  
235.18 documents, or records otherwise available from original sources are not immune from  
235.19 discovery or use in any civil or criminal action merely because they were presented during  
235.20 a case consultation meeting. Any person who presented information before the consultation  
235.21 committee or subcommittee or who is a member shall not be prevented from testifying as  
235.22 to matters within the person's knowledge. However, in a civil or criminal proceeding a  
235.23 person shall not be questioned about the person's presentation of information before the  
235.24 case consultation committee or subcommittee or about opinions formed as a result of the  
235.25 case consultation meetings.

235.26 (e) A person who violates this subdivision is subject to the civil remedies and penalties  
235.27 provided under chapter 13.

235.28 Subd. 5. **Children's advocacy center; definition.** (a) For purposes of this section,  
235.29 "children's advocacy center" means an organization using a multidisciplinary team approach  
235.30 whose primary purpose is to provide children who have been the victims of abuse and their  
235.31 nonoffending family members with:

235.32 (1) support and advocacy;

235.33 (2) specialized medical evaluation;

236.1 (3) trauma-focused mental health services; and

236.2 (4) forensic interviews.

236.3 (b) Children's advocacy centers provide multidisciplinary case review and the tracking  
236.4 and monitoring of case progress.

236.5 Sec. 3. **[260E.03] DEFINITIONS.**

236.6 Subdivision 1. **Scope.** As used in this chapter, the following terms have the meanings  
236.7 given them unless the specific content indicates otherwise.

236.8 Subd. 2. **Accidental.** "Accidental" means a sudden, not reasonably foreseeable, and  
236.9 unexpected occurrence or event that:

236.10 (1) is not likely to occur and could not have been prevented by exercise of due care; and

236.11 (2) if occurring while a child is receiving services from a facility, happens when the  
236.12 facility and the employee or person providing services in the facility are in compliance with  
236.13 the laws and rules relevant to the occurrence or event.

236.14 Subd. 3. **Child fatality.** "Child fatality" means the death of a child from maltreatment.

236.15 Subd. 4. **Commissioner.** "Commissioner" means the commissioner of human services  
236.16 unless otherwise indicated in this chapter.

236.17 Subd. 5. **Egregious harm.** "Egregious harm" means harm under section 260C.007,  
236.18 subdivision 14, or a similar law of another jurisdiction.

236.19 Subd. 6. **Facility.** "Facility" means:

236.20 (1) a licensed or unlicensed day care facility, certified license-exempt child care center,  
236.21 residential facility, agency, hospital, sanitarium, or other facility or institution required to  
236.22 be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter  
236.23 144H, 245D, or 245H;

236.24 (2) a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E;  
236.25 or

236.26 (3) a nonlicensed personal care provider organization as defined in section 256B.0625,  
236.27 subdivision 19a.

236.28 Subd. 7. **Family assessment.** "Family assessment" means a comprehensive assessment  
236.29 of child safety, risk of subsequent maltreatment, and family strengths and needs that is  
236.30 applied to a maltreatment report that does not allege sexual abuse or substantial child  
236.31 endangerment. Family assessment does not include a determination as to whether

237.1 maltreatment occurred but does determine the need for services to address the safety of  
237.2 family members and the risk of subsequent maltreatment.

237.3 Subd. 8. **Findings and information.** "Findings and information" means a written  
237.4 summary described in section 260E.35, subdivision 7, paragraph (b), of actions taken or  
237.5 services rendered by a local welfare agency following receipt of a report.

237.6 Subd. 9. **Immediately.** "Immediately" means as soon as possible but in no event longer  
237.7 than 24 hours.

237.8 Subd. 10. **Interested person acting on behalf of the child.** "Interested person acting  
237.9 on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian  
237.10 ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person  
237.11 has been determined to be the offender who committed the maltreatment.

237.12 Subd. 11. **Investigation.** "Investigation" means fact gathering conducted during:

237.13 (1) a family investigation related to the current safety of a child and the risk of subsequent  
237.14 maltreatment that determines whether maltreatment occurred and whether child protective  
237.15 services are needed; or

237.16 (2) a facility investigation related to duties under section 260E.28.

237.17 Subd. 12. **Maltreatment.** "Maltreatment" means any of the following acts or omissions:

237.18 (1) egregious harm under subdivision 5;

237.19 (2) neglect under subdivision 15;

237.20 (3) physical abuse under subdivision 18;

237.21 (4) sexual abuse under subdivision 20;

237.22 (5) substantial child endangerment under subdivision 22;

237.23 (6) threatened injury under subdivision 23;

237.24 (7) mental injury under subdivision 13; and

237.25 (8) maltreatment of a child in a facility.

237.26 Subd. 13. **Mental injury.** "Mental injury" means an injury to the psychological capacity  
237.27 or emotional stability of a child as evidenced by an observable or substantial impairment  
237.28 in the child's ability to function within a normal range of performance and behavior with  
237.29 due regard to the child's culture.

238.1 Subd. 14. **Near fatality.** "Near fatality" means a case in which a physician, advanced  
238.2 practice registered nurse, or physician assistant determines that a child is in serious or critical  
238.3 condition as the result of sickness or injury caused by maltreatment.

238.4 Subd. 15. **Neglect.** (a) "Neglect" means the commission or omission of any of the acts  
238.5 specified under clauses (1) to (8), other than by accidental means:

238.6 (1) failure by a person responsible for a child's care to supply a child with necessary  
238.7 food, clothing, shelter, health, medical, or other care required for the child's physical or  
238.8 mental health when reasonably able to do so;

238.9 (2) failure to protect a child from conditions or actions that seriously endanger the child's  
238.10 physical or mental health when reasonably able to do so, including a growth delay, which  
238.11 may be referred to as a failure to thrive, that has been diagnosed by a physician and is due  
238.12 to parental neglect;

238.13 (3) failure to provide for necessary supervision or child care arrangements appropriate  
238.14 for a child after considering factors as the child's age, mental ability, physical condition,  
238.15 length of absence, or environment, when the child is unable to care for the child's own basic  
238.16 needs or safety, or the basic needs or safety of another child in their care;

238.17 (4) failure to ensure that the child is educated as defined in sections 120A.22 and  
238.18 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's  
238.19 child with sympathomimetic medications, consistent with section 125A.091, subdivision  
238.20 5;

238.21 (5) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision  
238.22 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in  
238.23 the child at birth, results of a toxicology test performed on the mother at delivery or the  
238.24 child at birth, medical effects or developmental delays during the child's first year of life  
238.25 that medically indicate prenatal exposure to a controlled substance, or the presence of a  
238.26 fetal alcohol spectrum disorder;

238.27 (6) medical neglect, as defined in section 260C.007, subdivision 6, clause (5);

238.28 (7) chronic and severe use of alcohol or a controlled substance by a person responsible  
238.29 for the child's care that adversely affects the child's basic needs and safety; or

238.30 (8) emotional harm from a pattern of behavior that contributes to impaired emotional  
238.31 functioning of the child, which may be demonstrated by a substantial and observable effect  
238.32 in the child's behavior, emotional response, or cognition that is not within the normal range  
238.33 for the child's age and stage of development, with due regard to the child's culture.

239.1 (b) Nothing in this chapter shall be construed to mean that a child is neglected solely  
239.2 because the child's parent, guardian, or other person responsible for the child's care in good  
239.3 faith selects and depends upon spiritual means or prayer for treatment or care of disease or  
239.4 remedial care of the child in lieu of medical care.

239.5 (c) This chapter does not impose upon persons not otherwise legally responsible for  
239.6 providing a child with necessary food, clothing, shelter, education, or medical care a duty  
239.7 to provide that care.

239.8 Subd. 16. **Person in a current or recent position of authority.** "Person in a current or  
239.9 recent position of authority" means an individual in a position of authority over a child and  
239.10 includes but is not limited to any person who is a parent or acting in the place of a parent  
239.11 and charged with any of a parent's rights, duties, or responsibilities to a child, or a person  
239.12 who is charged with any duty or responsibility for the health, welfare, or supervision of a  
239.13 child, either independently or through another, no matter how brief, within 120 days  
239.14 immediately preceding the act. Person in a position of authority includes a psychotherapist.

239.15 Subd. 17. **Person responsible for the child's care.** "Person responsible for the child's  
239.16 care" means (1) an individual functioning within the family unit and having responsibilities  
239.17 for the care of the child such as a parent, guardian, or other person having similar care  
239.18 responsibilities, or (2) an individual functioning outside the family unit and having  
239.19 responsibilities for the care of the child such as a teacher, school administrator, other school  
239.20 employee or agent, or other lawful custodian of a child having either full-time or short-term  
239.21 care responsibilities including, but not limited to, day care, babysitting whether paid or  
239.22 unpaid, counseling, teaching, and coaching.

239.23 Subd. 18. **Physical abuse.** (a) "Physical abuse" means any physical injury, mental injury  
239.24 under subdivision 13, or threatened injury under subdivision 23, inflicted by a person  
239.25 responsible for the child's care on a child other than by accidental means, or any physical  
239.26 or mental injury that cannot reasonably be explained by the child's history of injuries, or  
239.27 any aversive or deprivation procedures, or regulated interventions, that have not been  
239.28 authorized under section 125A.0942 or 245.825.

239.29 (b) Abuse does not include reasonable and moderate physical discipline of a child  
239.30 administered by a parent or legal guardian that does not result in an injury. Abuse does not  
239.31 include the use of reasonable force by a teacher, principal, or school employee as allowed  
239.32 by section 121A.582.

239.33 (c) For the purposes of this subdivision, actions that are not reasonable and moderate  
239.34 include, but are not limited to, any of the following:

- 240.1 (1) throwing, kicking, burning, biting, or cutting a child;
- 240.2 (2) striking a child with a closed fist;
- 240.3 (3) shaking a child under age three;
- 240.4 (4) striking or other actions that result in any nonaccidental injury to a child under 18
- 240.5 months of age;
- 240.6 (5) unreasonable interference with a child's breathing;
- 240.7 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- 240.8 (7) striking a child under age one on the face or head;
- 240.9 (8) striking a child who is at least age one but under age four on the face or head, which
- 240.10 results in an injury;
- 240.11 (9) purposely giving a child:
- 240.12 (i) poison, alcohol, or dangerous, harmful, or controlled substances that were not
- 240.13 prescribed for the child by a practitioner in order to control or punish the child; or
- 240.14 (ii) other substances that substantially affect the child's behavior, motor coordination,
- 240.15 or judgment; that result in sickness or internal injury; or that subject the child to medical
- 240.16 procedures that would be unnecessary if the child were not exposed to the substances;
- 240.17 (10) unreasonable physical confinement or restraint not permitted under section 609.379,
- 240.18 including but not limited to tying, caging, or chaining; or
- 240.19 (11) in a school facility or school zone, an act by a person responsible for the child's
- 240.20 care that is a violation under section 121A.58.

240.21 Subd. 19. **Report.** "Report" means any communication received by the local welfare

240.22 agency, police department, county sheriff, or agency responsible for child protection pursuant

240.23 to this section that describes maltreatment of a child and contains sufficient content to

240.24 identify the child and any person believed to be responsible for the maltreatment, if known.

240.25 Subd. 20. **Sexual abuse.** "Sexual abuse" means the subjection of a child by a person

240.26 responsible for the child's care, by a person who has a significant relationship to the child,

240.27 or by a person in a current or recent position of authority, to any act that constitutes a

240.28 violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal

240.29 sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree),

240.30 609.345 (criminal sexual conduct in the fourth degree), 609.3451 (criminal sexual conduct

240.31 in the fifth degree), or 609.352 (solicitation of children to engage in sexual conduct;



241.1 communication of sexually explicit materials to children). Sexual abuse also includes any  
241.2 act involving a child that constitutes a violation of prostitution offenses under sections  
241.3 609.321 to 609.324 or 617.246. Sexual abuse includes all reports of known or suspected  
241.4 child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual  
241.5 abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b.  
241.6 Sexual abuse includes threatened sexual abuse, which includes the status of a parent or  
241.7 household member who has committed a violation that requires registration as an offender  
241.8 under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under  
241.9 section 243.166, subdivision 1b, paragraph (a) or (b).

241.10 Subd. 21. **Significant relationship.** "Significant relationship" means a situation in which  
241.11 the alleged offender is:

241.12 (1) the child's parent, stepparent, or guardian;

241.13 (2) any of the following persons related to the child by blood, marriage, or adoption:  
241.14 brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent,  
241.15 great-grandparent, great-uncle, great-aunt; or

241.16 (3) an adult who jointly resides intermittently or regularly in the same dwelling as the  
241.17 child and who is not the child's spouse.

241.18 Subd. 22. **Substantial child endangerment.** "Substantial child endangerment" means  
241.19 that a person responsible for a child's care, by act or omission, commits or attempts to  
241.20 commit an act against a child under their care that constitutes any of the following:

241.21 (1) egregious harm under subdivision 5;

241.22 (2) abandonment under section 260C.301, subdivision 2;

241.23 (3) neglect under subdivision 15, paragraph (a), clause (2), that seriously endangers the  
241.24 child's physical or mental health, including a growth delay, which may be referred to as  
241.25 failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

241.26 (4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

241.27 (5) manslaughter in the first or second degree under section 609.20 or 609.205;

241.28 (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

241.29 (7) solicitation, inducement, and promotion of prostitution under section 609.322;

241.30 (8) criminal sexual conduct under sections 609.342 to 609.3451;

241.31 (9) solicitation of children to engage in sexual conduct under section 609.352;

242.1 (10) malicious punishment or neglect or endangerment of a child under section 609.377  
242.2 or 609.378;

242.3 (11) use of a minor in sexual performance under section 617.246; or

242.4 (12) parental behavior, status, or condition that mandates that the county attorney file a  
242.5 termination of parental rights petition under section 260C.503, subdivision 2.

242.6 Subd. 23. **Threatened injury.** (a) "Threatened injury" means a statement, overt act,  
242.7 condition, or status that represents a substantial risk of physical or sexual abuse or mental  
242.8 injury.

242.9 (b) Threatened injury includes, but is not limited to, exposing a child to a person  
242.10 responsible for the child's care, as defined in subdivision 17, who has:

242.11 (1) subjected a child to, or failed to protect a child from, an overt act or condition that  
242.12 constitutes egregious harm under subdivision 5 or a similar law of another jurisdiction;

242.13 (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph  
242.14 (b), clause (4), or a similar law of another jurisdiction;

242.15 (3) committed an act that resulted in an involuntary termination of parental rights under  
242.16 section 260C.301, or a similar law of another jurisdiction; or

242.17 (4) committed an act that resulted in the involuntary transfer of permanent legal and  
242.18 physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201,  
242.19 subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law  
242.20 of another jurisdiction.

242.21 (c) A child is the subject of a report of threatened injury when the local welfare agency  
242.22 receives birth match data under section 260E.14, subdivision 4, from the Department of  
242.23 Human Services.

242.24 Sec. 4. **[260E.04] EVIDENCE.**

242.25 No evidence relating to the maltreatment of a child or to any prior incident of  
242.26 maltreatment involving any of the same persons accused of maltreatment shall be excluded  
242.27 in any proceeding arising out of the alleged maltreatment on the grounds of privilege set  
242.28 forth in section 595.02, subdivision 1, paragraph (a), (d), or (g).

242.29 Sec. 5. **[260E.05] CULTURAL PRACTICES.**

242.30 A person who conducts an assessment or investigation under this chapter shall take into  
242.31 account accepted child-rearing practices of the culture in which a child participates and

243.1 accepted teacher discipline practices that are not injurious to the child's health, welfare, and  
243.2 safety.

243.3 **Sec. 6. [260E.06] MALTREATMENT REPORTING.**

243.4 **Subdivision 1. Mandatory reporters.** (a) A person who knows or has reason to believe  
243.5 a child is being maltreated, as defined in section 260E.03, or has been maltreated within  
243.6 the preceding three years, shall immediately report the information to the local welfare  
243.7 agency, agency responsible for assessing or investigating the report, police department,  
243.8 county sheriff, tribal social services agency, or tribal police department if the person is:

243.9 (1) a professional or professional's delegate who is engaged in the practice of the healing  
243.10 arts, social services, hospital administration, psychological or psychiatric treatment, child  
243.11 care, education, correctional supervision, probation and correctional services, or law  
243.12 enforcement; or

243.13 (2) employed as a member of the clergy and received the information while engaged in  
243.14 ministerial duties, provided that a member of the clergy is not required by this subdivision  
243.15 to report information that is otherwise privileged under section 595.02, subdivision 1,  
243.16 paragraph (c).

243.17 (b) "Practice of social services," for the purposes of this subdivision, includes but is not  
243.18 limited to employee assistance counseling and the provision of guardian ad litem and  
243.19 parenting time expeditor services.

243.20 **Subd. 2. Voluntary reporters.** Any person may voluntarily report to the local welfare  
243.21 agency, agency responsible for assessing or investigating the report, police department,  
243.22 county sheriff, tribal social services agency, or tribal police department if the person knows,  
243.23 has reason to believe, or suspects a child is being or has been maltreated.

243.24 **Subd. 3. Reporting in cases where selection of spiritual means or prayer for**  
243.25 **treatment or care may cause serious danger to child's health.** If the child's parent,  
243.26 guardian, or other person responsible for the child's care in good faith selects and depends  
243.27 upon spiritual means or prayer for treatment or care of disease or remedial care of the child  
243.28 in lieu of medical care, the parent, guardian, or caretaker, or a person mandated to report  
243.29 pursuant to subdivision 1, has a duty to report if a lack of medical care may cause serious  
243.30 danger to the child's health.

243.31 **Subd. 4. Licensing board duty to report.** A board or other entity whose licensees  
243.32 perform work within a school facility, upon receiving a complaint of alleged maltreatment,  
243.33 shall report the alleged maltreatment to the commissioner of education.

244.1 **Sec. 7. [260E.07] RETALIATION PROHIBITED.**

244.2 (a) An employer of any person required to make reports under section 260E.06,  
244.3 subdivision 1, or 260E.11, subdivision 1, shall not retaliate against the person for reporting  
244.4 in good faith maltreatment pursuant to this chapter or against a child with respect to whom  
244.5 a report is made, because of the report.

244.6 (b) The employer of any person required to report under section 260E.06, subdivision  
244.7 1, or 260E.11, subdivision 1, who retaliates against the person because of a report of  
244.8 maltreatment is liable to that person for actual damages and, in addition, a penalty of up to  
244.9 \$10,000.

244.10 (c) There shall be a rebuttable presumption that any adverse action within 90 days of a  
244.11 report is retaliatory. For purposes of this paragraph, the term "adverse action" refers to action  
244.12 taken by an employer of a person required to report under section 260E.06, subdivision 1,  
244.13 or 260E.11, subdivision 1, which is involved in a report against the person making the report  
244.14 or the child with respect to whom the report was made because of the report, and includes,  
244.15 but is not limited to:

244.16 (1) discharge, suspension, termination, or transfer from the facility, institution, school,  
244.17 or agency;

244.18 (2) discharge from or termination of employment;

244.19 (3) demotion or reduction in remuneration for services; or

244.20 (4) restriction or prohibition of access to the facility, institution, school, agency, or  
244.21 persons affiliated with it.

244.22 **Sec. 8. [260E.08] CRIMINAL PENALTIES FOR FAILURE TO REPORT; CIVIL**  
244.23 **PENALTY FOR MAKING FALSE REPORT.**

244.24 (a) A person mandated by section 260E.06, subdivision 1, to report who knows or has  
244.25 reason to believe that a child is maltreated, as defined in section 260E.03, or has been  
244.26 maltreated within the preceding three years, and fails to report is guilty of a misdemeanor.

244.27 (b) A person mandated by section 260E.06, subdivision 1, to report who knows or has  
244.28 reason to believe that two or more children not related to the offender have been maltreated,  
244.29 as defined in section 260E.03, by the same offender within the preceding ten years, and  
244.30 fails to report is guilty of a gross misdemeanor.

244.31 (c) A parent, guardian, or caretaker who knows or reasonably should know that the  
244.32 child's health is in serious danger and who fails to report as required by section 260E.06,

245.1 subdivision 3, is guilty of a gross misdemeanor if the child suffers substantial or great bodily  
245.2 harm because of the lack of medical care. If the child dies because of the lack of medical  
245.3 care, the person is guilty of a felony and may be sentenced to imprisonment for not more  
245.4 than two years or to payment of a fine of not more than \$4,000, or both. The provision in  
245.5 section 609.378, subdivision 1, paragraph (a), clause (1), providing that a parent, guardian,  
245.6 or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment  
245.7 or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report  
245.8 under this chapter.

245.9 (d) Any person who knowingly or recklessly makes a false report under the provisions  
245.10 of this chapter shall be liable in a civil suit for any actual damages suffered by the person  
245.11 or persons so reported and for any punitive damages set by the court or jury, plus costs and  
245.12 reasonable attorney fees.

245.13 **Sec. 9. [260E.09] REPORTING REQUIREMENTS.**

245.14 (a) An oral report shall be made immediately by telephone or otherwise. An oral report  
245.15 made by a person required under section 260E.06, subdivision 1, to report shall be followed  
245.16 within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate  
245.17 police department, the county sheriff, the agency responsible for assessing or investigating  
245.18 the report, or the local welfare agency.

245.19 (b) Any report shall be of sufficient content to identify the child, any person believed  
245.20 to be responsible for the maltreatment of the child if the person is known, the nature and  
245.21 extent of the maltreatment, and the name and address of the reporter. The local welfare  
245.22 agency or agency responsible for assessing or investigating the report shall accept a report  
245.23 made under section 260E.06 notwithstanding refusal by a reporter to provide the reporter's  
245.24 name or address as long as the report is otherwise sufficient under this paragraph.

245.25 **Sec. 10. [260E.10] NOTIFICATION TO REPORTERS.**

245.26 Subdivision 1. **Screening notification.** If requested, the agency responsible for assessing  
245.27 or investigating a report shall inform the reporter within ten days after the report was made,  
245.28 either orally or in writing, whether the report was accepted or not. If the responsible agency  
245.29 determines the report does not constitute a report under this chapter, the agency shall advise  
245.30 the reporter that the report was screened out.

245.31 Subd. 2. **Final notification.** Any person mandated to report shall receive a summary of  
245.32 the disposition of any report made by that reporter, including whether the case has been  
245.33 opened for child protection or other services, or if a referral has been made to a community

246.1 organization, unless release would be detrimental to the best interests of the child. Any  
246.2 person who is not mandated to report shall, upon request to the local welfare agency, receive  
246.3 a concise summary of the disposition of any report made by that reporter, unless release  
246.4 would be detrimental to the best interests of the child.

246.5 Sec. 11. **[260E.11] AGENCY DESIGNATED TO RECEIVE REPORTS.**

246.6 **Subdivision 1. Reports of maltreatment in facility.** A person mandated to report child  
246.7 maltreatment occurring within a licensed facility shall report the information to the agency  
246.8 responsible for licensing or certifying the facility under sections 144.50 to 144.58, 241.021,  
246.9 and 245A.01 to 245A.16; or chapter 144H, 245D, or 245H; or a nonlicensed personal care  
246.10 provider organization as defined in section 256B.0625, subdivision 19a.

246.11 **Subd. 2. Reporting deprivation of parental rights or kidnapping to law**  
246.12 **enforcement.** A person mandated to report under section 260E.06, subdivision 1, who  
246.13 knows or has reason to know of a violation of section 609.25 or 609.26 shall report the  
246.14 information to the local police department or the county sheriff.

246.15 **Subd. 3. Report to medical examiner or coroner; notification to local agency and**  
246.16 **law enforcement; report ombudsman.** (a) A person mandated to report maltreatment who  
246.17 knows or has reason to believe a child has died as a result of maltreatment shall report that  
246.18 information to the appropriate medical examiner or coroner instead of the local welfare  
246.19 agency, police department, or county sheriff.

246.20 (b) The medical examiner or coroner shall notify the local welfare agency, police  
246.21 department, or county sheriff in instances in which the medical examiner or coroner believes  
246.22 that the child has died as a result of maltreatment. The medical examiner or coroner shall  
246.23 complete an investigation as soon as feasible and report the findings to the police department  
246.24 or county sheriff and the local welfare agency.

246.25 (c) If the child was receiving services or treatment for mental illness, developmental  
246.26 disability, chemical dependency, or emotional disturbance from an agency, facility, or  
246.27 program as defined in section 245.91, the medical examiner or coroner shall also notify and  
246.28 report findings to the ombudsman established under sections 245.91 to 245.97.

247.1 Sec. 12. **[260E.12] REQUIRED ACTIONS OF THE RESPONSIBLE AGENCY AND**  
247.2 **LAW ENFORCEMENT UPON RECEIVING REPORT.**

247.3 **Subdivision 1. Police department or county sheriff.** (a) The police department or the  
247.4 county sheriff shall immediately notify the local welfare agency or agency responsible for  
247.5 child protection reports under this chapter orally and in writing when a report is received.

247.6 (b) Written reports received by a police department or the county sheriff shall be  
247.7 forwarded immediately to the local welfare agency or the agency responsible for assessing  
247.8 or investigating the report. The police department or the county sheriff may keep copies of  
247.9 reports received by them.

247.10 (c) The county sheriff and the head of each local welfare agency, agency responsible  
247.11 for child protection reports, and police department shall designate a person within the agency,  
247.12 department, or office who is responsible for ensuring that the notification duties of this  
247.13 section are carried out. If the alleged maltreatment occurs on tribal land, the local welfare  
247.14 agency or agency responsible for child protection reports and the local police department  
247.15 or county sheriff shall immediately notify the tribe's social services agency and tribal law  
247.16 enforcement orally and in writing when a report is received. When a police department or  
247.17 county determines that a child has been the subject of maltreatment by a person licensed  
247.18 by the Professional Educator Licensing and Standards Board or the Board of School  
247.19 Administrators, the department or sheriff shall, in addition to other duties under this section,  
247.20 immediately inform the licensing board.

247.21 (d) If a child is the victim of an alleged crime under subdivision 2, paragraph (c), the  
247.22 law enforcement agency shall immediately notify the local welfare agency, which shall  
247.23 offer appropriate social services for the purpose of safeguarding and enhancing the welfare  
247.24 of the maltreated child.

247.25 **Subd. 2. Local welfare agency or agency responsible for maltreatment report.** (a)  
247.26 The local welfare agency or agency responsible for child protection reports shall immediately  
247.27 notify the local police department or the county sheriff orally and in writing when a report  
247.28 is received.

247.29 (b) Copies of written reports received by a local welfare agency or the agency responsible  
247.30 for assessing or investigating the report shall be forwarded immediately to the local police  
247.31 department or the county sheriff.

247.32 (c) Receipt by a local welfare agency of a report or notification of a report of kidnapping  
247.33 under section 609.25 or depriving another of custodial or parental rights under section  
247.34 609.26 shall not be construed to invoke the duties under this chapter except notification of

248.1 law enforcement and the offer of services under section 260E.20, subdivision 1, paragraph  
248.2 (a), as appropriate.

248.3 Subd. 3. Penalties for failure to cross notify. (a) If a local welfare agency receives a  
248.4 report under section 260E.06 and fails to notify the local police department or county sheriff  
248.5 as required by subdivision 2, the person within the agency who is responsible for ensuring  
248.6 that notification is made shall be subject to disciplinary action in keeping with the agency's  
248.7 existing policy or collective bargaining agreement on discipline of employees.

248.8 (b) If a local police department or a county sheriff receives a report under section 260E.06  
248.9 and fails to notify the local welfare agency as required by subdivision 1, the person within  
248.10 the police department or county sheriff's office who is responsible for ensuring that  
248.11 notification is made shall be subject to disciplinary action in keeping with the agency's  
248.12 existing policy or collective bargaining agreement on discipline of employees.

248.13 **Sec. 13. [260E.13] REPORT TO OMBUDSMAN.**

248.14 When a local welfare agency receives a report or otherwise has information indicating  
248.15 that a child who is a client, as defined in section 245.91, has been the subject of maltreatment  
248.16 at an agency, facility, or program, as defined in section 245.91, the local welfare agency  
248.17 shall, in addition to its other duties under this chapter, immediately inform the ombudsman  
248.18 established under sections 245.91 to 245.97. The commissioner of education shall inform  
248.19 the ombudsman established under sections 245.91 to 245.97 of reports regarding a child  
248.20 who is a client, as defined in section 245.91, that maltreatment occurred at a school as  
248.21 defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

248.22 **Sec. 14. [260E.14] AGENCY RESPONSIBLE FOR SCREENING AND**  
248.23 **ASSESSMENT OR INVESTIGATION.**

248.24 Subdivision 1. Facilities and schools. (a) The local welfare agency is the agency  
248.25 responsible for investigating allegations of maltreatment in child foster care, family child  
248.26 care, legally nonlicensed child care, and reports involving children served by an unlicensed  
248.27 personal care provider organization under section 256B.0659. Copies of findings related to  
248.28 personal care provider organizations under section 256B.0659 must be forwarded to the  
248.29 Department of Human Services provider enrollment.

248.30 (b) The Department of Human Services is the agency responsible for screening and  
248.31 investigating allegations of maltreatment in juvenile correctional facilities listed under  
248.32 section 241.021 located in the local welfare agency's county and in facilities licensed or



249.1 certified under chapters 245A, 245D, and 245H, except for child foster care and family  
249.2 child care.

249.3 (c) The Department of Health is the agency responsible for screening and investigating  
249.4 allegations of maltreatment in facilities licensed under sections 144.50 to 144.58 and 144A.43  
249.5 to 144A.482 or chapter 144H.

249.6 (d) The Department of Education is the agency responsible for screening and investigating  
249.7 allegations of maltreatment in a school as defined in section 120A.05, subdivisions 9, 11,  
249.8 and 13, and chapter 124E. The Department of Education's responsibility to screen and  
249.9 investigate includes allegations of maltreatment involving students 18 to 21 years of age,  
249.10 including students receiving special education services, up to and including graduation and  
249.11 the issuance of a secondary or high school diploma.

249.12 (e) A health or corrections agency receiving a report may request the local welfare agency  
249.13 to provide assistance pursuant to this section and sections 260E.20 and 260E.22.

249.14 Subd. 2. **Sexual abuse.** (a) The local welfare agency is the agency responsible for  
249.15 investigating an allegation of sexual abuse if the alleged offender is the parent, guardian,  
249.16 sibling, or an individual functioning within the family unit as a person responsible for the  
249.17 child's care, or a person with a significant relationship to the child if that person resides in  
249.18 the child's household.

249.19 (b) The local welfare agency is also responsible for investigating when a child is identified  
249.20 as a victim of sex trafficking.

249.21 Subd. 3. **Neglect or physical abuse.** The local welfare agency is responsible for  
249.22 immediately conducting a family assessment or investigation if the report alleges neglect  
249.23 or physical abuse by a parent, guardian, or individual functioning within the family unit as  
249.24 a person responsible for the child's care.

249.25 Subd. 4. **Birth match.** (a) Upon receiving data under section 144.225, subdivision 2b,  
249.26 contained in a birth record or recognition of parentage identifying a child who is subject to  
249.27 threatened injury under section 260E.03, subdivision 23, the Department of Human Services  
249.28 shall send the data to the responsible local welfare agency. The data is known as "birth  
249.29 match data."

249.30 (b) Unless the responsible local welfare agency has already begun an investigation or  
249.31 assessment of the report due to the birth of the child or execution of the recognition of  
249.32 parentage and the parent's previous history with child protection, the agency shall accept  
249.33 the birth match data as a report under section 260E.03, subdivision 23.

250.1 Subd. 5. **Law enforcement.** (a) The local law enforcement agency is the agency  
250.2 responsible for investigating a report of maltreatment if a violation of a criminal statute is  
250.3 alleged.

250.4 (b) Law enforcement and the responsible agency must coordinate their investigations  
250.5 or assessments as required under this chapter when the report alleges maltreatment that is  
250.6 a violation of a criminal statute by a person who is a parent, guardian, sibling, person  
250.7 responsible for the child's care functioning within the family unit, or person who lives in  
250.8 the child's household and who has a significant relationship to the child, in a setting other  
250.9 than a facility as defined in section 260E.03.

250.10 **Sec. 15. [260E.15] SCREENING GUIDELINES.**

250.11 (a) Child protection staff, supervisors, and others involved in child protection screening  
250.12 shall follow the guidance provided in the maltreatment screening guidelines issued by the  
250.13 commissioner and, when notified by the commissioner, shall immediately implement updated  
250.14 procedures and protocols.

250.15 (b) Any modification to the screening guidelines must be preapproved by the  
250.16 commissioner and must not be less protective of children than is mandated by statute. The  
250.17 county agency must consult with the county attorney before proposing modifications to the  
250.18 commissioner. The guidelines may provide additional protection for children but must not  
250.19 limit reports that are screened in or provide additional limits on consideration of reports  
250.20 that were screened out in making a screening determination.

250.21 **Sec. 16. [260E.16] TIMELINE FOR SCREENING.**

250.22 (a) The local welfare agency shall determine if the report is to be screened in or out as  
250.23 soon as possible but in no event longer than 24 hours after the report is received.

250.24 (b) When determining whether a report will be screened in or out, the agency receiving  
250.25 the report must consider, when relevant, all previous history, including reports that were  
250.26 screened out. The agency may communicate with treating professionals and individuals  
250.27 specified under section 260E.35, subdivision 4, paragraph (b).

250.28 **Sec. 17. [260E.17] RESPONSE PATH ASSIGNMENT.**

250.29 Subdivision 1. **Local welfare agency.** (a) Upon receipt of a report, the local welfare  
250.30 agency shall determine whether to conduct a family assessment or an investigation as  
250.31 appropriate to prevent or provide a remedy for maltreatment.

251.1 (b) The local welfare agency shall conduct an investigation when the report involves  
251.2 sexual abuse or substantial child endangerment.

251.3 (c) The local welfare agency shall begin an immediate investigation if, at any time when  
251.4 the local welfare agency is using a family assessment response, the local welfare agency  
251.5 determines that there is reason to believe that sexual abuse or substantial child endangerment  
251.6 or a serious threat to the child's safety exists.

251.7 (d) The local welfare agency may conduct a family assessment for reports that do not  
251.8 allege sexual abuse or substantial child endangerment. In determining that a family  
251.9 assessment is appropriate, the local welfare agency may consider issues of child safety,  
251.10 parental cooperation, and the need for an immediate response.

251.11 (e) The local welfare agency may conduct a family assessment on a report that was  
251.12 initially screened and assigned for an investigation. In determining that a complete  
251.13 investigation is not required, the local welfare agency must document the reason for  
251.14 terminating the investigation and notify the local law enforcement agency if the local law  
251.15 enforcement agency is conducting a joint investigation.

251.16 Subd. 2. **Responsible social service agency.** The responsible agency shall conduct an  
251.17 investigation when the report alleges maltreatment in a facility required to be licensed or  
251.18 certified under chapter 144H, 245A, 245D, or 245H; under sections 144.50 to 144.58 and  
251.19 241.021; in a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter  
251.20 124E; or in a nonlicensed personal care provider association as defined in section 256B.0625,  
251.21 subdivision 19a.

251.22 Sec. 18. **[260E.18] NOTICE TO CHILD'S TRIBE.**

251.23 The local welfare agency shall provide immediate notice, according to section 260.761,  
251.24 subdivision 2, to an Indian child's tribe when the agency has reason to believe the family  
251.25 assessment or investigation may involve an Indian child. For purposes of this section,  
251.26 "immediate notice" means notice provided within 24 hours.

251.27 Sec. 19. **[260E.19] CONFLICT OF INTEREST.**

251.28 (a) A potential conflict of interest related to assisting in an investigation or assessment  
251.29 under this chapter resulting in a direct or shared financial interest with a child maltreatment  
251.30 treatment provider or resulting from a personal or family relationship with a party in the  
251.31 investigation must be considered by the local welfare agency in an effort to prevent unethical  
251.32 relationships.

252.1 (b) A person who conducts an investigation or assessment under this chapter may not  
252.2 have:

252.3 (1) any direct or shared financial interest or referral relationship resulting in a direct  
252.4 shared financial gain with a child maltreatment treatment provider; or

252.5 (2) a personal or family relationship with a party in the assessment or investigation.

252.6 (c) If an independent assessor is not available, the person responsible for making the  
252.7 determination under this chapter may use the services of an assessor with a financial interest,  
252.8 referral, or personal or family relationship.

252.9 Sec. 20. [260E.20] AGENCY DUTIES REGARDING INVESTIGATION AND  
252.10 ASSESSMENT.

252.11 Subdivision 1. General duties. (a) The local welfare agency shall offer services to  
252.12 prevent future maltreatment, safeguarding and enhancing the welfare of the maltreated child,  
252.13 and supporting and preserving family life whenever possible.

252.14 (b) If the report alleges a violation of a criminal statute involving maltreatment or child  
252.15 endangerment under section 609.378, the local law enforcement agency and local welfare  
252.16 agency shall coordinate the planning and execution of their respective investigation and  
252.17 assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews.  
252.18 Each agency shall prepare a separate report of the results of the agency's investigation or  
252.19 assessment.

252.20 (c) In cases of alleged child maltreatment resulting in death, the local agency may rely  
252.21 on the fact-finding efforts of a law enforcement investigation to make a determination of  
252.22 whether or not maltreatment occurred.

252.23 (d) When necessary, the local welfare agency shall seek authority to remove the child  
252.24 from the custody of a parent, guardian, or adult with whom the child is living.

252.25 (e) In performing any of these duties, the local welfare agency shall maintain an  
252.26 appropriate record.

252.27 (f) In conducting a family assessment or investigation, the local welfare agency shall  
252.28 gather information on the existence of substance abuse and domestic violence.

252.29 (g) If the family assessment or investigation indicates there is a potential for abuse of  
252.30 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,  
252.31 the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota  
252.32 Rules, part 9530.6615.

253.1 (h) The agency may use either a family assessment or investigation to determine whether  
253.2 the child is safe when responding to a report resulting from birth match data under section  
253.3 260E.03, subdivision 23, paragraph (c). If the child subject of birth match data is determined  
253.4 to be safe, the agency shall consult with the county attorney to determine the appropriateness  
253.5 of filing a petition alleging the child is in need of protection or services under section  
253.6 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is  
253.7 determined not to be safe, the agency and the county attorney shall take appropriate action  
253.8 as required under section 260C.503, subdivision 2.

253.9 Subd. 2. **Face-to-face contact.** (a) Upon receipt of a screened in report, the local welfare  
253.10 agency shall conduct a face-to-face contact with the child reported to be maltreated and  
253.11 with the child's primary caregiver sufficient to complete a safety assessment and ensure the  
253.12 immediate safety of the child.

253.13 (b) The face-to-face contact with the child and primary caregiver shall occur immediately  
253.14 if sexual abuse or substantial child endangerment is alleged and within five calendar days  
253.15 for all other reports. If the alleged offender was not already interviewed as the primary  
253.16 caregiver, the local welfare agency shall also conduct a face-to-face interview with the  
253.17 alleged offender in the early stages of the assessment or investigation.

253.18 (c) At the initial contact with the alleged offender, the local welfare agency or the agency  
253.19 responsible for assessing or investigating the report must inform the alleged offender of the  
253.20 complaints or allegations made against the individual in a manner consistent with laws  
253.21 protecting the rights of the person who made the report. The interview with the alleged  
253.22 offender may be postponed if it would jeopardize an active law enforcement investigation.

253.23 (d) The local welfare agency or the agency responsible for assessing or investigating  
253.24 the report must provide the alleged offender with an opportunity to make a statement. The  
253.25 alleged offender may submit supporting documentation relevant to the assessment or  
253.26 investigation.

253.27 Subd. 3. **Collection of information.** (a) The local welfare agency responsible for  
253.28 conducting a family assessment or investigation shall collect available and relevant  
253.29 information to determine child safety, risk of subsequent maltreatment, and family strengths  
253.30 and needs and share not public information with an Indian's tribal social services agency  
253.31 without violating any law of the state that may otherwise impose a duty of confidentiality  
253.32 on the local welfare agency in order to implement the tribal state agreement.

254.1 (b) The local welfare agency or the agency responsible for investigating the report shall  
254.2 collect available and relevant information to ascertain whether maltreatment occurred and  
254.3 whether protective services are needed.

254.4 (c) Information collected includes, when relevant, information with regard to the person  
254.5 reporting the alleged maltreatment, including the nature of the reporter's relationship to the  
254.6 child and to the alleged offender, and the basis of the reporter's knowledge for the report;  
254.7 the child allegedly being maltreated; the alleged offender; the child's caretaker; and other  
254.8 collateral sources having relevant information related to the alleged maltreatment.

254.9 (d) Information relevant to the assessment or investigation must be asked for, and may  
254.10 include:

254.11 (1) the child's sex and age; prior reports of maltreatment, including any maltreatment  
254.12 reports that were screened out and not accepted for assessment or investigation; information  
254.13 relating to developmental functioning; credibility of the child's statement; and whether the  
254.14 information provided under this clause is consistent with other information collected during  
254.15 the course of the assessment or investigation;

254.16 (2) the alleged offender's age, a record check for prior reports of maltreatment, and  
254.17 criminal charges and convictions;

254.18 (3) collateral source information regarding the alleged maltreatment and care of the  
254.19 child. Collateral information includes, when relevant: (i) a medical examination of the child;  
254.20 (ii) prior medical records relating to the alleged maltreatment or the care of the child  
254.21 maintained by any facility, clinic, or health care professional and an interview with the  
254.22 treating professionals; and (iii) interviews with the child's caretakers, including the child's  
254.23 parent, guardian, foster parent, child care provider, teachers, counselors, family members,  
254.24 relatives, and other persons who may have knowledge regarding the alleged maltreatment  
254.25 and the care of the child; and

254.26 (4) information on the existence of domestic abuse and violence in the home of the child,  
254.27 and substance abuse.

254.28 (e) Nothing in this subdivision precludes the local welfare agency, the local law  
254.29 enforcement agency, or the agency responsible for assessing or investigating the report from  
254.30 collecting other relevant information necessary to conduct the assessment or investigation.

254.31 (f) Notwithstanding section 13.384 or 144.291 to 144.298, the local welfare agency has  
254.32 access to medical data and records for purposes of paragraph (d), clause (3).

255.1 Subd. 4. Consultation regarding alleged medical neglect. If the report alleges medical  
255.2 neglect as defined in section 260C.007, subdivision 6, clause (5), the local welfare agency  
255.3 shall, in addition to its other duties under this section, immediately consult with designated  
255.4 hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration,  
255.5 and medication are being provided; and shall immediately secure an independent medical  
255.6 review of the infant's medical charts and records and, if necessary, seek a court order for  
255.7 an independent medical examination of the infant.

255.8 Subd. 5. Law enforcement fact finding. If the report alleges maltreatment by a person  
255.9 who is not a parent, guardian, sibling, person responsible for the child's care functioning  
255.10 within the family unit, or a person who lives in the child's household and who has a  
255.11 significant relationship to the child, in a setting other than a facility as defined in section  
255.12 260E.03, the local welfare agency may rely on the fact-finding efforts of the law enforcement  
255.13 investigation to make a determination whether or not threatened injury or other maltreatment  
255.14 has occurred under section 260E.03, subdivision 12, if an alleged offender has minor children  
255.15 or lives with minors.

255.16 **Sec. 21. [260E.21] SCREENED OUT REPORTS.**

255.17 Subdivision 1. Records. A report that is screened out must be maintained according to  
255.18 section 260E.35, subdivision 6, paragraph (b).

255.19 Subd. 2. Offer of social services. A local welfare agency or agency responsible for  
255.20 investigating or assessing a report may use a screened out report for making an offer of  
255.21 social services to the subjects of the screened out report.

255.22 **Sec. 22. [260E.22] INTERVIEWS.**

255.23 Subdivision 1. Authority to interview. (a) The agency responsible for assessing or  
255.24 investigating reports of maltreatment has the authority to interview the child, the person or  
255.25 persons responsible for the child's care, the alleged offender, and any other person with  
255.26 knowledge of the maltreatment for the purpose of gathering facts, assessing safety and risk  
255.27 to the child, and formulating a plan.

255.28 (b) Authority of the local welfare agency responsible for assessing or investigating the  
255.29 maltreatment report, the agency responsible for assessing or investigating the report, and  
255.30 the local law enforcement agency responsible for investigating the alleged maltreatment  
255.31 includes but is not limited to authority to interview, without parental consent, the alleged  
255.32 victim and any other children who currently reside with or who have resided with the alleged  
255.33 offender.

256.1 Subd. 2. **Interview procedure.** (a) The interview may take place at school or at any  
256.2 facility or other place where the alleged victim or other children might be found or the child  
256.3 may be transported to, and the interview may be conducted at a place appropriate for the  
256.4 interview of a child designated by the local welfare agency or law enforcement agency.

256.5 (b) The interview may take place outside the presence of the alleged offender or parent,  
256.6 legal custodian, guardian, or school official.

256.7 (c) For a family assessment, it is the preferred practice to request a parent or guardian's  
256.8 permission to interview the child before conducting the child interview, unless doing so  
256.9 would compromise the safety assessment.

256.10 Subd. 3. **Notification after interview.** (a) Except as provided in this subdivision, the  
256.11 parent, legal custodian, or guardian shall be notified by the responsible agency or local law  
256.12 enforcement agency no later than the conclusion of the investigation or assessment that this  
256.13 interview has occurred.

256.14 (b) Notwithstanding notice required under the Minnesota Rules of Juvenile Protection,  
256.15 the juvenile court may, after hearing on an ex parte motion by the local welfare agency,  
256.16 order that, where reasonable cause exists, the agency withhold notification of this interview  
256.17 from the parent, legal custodian, or guardian. If the interview took place or is to take place  
256.18 on school property, the order shall specify that school officials may not disclose to the  
256.19 parent, legal custodian, or guardian the contents of the notification of intent to interview  
256.20 the child on school property, as provided under this subdivision, and any other related  
256.21 information regarding the interview that may be a part of the child's school record. A copy  
256.22 of the order shall be sent by the local welfare or law enforcement agency to the appropriate  
256.23 school official.

256.24 Subd. 4. **Tennessen notice not required.** In conducting investigations and assessments  
256.25 pursuant to this chapter, the notice required by section 13.04, subdivision 2, need not be  
256.26 provided to a child under the age of ten who is the alleged victim of maltreatment.

256.27 Subd. 5. **Court order for interview.** (a) Where the alleged offender or a person  
256.28 responsible for the care of the alleged victim or other child prevents access to the victim or  
256.29 other child by the local welfare agency, the juvenile court may order the parent, legal  
256.30 custodian, or guardian to produce the alleged victim or other child for questioning by the  
256.31 local welfare agency or the local law enforcement agency outside the presence of the alleged  
256.32 offender or any person responsible for the child's care at reasonable places and times as  
256.33 specified by court order.



257.1 (b) Before making an order under paragraph (a), the court shall issue an order to show  
257.2 cause, either upon its own motion or upon a verified petition, specifying the basis for the  
257.3 requested interview and fixing the time and place of the hearing. The order to show cause  
257.4 shall be served personally and shall be heard in the same manner as provided in other cases  
257.5 in the juvenile court. The court shall consider the need for appointment of a guardian ad  
257.6 litem to protect the best interests of the child. If appointed, the guardian ad litem shall be  
257.7 present at the hearing on the order to show cause.

257.8 Subd. 6. **Interview format.** (a) When conducting an investigation, the local welfare  
257.9 agency shall use a question and answer interviewing format with questioning as nondirective  
257.10 as possible to elicit spontaneous responses.

257.11 (b) For investigations only, the following interviewing methods and procedures must  
257.12 be used whenever possible when collecting information:

257.13 (1) audio recording of all interviews with witnesses and collateral sources; and

257.14 (2) in a case of alleged sexual abuse, audio-video recording of each interview with the  
257.15 alleged victim and a child witness.

257.16 Subd. 7. **Interviews on school property.** (a) When the local welfare agency, local law  
257.17 enforcement agency, or the agency responsible for assessing or investigating a report of  
257.18 maltreatment determines that an interview should take place on school property, written  
257.19 notification of intent to interview the child on school property must be received by school  
257.20 officials before the interview. The notification shall include the name of the child to be  
257.21 interviewed, the purpose of the interview, and a reference to the statutory authority to conduct  
257.22 an interview on school property. For an interview conducted by the local welfare agency,  
257.23 the notification shall be signed by the chair of the local welfare agency or the chair's designee.  
257.24 The notification shall be private data on individuals subject to the provisions of this  
257.25 subdivision. School officials may not disclose to the parent, legal custodian, or guardian  
257.26 the contents of the notification or any other related information regarding the interview until  
257.27 notified in writing by the local welfare agency or local law enforcement agency that the  
257.28 investigation or assessment has been concluded, unless a school employee or agent is alleged  
257.29 to have maltreated the child. Until that time, the local welfare agency, local law enforcement  
257.30 agency, or the agency responsible for assessing or investigating a report of maltreatment  
257.31 shall be solely responsible for any disclosure regarding the nature of the assessment or  
257.32 investigation.

257.33 (b) Except where the alleged offender is believed to be a school official or employee,  
257.34 the time, place, and manner of the interview on school premises shall be within the discretion

258.1 of school officials, but the local welfare agency or local law enforcement agency shall have  
258.2 the exclusive authority to determine who may attend the interview. The conditions as to  
258.3 time, place, and manner of the interview set by the school officials shall be reasonable, and  
258.4 the interview shall be conducted not more than 24 hours after the receipt of the notification  
258.5 unless another time is considered necessary by agreement between the school officials and  
258.6 the local welfare agency or local law enforcement agency. Where the school fails to comply  
258.7 with the provisions of this paragraph, the juvenile court may order the school to comply.  
258.8 Every effort must be made to reduce the disruption of the educational program of the child,  
258.9 other students, or school staff when an interview is conducted on school premises.

258.10 Sec. 23. **[260E.23] DOCUMENTING INTERVIEWS WITH CHILD**  
258.11 **MALTREATMENT VICTIMS.**

258.12 Subdivision 1. **Policy.** It is the policy of this state to encourage adequate and accurate  
258.13 documentation of the number and content of interviews conducted with alleged child  
258.14 maltreatment victims during the course of a child maltreatment assessment or investigation,  
258.15 criminal investigation, or prosecution, and to discourage interviews that are unnecessary,  
258.16 duplicative, or otherwise not in the best interests of the child.

258.17 Subd. 2. **Definitions.** As used in this section:

258.18 (1) "government employee" means an employee of a state or local agency, and any  
258.19 person acting as an agent of a state or local agency;

258.20 (2) "interview" means a statement of an alleged maltreatment victim which is given or  
258.21 made to a government employee during the course of a maltreatment assessment or  
258.22 investigation, criminal investigation, or prosecution; and

258.23 (3) "record" means an audio or video recording of an interview, or a written record of  
258.24 an interview.

258.25 Subd. 3. **Record required.** Whenever an interview is conducted, the interviewer must  
258.26 make a record of the interview. The record must contain the following information:

258.27 (1) the date, time, place, and duration of the interview;

258.28 (2) the identity of the persons present at the interview; and

258.29 (3) if the record is in writing, a summary of the information obtained during the interview.

258.30 Subd. 4. **Records maintained.** The records shall be maintained by the interviewer in  
258.31 accordance with applicable provisions of section 260E.35 and chapter 13.

259.1 Subd. 5. **Guidelines on tape recording of interviews.** Every county attorney's office  
259.2 shall be responsible for developing written guidelines on the tape recording of interviews  
259.3 by government employees who conduct child maltreatment assessments or investigations,  
259.4 criminal investigations, or prosecutions. The guidelines are public data as defined in section  
259.5 13.02, subdivision 14.

259.6 Sec. 24. **[260E.24] CONCLUSION OF FAMILY ASSESSMENT OR FAMILY**  
259.7 **INVESTIGATION BY LOCAL WELFARE AGENCY.**

259.8 Subdivision 1. **Timing.** The local welfare agency shall conclude the family assessment  
259.9 or the investigation within 45 days of the receipt of a report. The conclusion of the assessment  
259.10 or investigation may be extended to permit the completion of a criminal investigation or  
259.11 the receipt of expert information requested within 45 days of the receipt of the report.

259.12 Subd. 2. **Determination after family assessment.** After conducting a family assessment,  
259.13 the local welfare agency shall determine whether child protective services are needed to  
259.14 address the safety of the child and other family members and the risk of subsequent  
259.15 maltreatment.

259.16 Subd. 3. **Determinations after family investigation.** (a) After conducting an  
259.17 investigation, the local welfare agency shall make two determinations: (1) whether  
259.18 maltreatment occurred; and (2) whether child protective services are needed.

259.19 (b) No determination of maltreatment shall be made when the alleged offender is a child  
259.20 under the age of ten.

259.21 (c) The local welfare agency or the agency responsible for investigating the report may  
259.22 make a determination of no maltreatment early in an investigation, and close the case and  
259.23 retain immunity, if the collected information shows no basis for a full investigation.

259.24 Subd. 4. **Child protective services.** For the purposes of this chapter, except for section  
259.25 260E.37, a determination that child protective services are needed means that the local  
259.26 welfare agency documented conditions during the assessment or investigation sufficient to  
259.27 cause a child protection worker, as defined in section 260E.37, to conclude that a child is  
259.28 at significant risk of maltreatment if protective intervention is not provided and that the  
259.29 individual or individuals responsible for the child's care have not taken or are not likely to  
259.30 take action to protect the child from maltreatment or risk of maltreatment.

259.31 Subd. 5. **Notifications at conclusion of family investigation.** (a) Within ten working  
259.32 days of the conclusion of an investigation, the local welfare agency or agency responsible  
259.33 for investigating the report shall notify the parent or guardian of the child and the person

260.1 determined to be maltreating the child, if not the parent or guardian of the child, of the  
260.2 determination and a summary of the specific reasons for the determination.

260.3 (b) The notice must include a certification that the information collection procedures  
260.4 under section 260E.20 were followed and a notice of the right of a data subject to obtain  
260.5 access to other private data on the subject collected, created, or maintained under this section.

260.6 (c) In addition, the notice shall include the length of time that the records will be kept  
260.7 under section 260E.35, subdivision 6. The investigating agency shall notify the parent or  
260.8 guardian of the child who is the subject of the report, and any person determined to have  
260.9 maltreated the child, of their appeal or review rights under this chapter.

260.10 (d) The notice must also state that a finding of maltreatment may result in denial of a  
260.11 license or certification application or background study disqualification under chapter 245C  
260.12 related to employment or services that are licensed or certified by the Department of Human  
260.13 Services under chapter 245A or 245H, the Department of Health under chapter 144 or 144A,  
260.14 the Department of Corrections under section 241.021, and from providing services related  
260.15 to an unlicensed personal care provider organization under chapter 256B.

260.16 Subd. 6. **Required referral to early intervention services.** A child under age three  
260.17 who is involved in a substantiated case of maltreatment shall be referred for screening under  
260.18 the Individuals with Disabilities Education Act, part C. Parents must be informed that the  
260.19 evaluation and acceptance of services are voluntary. The commissioner of human services  
260.20 shall monitor referral rates by county and annually report the information to the legislature.  
260.21 Refusal to have a child screened is not a basis for a child in need of protection or services  
260.22 petition under chapter 260C.

260.23 Subd. 7. **Notification at conclusion of family assessment.** Within ten working days of  
260.24 the conclusion of a family assessment, the local welfare agency shall notify the parent or  
260.25 guardian of the child of the need for services to address child safety concerns or significant  
260.26 risk of subsequent maltreatment. The local welfare agency and the family may also jointly  
260.27 agree that family support and family preservation services are needed.

260.28 Sec. 25. **[260E.25] PROVISION OF MEDICAL CARE.**

260.29 (a) If lack of medical care due to a parent's, guardian's, or caretaker's good faith selection  
260.30 and dependence upon spiritual means or prayer for treatment or care of disease or remedial  
260.31 care for the child in lieu of medical care may result in serious danger to the child's health,  
260.32 the local welfare agency may ensure that necessary medical services are provided to the  
260.33 child.

261.1 (b) If the review or examination required under section 260E.20, subdivision 4, leads  
261.2 to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by  
261.3 initiating legal proceedings under section 260C.141 and by filing an expedited motion to  
261.4 prevent the withholding of medically indicated treatment.

261.5 **Sec. 26. [260E.26] PROVISION OF CHILD PROTECTIVE SERVICES.**

261.6 The local welfare agency shall create a written plan, in collaboration with the family  
261.7 whenever possible, within 30 days of the determination that child protective services are  
261.8 needed or upon joint agreement of the local welfare agency and the family that family  
261.9 support and preservation services are needed. Child protective services for a family are  
261.10 voluntary unless ordered by the court.

261.11 **Sec. 27. [260E.27] CONSULTATION WITH THE COUNTY ATTORNEY.**

261.12 The local welfare agency shall consult with the county attorney to determine the  
261.13 appropriateness of filing a petition alleging the child is in need of protection or services  
261.14 under section 260C.007, subdivision 6, if:

261.15 (1) the family does not accept or comply with a plan for child protective services;

261.16 (2) voluntary child protective services may not provide sufficient protection for the child;

261.17 or

261.18 (3) the family is not cooperating with an investigation or assessment.

261.19 **Sec. 28. [260E.28] CONDUCTING INVESTIGATION IN FACILITY OR SCHOOL.**

261.20 Subdivision 1. **Immediate investigation for alleged maltreatment in a facility.** (a)  
261.21 The commissioner of human services, health, or education, whichever is responsible for  
261.22 investigating the report, shall immediately investigate if the report alleges that:

261.23 (1) a child who is in the care of a facility as defined in section 260E.03 is the victim of  
261.24 maltreatment in a facility by an individual in that facility or has been the victim of  
261.25 maltreatment in a facility by an individual in that facility within the three years preceding  
261.26 the report; or

261.27 (2) a child is the victim of maltreatment in a facility by an individual in a facility defined  
261.28 in section 260E.03, subdivision 6, while in the care of that facility within the three years  
261.29 preceding the report.

261.30 (b) The commissioner of the agency responsible for investigating the report shall arrange  
261.31 for the transmittal to the commissioner of reports received by local agencies and may delegate

262.1 to a local welfare agency the duty to investigate reports. The commissioner of the agency  
262.2 responsible for investigating the report or local welfare agency may interview any children  
262.3 who are or have been in the care of a facility under investigation and the children's parents,  
262.4 guardians, or legal custodians.

262.5 (c) In conducting an investigation under this section, the commissioner has the powers  
262.6 and duties specified for a local welfare agency under this chapter.

262.7 Subd. 2. **Preinterview notification for facility investigation.** Before any interview  
262.8 related to maltreatment in a facility under the provisions of section 260E.22, the  
262.9 commissioner of the agency responsible for investigating the report or local welfare agency  
262.10 shall notify the parent, guardian, or legal custodian of a child who will be interviewed in  
262.11 the manner provided for in section 260E.22. If reasonable efforts to reach the parent,  
262.12 guardian, or legal custodian of a child in an out-of-home placement have failed, the child  
262.13 may be interviewed if there is reason to believe the interview is necessary to protect the  
262.14 child or other children in the facility. The commissioner of the agency responsible for  
262.15 assessing or investigating the report or local agency must provide the information required  
262.16 in this subdivision to the parent, guardian, or legal custodian of a child interviewed without  
262.17 parental notification as soon as possible after the interview. When the investigation is  
262.18 completed, any parent, guardian, or legal custodian notified under this subdivision shall  
262.19 receive the written memorandum provided for in section 260E.30, subdivision 5.

262.20 Subd. 3. **Facility records.** The commissioner of human services, the ombudsman for  
262.21 mental health and developmental disabilities, the local welfare agencies responsible for  
262.22 investigating reports, the commissioner of education, and the local law enforcement agencies  
262.23 have the right to enter a facility as defined in section 260E.03 and to inspect and copy the  
262.24 facility's records, including medical records, as part of the investigation. Notwithstanding  
262.25 the provisions of chapter 13, the commissioner of human services, the ombudsman for  
262.26 mental health and developmental disabilities, the local welfare agencies responsible for  
262.27 investigating reports, the commissioner of education, and the local law enforcement agencies  
262.28 also have the right to inform the facility under investigation that an investigation is being  
262.29 conducted, to disclose to the facility the names of the individuals under investigation for  
262.30 maltreating a child, and to provide the facility with a copy of the report and the investigative  
262.31 findings.

262.32 Subd. 4. **Access to information.** In conducting investigations under this chapter, the  
262.33 commissioner or local welfare agency shall obtain access to information consistent with  
262.34 section 260E.20, subdivision 3. In conducting investigations under this section, the  
262.35 commissioner of education shall obtain access to reports and investigative data that are

263.1 relevant to a report of maltreatment and are in the possession of a school facility as defined  
263.2 in section 260E.03, subdivision 6, clause (2), notwithstanding the classification of the data  
263.3 as educational or personnel data under chapter 13. This includes but is not limited to school  
263.4 investigative reports, information concerning the conduct of school personnel alleged to  
263.5 have committed maltreatment of students, information about witnesses, and any protective  
263.6 or corrective action taken by the school facility regarding the school personnel alleged to  
263.7 have committed maltreatment.

263.8 Subd. 5. **Investigation involving school facility.** In conducting an investigation involving  
263.9 a school facility as defined in section 260E.03, subdivision 6, clause (2), the commissioner  
263.10 of education shall collect available and relevant information and use the procedures in  
263.11 sections 260E.20, subdivisions 2 and 3, and 260E.22, except that the requirement for  
263.12 face-to-face observation of the child and face-to-face interview of the alleged offender is  
263.13 to occur in the initial stages of the investigation provided that the commissioner may also  
263.14 base the investigation on investigative reports and data received from the school facility  
263.15 and local law enforcement agency, to the extent those investigations satisfy the requirements  
263.16 of sections 260E.20, subdivisions 2 and 3, and 260E.22.

263.17 Sec. 29. **[260E.29] NOTIFICATION REQUIREMENTS FOR SCHOOLS AND**  
263.18 **FACILITIES.**

263.19 Subdivision 1. **Notification requirements for school facility.** (a) Notwithstanding  
263.20 section 260E.09, the commissioner of education must inform the parent, guardian, or legal  
263.21 custodian of the child who is the subject of a report of alleged maltreatment in a school  
263.22 facility within ten days of receiving the report, either orally or in writing, whether the  
263.23 commissioner is investigating the report of alleged maltreatment.

263.24 (b) Regardless of whether a report is made under section 260E.09, as soon as practicable  
263.25 after a school receives information regarding an incident that may constitute maltreatment  
263.26 of a child in a school facility, the school shall inform the parent, legal guardian, or custodian  
263.27 of the child that an incident occurred that may constitute maltreatment of the child, when  
263.28 the incident occurred, and the nature of the conduct that may constitute maltreatment.

263.29 Subd. 2. **Notification requirements for other types of facilities.** When a report is  
263.30 received that alleges maltreatment of a child while in the care of a licensed or unlicensed  
263.31 day care facility, residential facility, agency, hospital, sanitarium, or other facility or  
263.32 institution required to be licensed or certified according to sections 144.50 to 144.58;  
263.33 241.021; or 245A.01 to 245A.16; or chapter 144H, 245D, or 245H; or a school as defined  
263.34 in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal

264.1 care provider organization as defined in section 256B.0625, subdivision 19a, the  
264.2 commissioner of the agency responsible for investigating the report or local welfare agency  
264.3 investigating the report shall provide the following information to the parent, guardian, or  
264.4 legal custodian of a child alleged to have been the victim of maltreatment in the facility;  
264.5 the name of the facility; the fact that a report alleging maltreatment in the facility has been  
264.6 received; the nature of the alleged maltreatment in the facility; that the agency is conducting  
264.7 an investigation; any protective or corrective measures being taken pending the outcome  
264.8 of the investigation; and that a written memorandum will be provided when the investigation  
264.9 is completed.

264.10 Subd. 3. **Discretionary notification.** The commissioner of the agency responsible for  
264.11 investigating the report or local welfare agency may also provide the information in  
264.12 subdivision 2 to the parent, guardian, or legal custodian of any other child in the facility if  
264.13 the investigative agency knows or has reason to believe the alleged maltreatment of a child  
264.14 in the facility occurred. In determining whether to exercise this authority, the commissioner  
264.15 of the agency responsible for investigating the report or local welfare agency shall consider  
264.16 the seriousness of the alleged maltreatment of a child in the facility; the number of alleged  
264.17 victims of maltreatment of a child in the facility; the number of alleged offenders; and the  
264.18 length of the investigation. The facility shall be notified whenever this discretion is exercised.

264.19 Sec. 30. **[260E.30] CONCLUSION OF SCHOOL OR FACILITY INVESTIGATION.**

264.20 Subdivision 1. **Investigation involving a school facility.** If the commissioner of education  
264.21 conducts an investigation, the commissioner shall determine whether maltreatment occurred  
264.22 and what corrective or protective action was taken by the school facility. If a determination  
264.23 is made that maltreatment occurred, the commissioner shall report to the employer, the  
264.24 school board, and any appropriate licensing entity the determination that maltreatment  
264.25 occurred and what corrective or protective action was taken by the school facility. In all  
264.26 other cases, the commissioner shall inform the school board or employer that a report was  
264.27 received; the subject of the report; the date of the initial report; the category of maltreatment  
264.28 alleged as defined in section 260E.03, subdivision 12; the fact that maltreatment was not  
264.29 determined; and a summary of the specific reasons for the determination.

264.30 Subd. 2. **Investigation involving a facility.** (a) When maltreatment is determined in an  
264.31 investigation involving a facility, the investigating agency shall also determine whether the  
264.32 facility or individual was responsible, or whether both the facility and the individual were  
264.33 responsible for the maltreatment using the mitigating factors in subdivision 4. Determinations



265.1 under this subdivision must be made based on a preponderance of the evidence and are  
265.2 private data on individuals or nonpublic data as maintained by the commissioner of education.

265.3 (b) Any operator, employee, or volunteer worker at any facility who intentionally  
265.4 maltreats any child in the care of that facility may be charged with a violation of section  
265.5 609.255, 609.377, or 609.378. Any operator of a facility who knowingly permits conditions  
265.6 to exist that result in maltreatment of a child in a facility while in the care of that facility  
265.7 may be charged with a violation of section 609.378. The facility operator shall inform all  
265.8 mandated reporters employed by or otherwise associated with the facility of the duties  
265.9 required of mandated reporters and shall inform all mandatory reporters of the prohibition  
265.10 against retaliation for reports made in good faith under this section.

265.11 Subd. 3. **Nonmaltreatment mistake.** (a) If paragraph (b) applies, rather than making a  
265.12 determination of substantiated maltreatment by the individual, the commissioner of human  
265.13 services shall determine that a nonmaltreatment mistake was made by the individual.

265.14 (b) A nonmaltreatment mistake occurs when:

265.15 (1) at the time of the incident, the individual was performing duties identified in the  
265.16 center's child care program plan required under Minnesota Rules, part 9503.0045;

265.17 (2) the individual has not been determined responsible for a similar incident that resulted  
265.18 in a finding of maltreatment for at least seven years;

265.19 (3) the individual has not been determined to have committed a similar nonmaltreatment  
265.20 mistake under this paragraph for at least four years;

265.21 (4) any injury to a child resulting from the incident, if treated, is treated only with  
265.22 remedies that are available over the counter, whether ordered by a medical professional or  
265.23 not; and

265.24 (5) except for the period when the incident occurred, the facility and the individual  
265.25 providing services were both in compliance with all licensing requirements relevant to the  
265.26 incident.

265.27 (c) This subdivision only applies to child care centers licensed under Minnesota Rules,  
265.28 chapter 9503.

265.29 Subd. 4. **Mitigating factors in investigating facilities.** (a) When determining whether  
265.30 the facility or individual is the responsible party, or whether both the facility and the  
265.31 individual are responsible for determined maltreatment in a facility, the investigating agency  
265.32 shall consider at least the following mitigating factors:

266.1 (1) whether the actions of the facility or the individual caregivers were according to,  
266.2 and followed the terms of, an erroneous physician order, prescription, individual care plan,  
266.3 or directive; however, this is not a mitigating factor when the facility or caregiver was  
266.4 responsible for the issuance of the erroneous order, prescription, individual care plan, or  
266.5 directive or knew or should have known of the errors and took no reasonable measures to  
266.6 correct the defect before administering care;

266.7 (2) comparative responsibility between the facility, other caregivers, and requirements  
266.8 placed upon an employee, including the facility's compliance with related regulatory standards  
266.9 and the adequacy of facility policies and procedures, facility training, an individual's  
266.10 participation in the training, the caregiver's supervision, and facility staffing levels and the  
266.11 scope of the individual employee's authority and discretion; and

266.12 (3) whether the facility or individual followed professional standards in exercising  
266.13 professional judgment.

266.14 (b) The evaluation of the facility's responsibility under paragraph (a), clause (2), must  
266.15 not be based on the completeness of the risk assessment or risk reduction plan required  
266.16 under section 245A.66, but must be based on the facility's compliance with the regulatory  
266.17 standards for policies and procedures, training, and supervision as cited in Minnesota Statutes  
266.18 and Minnesota Rules.

266.19 (c) Notwithstanding paragraphs (a) and (b), when maltreatment is determined to have  
266.20 been committed by an individual who is also the facility license holder, both the individual  
266.21 and the facility must be determined responsible for the maltreatment, and both the background  
266.22 study disqualification standards under section 245C.15, subdivision 4, and the licensing or  
266.23 certification actions under sections 245A.06, 245A.07, 245H.06, or 245H.07 apply.

266.24 **Subd. 5. Notification when school or facility investigation is completed.** (a) When  
266.25 the commissioner of the agency responsible for investigating the report or local welfare  
266.26 agency has completed its investigation, every parent, guardian, or legal custodian previously  
266.27 notified of the investigation by the commissioner or local welfare agency shall be provided  
266.28 with the following information in a written memorandum: the name of the facility  
266.29 investigated; the nature of the alleged maltreatment of a child in the facility; the investigator's  
266.30 name; a summary of the investigation findings; a statement of whether maltreatment was  
266.31 found; and the protective or corrective measures that are being or will be taken.

266.32 (b) The memorandum shall be written in a manner that protects the identity of the reporter  
266.33 and the child and shall not contain the name or, to the extent possible, reveal the identity  
266.34 of the alleged offender or the identity of individuals interviewed during the investigation.

267.1 (c) If maltreatment is determined to exist, the commissioner or local welfare agency  
267.2 shall also provide the written memorandum to the parent, guardian, or legal custodian of  
267.3 each child in the facility who had contact with the individual responsible for the maltreatment.

267.4 (d) When the facility is the responsible party for maltreatment, the commissioner or  
267.5 local welfare agency shall also provide the written memorandum to the parent, guardian,  
267.6 or legal custodian of each child who received services in the population of the facility where  
267.7 the maltreatment occurred.

267.8 (e) This notification must be provided to the parent, guardian, or legal custodian of each  
267.9 child receiving services from the time the maltreatment occurred until either the individual  
267.10 responsible for maltreatment is no longer in contact with a child or children in the facility  
267.11 or the conclusion of the investigation.

267.12 (f) In the case of maltreatment within a school facility, as defined in section 120A.05,  
267.13 subdivisions 9, 11, and 13, and chapter 124E, the commissioner of education need not  
267.14 provide notification to parents, guardians, or legal custodians of each child in the facility,  
267.15 but shall, within ten days after the investigation is completed, provide written notification  
267.16 to the parent, guardian, or legal custodian of any student alleged to have been maltreated.

267.17 (g) The commissioner of education may notify the parent, guardian, or legal custodian  
267.18 of any student involved as a witness to alleged maltreatment.

267.19 **Subd. 6. Notification to parent, child, or offender following investigation.** (a) Within  
267.20 ten working days of the conclusion of an investigation, the local welfare agency or agency  
267.21 responsible for investigating the report of maltreatment in a facility shall notify the parent  
267.22 or guardian of the child, the person determined to be maltreating the child, and the director  
267.23 of the facility of the determination and a summary of the specific reasons for the  
267.24 determination.

267.25 (b) When the investigation involves a child foster care setting that is monitored by a  
267.26 private licensing agency under section 245A.16, the local welfare agency responsible for  
267.27 investigating the report shall notify the private licensing agency of the determination and  
267.28 shall provide a summary of the specific reasons for the determination. The notice to the  
267.29 private licensing agency must include identifying private data, but not the identity of the  
267.30 reporter of maltreatment.

267.31 (c) The notice must also include a certification that the information collection procedures  
267.32 under section 260E.20, subdivision 3, were followed and a notice of the right of a data  
267.33 subject to obtain access to other private data on the subject collected, created, or maintained  
267.34 under this section.

268.1 (d) In addition, the notice shall include the length of time that the records will be kept  
268.2 under section 260E.35, subdivision 6.

268.3 (e) The investigating agency shall notify the parent or guardian of the child who is the  
268.4 subject of the report, and any person or facility determined to have maltreated a child, of  
268.5 their appeal or review rights under this section.

268.6 (f) The notice must also state that a finding of maltreatment may result in denial of a  
268.7 license or certification application or background study disqualification under chapter 245C  
268.8 related to employment or services that are licensed by the Department of Human Services  
268.9 under chapter 245A or 245H, the Department of Health under chapter 144 or 144A, the  
268.10 Department of Corrections under section 241.021, and from providing services related to  
268.11 an unlicensed personal care provider organization under chapter 256B.

268.12 **Sec. 31. [260E.31] REPORTING OF PRENATAL EXPOSURE TO CONTROLLED**  
268.13 **SUBSTANCES.**

268.14 Subdivision 1. **Reports required.** (a) Except as provided in paragraph (b), a person  
268.15 mandated to report under this chapter shall immediately report to the local welfare agency  
268.16 if the person knows or has reason to believe that a woman is pregnant and has used a  
268.17 controlled substance for a nonmedical purpose during the pregnancy, including but not  
268.18 limited to tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy  
268.19 in any way that is habitual or excessive.

268.20 (b) A health care professional or a social service professional who is mandated to report  
268.21 under this chapter is exempt from reporting under paragraph (a) if the professional is  
268.22 providing or collaborating with other professionals to provide the woman with prenatal care  
268.23 or other health care services.

268.24 (c) Any person may make a voluntary report if the person knows or has reason to believe  
268.25 that a woman is pregnant and has used a controlled substance for a nonmedical purpose  
268.26 during the pregnancy, including but not limited to tetrahydrocannabinol, or has consumed  
268.27 alcoholic beverages during the pregnancy in any way that is habitual or excessive.

268.28 (d) An oral report shall be made immediately by telephone or otherwise. An oral report  
268.29 made by a person required to report shall be followed within 72 hours, exclusive of weekends  
268.30 and holidays, by a report in writing to the local welfare agency. Any report shall be of  
268.31 sufficient content to identify the pregnant woman, the nature and extent of the use, if known,  
268.32 and the name and address of the reporter. The local welfare agency shall accept a report

269.1 made under paragraph (c) notwithstanding refusal by a voluntary reporter to provide the  
269.2 reporter's name or address as long as the report is otherwise sufficient.

269.3 (e) For purposes of this section, "prenatal care" means the comprehensive package of  
269.4 medical and psychological support provided throughout the pregnancy.

269.5 Subd. 2. **Local welfare agency.** Upon receipt of a report of prenatal exposure to a  
269.6 controlled substance required under subdivision 1, the local welfare agency shall immediately  
269.7 conduct an appropriate assessment and offer services indicated under the circumstances.  
269.8 Services offered may include but are not limited to a referral for chemical dependency  
269.9 assessment, a referral for chemical dependency treatment if recommended, and a referral  
269.10 for prenatal care. The local welfare agency may also take any appropriate action under  
269.11 chapter 253B, including seeking an emergency admission under section 253B.05. The local  
269.12 welfare agency shall seek an emergency admission under section 253B.05 if the pregnant  
269.13 woman refuses recommended voluntary services or fails recommended treatment.

269.14 Subd. 3. **Related provisions.** Reports under this section are governed by sections  
269.15 260E.05, 260E.06, 260E.34, and 260E.35.

269.16 Subd. 4. **Controlled substances.** For purposes of this section and section 260E.32,  
269.17 "controlled substance" means a controlled substance listed in section 253B.02, subdivision  
269.18 2.

269.19 **Sec. 32. [260E.32] TOXICOLOGY TESTS REQUIRED.**

269.20 Subdivision 1. **Test; report.** (a) A physician shall administer a toxicology test to a  
269.21 pregnant woman under the physician's care or to a woman under the physician's care within  
269.22 eight hours after delivery to determine whether there is evidence that she has ingested a  
269.23 controlled substance, if the woman has obstetrical complications that are a medical indication  
269.24 of possible use of a controlled substance for a nonmedical purpose.

269.25 (b) If the test results are positive, the physician shall report the results under section  
269.26 260E.31. A negative test result does not eliminate the obligation to report under section  
269.27 260E.31 if other evidence gives the physician reason to believe the patient has used a  
269.28 controlled substance for a nonmedical purpose.

269.29 Subd. 2. **Newborns.** (a) A physician shall administer to each newborn infant born under  
269.30 the physician's care a toxicology test to determine whether there is evidence of prenatal  
269.31 exposure to a controlled substance, if the physician has reason to believe based on a medical  
269.32 assessment of the mother or the infant that the mother used a controlled substance for a  
269.33 nonmedical purpose during the pregnancy.

270.1 (b) If the test results are positive, the physician shall report the results as neglect under  
270.2 section 260E.03. A negative test result does not eliminate the obligation to report under this  
270.3 chapter if other medical evidence of prenatal exposure to a controlled substance is present.

270.4 Subd. 3. **Report to Department of Health.** Physicians shall report to the Department  
270.5 of Health the results of tests performed under subdivisions 1 and 2. A report shall be made  
270.6 on the certificate of live birth medical supplement or the report of fetal death medical  
270.7 supplement filed on or after February 1, 1991. The reports are medical data under section  
270.8 13.384.

270.9 Subd. 4. **Reliability of tests.** A positive test result reported under this section must be  
270.10 obtained from a confirmatory test performed by a drug testing laboratory that meets the  
270.11 requirements of section 181.953 and must be performed according to the requirements for  
270.12 performance of confirmatory tests imposed by the licensing, accreditation, or certification  
270.13 program listed in section 181.953, subdivision 1, in which the laboratory participates.

270.14 Sec. 33. **[260E.33] RECONSIDERATION AND APPEAL OF MALTREATMENT**  
270.15 **DETERMINATION FOLLOWING INVESTIGATION.**

270.16 Subdivision 1. **Following family assessment.** Administrative reconsideration is not  
270.17 applicable in a family assessment since no determination concerning maltreatment is made.

270.18 Subd. 2. **Request for reconsideration.** (a) Except as provided under subdivision 5, an  
270.19 individual or facility that the commissioner of human services, a local welfare agency, or  
270.20 the commissioner of education determines has maltreated a child, an interested person acting  
270.21 on behalf of the child, regardless of the determination, who contests the investigating agency's  
270.22 final determination regarding maltreatment, may request the investigating agency to  
270.23 reconsider its final determination regarding maltreatment. The request for reconsideration  
270.24 must be submitted in writing to the investigating agency within 15 calendar days after receipt  
270.25 of notice of the final determination regarding maltreatment or, if the request is made by an  
270.26 interested person who is not entitled to notice, within 15 days after receipt of the notice by  
270.27 the parent or guardian of the child. If mailed, the request for reconsideration must be  
270.28 postmarked and sent to the investigating agency within 15 calendar days of the individual's  
270.29 or facility's receipt of the final determination. If the request for reconsideration is made by  
270.30 personal service, it must be received by the investigating agency within 15 calendar days  
270.31 after the individual's or facility's receipt of the final determination.

270.32 (b) An individual who was determined to have maltreated a child under this chapter and  
270.33 who was disqualified on the basis of serious or recurring maltreatment under sections  
270.34 245C.14 and 245C.15 may request reconsideration of the maltreatment determination and

271.1 the disqualification. The request for reconsideration of the maltreatment determination and  
271.2 the disqualification must be submitted within 30 calendar days of the individual's receipt  
271.3 of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request  
271.4 for reconsideration of the maltreatment determination and the disqualification must be  
271.5 postmarked and sent to the investigating agency within 30 calendar days of the individual's  
271.6 receipt of the maltreatment determination and notice of disqualification. If the request for  
271.7 reconsideration is made by personal service, it must be received by the investigating agency  
271.8 within 30 calendar days after the individual's receipt of the notice of disqualification.

271.9 Subd. 3. **Request for fair hearing.** (a) Except as provided under subdivisions 5 and 6,  
271.10 if the investigating agency denies the request or fails to act upon the request within 15  
271.11 working days after receiving the request for reconsideration, the person or facility entitled  
271.12 to a fair hearing under section 256.045 may submit to the commissioner of human services  
271.13 or the commissioner of education a written request for a hearing under section 256.045.  
271.14 Section 256.045 also governs hearings requested to contest a final determination of the  
271.15 commissioner of education. The investigating agency shall notify persons who request  
271.16 reconsideration of their rights under this paragraph. The hearings specified under this section  
271.17 are the only administrative appeal of a decision issued under subdivision 2. Determinations  
271.18 under this section are not subject to accuracy and completeness challenges under section  
271.19 13.04.

271.20 (b) Except as provided under subdivision 6, if an individual or facility contests the  
271.21 investigating agency's final determination regarding maltreatment by requesting a fair  
271.22 hearing under section 256.045, the commissioner of human services shall ensure that the  
271.23 hearing is conducted and a decision is reached within 90 days of receipt of the request for  
271.24 a hearing. The time for action on the decision may be extended for as many days as the  
271.25 hearing is postponed or the record is held open for the benefit of either party.

271.26 Subd. 4. **Change of maltreatment determination.** If, as a result of a reconsideration  
271.27 or fair hearing, the investigating agency changes the determination of maltreatment, that  
271.28 agency shall notify every parent, guardian, or legal custodian previously notified of the  
271.29 investigation, the commissioner of the agency responsible for assessing or investigating the  
271.30 report, the local welfare agency, and, if applicable, the director of the facility and the private  
271.31 licensing agency.

271.32 Subd. 5. **Consolidation.** If an individual was disqualified under sections 245C.14 and  
271.33 245C.15 on the basis of a determination of maltreatment which was serious or recurring,  
271.34 and the individual requested reconsideration of the maltreatment determination under  
271.35 subdivision 2 and requested reconsideration of the disqualification under sections 245C.21

272.1 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the  
272.2 disqualification shall be consolidated into a single fair hearing. If reconsideration of the  
272.3 maltreatment determination is denied and the individual remains disqualified following a  
272.4 reconsideration decision, the individual may request a fair hearing under section 256.045.  
272.5 If an individual requests a fair hearing on the maltreatment determination and the  
272.6 disqualification, the scope of the fair hearing shall include both the maltreatment  
272.7 determination and the disqualification.

272.8 Subd. 6. **Contested case hearing.** If a maltreatment determination or a disqualification  
272.9 based on serious or recurring maltreatment is the basis for a denial of a license under section  
272.10 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to  
272.11 a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to  
272.12 1400.8612. As provided for under section 245A.08, subdivision 2a, the scope of the contested  
272.13 case hearing shall include the maltreatment determination, disqualification, and licensing  
272.14 sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment  
272.15 determination and disqualification shall not be conducted under section 256.045. Except  
272.16 for family child care and child foster care, reconsideration of a maltreatment determination  
272.17 as provided under this subdivision, and reconsideration of a disqualification as provided  
272.18 under section 245C.22, shall also not be conducted when:

272.19 (1) a denial of a license under section 245A.05 or a licensing sanction under section  
272.20 245A.07 is based on a determination that the license holder is responsible for maltreatment  
272.21 or the disqualification of a license holder based on serious or recurring maltreatment;

272.22 (2) the denial of a license or licensing sanction is issued at the same time as the  
272.23 maltreatment determination or disqualification; and

272.24 (3) the license holder appeals the maltreatment determination or disqualification and  
272.25 denial of a license or licensing sanction.

272.26 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment  
272.27 determination or disqualification, but does not appeal the denial of a license or a licensing  
272.28 sanction, reconsideration of the maltreatment determination shall be conducted under  
272.29 subdivision 2 and section 626.557, subdivision 9d, and reconsideration of the disqualification  
272.30 shall be conducted under section 245C.22. In such cases, a fair hearing shall also be  
272.31 conducted as provided under subdivision 2 and sections 245C.27 and 626.557, subdivision  
272.32 9d.

272.33 If the disqualified subject is an individual other than the license holder and upon whom  
272.34 a background study must be conducted under chapter 245C, the hearings of all parties may



273.1 be consolidated into a single contested case hearing upon consent of all parties and the  
273.2 administrative law judge.

273.3 Subd. 7. **Process for correction order or decertification.** If a maltreatment determination  
273.4 is the basis for a correction order under section 245H.06 or decertification under section  
273.5 245H.07, the certification holder has the right to request reconsideration under sections  
273.6 245H.06 and 245H.07. If the certification holder appeals the maltreatment determination  
273.7 or disqualification, but does not appeal the correction order or decertification, reconsideration  
273.8 of the maltreatment determination shall be conducted under subdivision 2 and reconsideration  
273.9 of the disqualification shall be conducted under section 245C.22.

273.10 Sec. 34. **[260E.34] IMMUNITY.**

273.11 (a) The following persons are immune from any civil or criminal liability that otherwise  
273.12 might result from the person's actions, if the person is acting in good faith:

273.13 (1) a person making a voluntary or mandated report under this chapter or assisting in an  
273.14 assessment under this chapter;

273.15 (2) a person with responsibility for performing duties under this section or supervisor  
273.16 employed by a local welfare agency, the commissioner of an agency responsible for operating  
273.17 or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital,  
273.18 sanitarium, or other facility or institution required to be licensed or certified under sections  
273.19 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B or 245H; or a school as  
273.20 defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed  
273.21 personal care provider organization as defined in section 256B.0625, subdivision 19a,  
273.22 complying with sections 260E.23, subdivisions 2 and 3, and 260E.30; and

273.23 (3) a public or private school, facility as defined in section 260E.03, or the employee of  
273.24 any public or private school or facility who permits access by a local welfare agency, the  
273.25 Department of Education, or a local law enforcement agency and assists in an investigation  
273.26 or assessment pursuant to this chapter.

273.27 (b) A person who is a supervisor or person with responsibility for performing duties  
273.28 under this chapter employed by a local welfare agency, the commissioner of human services,  
273.29 or the commissioner of education complying with this chapter or any related rule or provision  
273.30 of law is immune from any civil or criminal liability that might otherwise result from the  
273.31 person's actions, if the person is (1) acting in good faith and exercising due care, or (2)  
273.32 acting in good faith and following the information collection procedures established under  
273.33 section 260E.20, subdivision 3.

274.1 (c) Any physician or other medical personnel administering a toxicology test under  
274.2 section 260E.32 to determine the presence of a controlled substance in a pregnant woman,  
274.3 in a woman within eight hours after delivery, or in a child at birth or during the first month  
274.4 of life is immune from civil or criminal liability arising from administration of the test, if  
274.5 the physician ordering the test believes in good faith that the test is required under this  
274.6 section and the test is administered in accordance with an established protocol and reasonable  
274.7 medical practice.

274.8 (d) This section does not provide immunity to any person for failure to make a required  
274.9 report or for committing maltreatment.

274.10 (e) If a person who makes a voluntary or mandatory report under section 260E.06 prevails  
274.11 in a civil action from which the person has been granted immunity under this section, the  
274.12 court may award the person attorney fees and costs.

274.13 **Sec. 35. [260E.35] DATA PRACTICES.**

274.14 Subdivision 1. **Maintaining data.** Notwithstanding the data's classification in the  
274.15 possession of any other agency, data acquired by the local welfare agency or the agency  
274.16 responsible for assessing or investigating the report during the course of the assessment or  
274.17 investigation are private data on individuals and must be maintained according to this section.

274.18 Subd. 2. **Data collected during investigation of maltreatment in school.** (a) Data of  
274.19 the commissioner of education collected or maintained during and for the purpose of an  
274.20 investigation of alleged maltreatment in a school are governed by this chapter,  
274.21 notwithstanding the data's classification as educational, licensing, or personnel data under  
274.22 chapter 13.

274.23 (b) In conducting an investigation involving a school facility as defined in section  
274.24 260E.03, subdivision 6, clause (2), the commissioner of education shall collect investigative  
274.25 reports and data that are relevant to a report of maltreatment from local law enforcement  
274.26 and the school facility.

274.27 Subd. 3. **Classification and release of data.** (a) A written copy of a report maintained  
274.28 by personnel of agencies, other than welfare or law enforcement agencies, which are subject  
274.29 to chapter 13 shall be confidential. An individual subject of the report may obtain access  
274.30 to the original report as provided by paragraphs (g) to (o).

274.31 (b) All reports and records created, collected, or maintained under this chapter by a local  
274.32 welfare agency or law enforcement agency may be disclosed to a local welfare or other  
274.33 child welfare agency of another state when the agency certifies that:

275.1 (1) the reports and records are necessary to conduct an investigation of actions that would  
275.2 qualify as maltreatment under this chapter; and

275.3 (2) the reports and records will be used only for purposes of a child protection assessment  
275.4 or investigation and will not be further disclosed to any other person or agency.

275.5 (c) The local social service agency or law enforcement agency in this state shall keep a  
275.6 record of all records or reports disclosed pursuant to this subdivision and of any agency to  
275.7 which the records or reports are disclosed. If in any case records or reports are disclosed  
275.8 before a determination is made under section 260E.24, subdivision 3, paragraph (a), or a  
275.9 disposition of a criminal proceeding is reached, the local social service agency or law  
275.10 enforcement agency in this state shall forward the determination or disposition to any agency  
275.11 that has received a report or record under this subdivision.

275.12 (d) The responsible authority of a local welfare agency or the responsible authority's  
275.13 designee may release private or confidential data on an active case involving assessment  
275.14 or investigation of actions that are defined as maltreatment under this chapter to a court  
275.15 services agency if:

275.16 (1) the court services agency has an active case involving a common client who is the  
275.17 subject of the data; and

275.18 (2) the data are necessary for the court services agency to effectively process the court  
275.19 services agency's case, including investigating or performing other duties relating to the  
275.20 case required by law.

275.21 (e) The data disclosed under paragraph (d) may be used only for purposes of the active  
275.22 court services case described in paragraph (d), clause (1), and may not be further disclosed  
275.23 to any other person or agency, except as authorized by law.

275.24 (f) Records maintained under subdivision 4, paragraph (b), may be shared with another  
275.25 local welfare agency that requests the information because it is conducting an assessment  
275.26 or investigation under this section of the subject of the records.

275.27 (g) Except as provided in paragraphs (b), (h), (i), (p), and (q); subdivision 1; and sections  
275.28 260E.22, subdivision 2; and 260E.23, all records concerning individuals maintained by a  
275.29 local welfare agency or agency responsible for assessing or investigating the report under  
275.30 this chapter, including any written reports filed under sections 260E.06 and 260E.09, shall  
275.31 be private data on individuals, except insofar as copies of reports are required by section  
275.32 260E.12, subdivision 1 or 2, to be sent to the local police department or the county sheriff.

276.1 (h) All records concerning determinations of maltreatment by a facility are nonpublic  
276.2 data as maintained by the Department of Education, except insofar as copies of reports are  
276.3 required by section 260E.12, subdivision 1 or 2, to be sent to the local police department  
276.4 or the county sheriff.

276.5 (i) Reports maintained by any police department or the county sheriff shall be private  
276.6 data on individuals, except the reports shall be made available to the investigating, petitioning,  
276.7 or prosecuting authority, including a county medical examiner or county coroner.

276.8 (j) Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data other than  
276.9 the reports.

276.10 (k) The local welfare agency or agency responsible for assessing or investigating the  
276.11 report shall make available to the investigating, petitioning, or prosecuting authority,  
276.12 including a county medical examiner or county coroner or a professional delegate, any  
276.13 records that contain information relating to a specific incident of maltreatment that is under  
276.14 investigation, petition, or prosecution and information relating to any prior incident of  
276.15 maltreatment involving any of the same persons. The records shall be collected and  
276.16 maintained according to chapter 13.

276.17 (l) An individual subject of a record shall have access to the record according to those  
276.18 sections, except that the name of the reporter shall be confidential while the report is under  
276.19 assessment or investigation except as otherwise permitted by this section.

276.20 (m) Any person conducting an investigation or assessment under this section who  
276.21 intentionally discloses the identity of a reporter before the completion of the investigation  
276.22 or assessment is guilty of a misdemeanor. After the assessment or investigation is completed,  
276.23 the name of the reporter shall be confidential. The subject of the report may compel disclosure  
276.24 of the name of the reporter only with the consent of the reporter or upon a written finding  
276.25 by the court that the report was false and that there is evidence that the report was made in  
276.26 bad faith. This subdivision does not alter disclosure responsibilities or obligations under  
276.27 the Rules of Criminal Procedure.

276.28 (n) Upon request of the legislative auditor, data on individuals maintained under this  
276.29 chapter must be released to the legislative auditor in order for the auditor to fulfill the  
276.30 auditor's duties under section 3.971. The auditor shall maintain the data according to chapter  
276.31 13.

276.32 (o) Active law enforcement investigative data received by a local welfare agency or  
276.33 agency responsible for assessing or investigating the report under this chapter are confidential

277.1 data on individuals. When this data become inactive in the law enforcement agency, the  
277.2 data are private data on individuals.

277.3 (p) Section 13.03, subdivision 4, applies to data received by the commissioner of  
277.4 education from a licensing entity.

277.5 Subd. 4. **Data disclosed to reporter.** (a) A local welfare or child protection agency, or  
277.6 the agency responsible for assessing or investigating the report of maltreatment, shall provide  
277.7 relevant private data on individuals obtained under this chapter to a mandated reporter who  
277.8 made the report and who has an ongoing responsibility for the health, education, or welfare  
277.9 of a child affected by the data, unless the agency determines that providing the data would  
277.10 not be in the best interests of the child.

277.11 (b) The agency may provide the data to other mandated reporters with ongoing  
277.12 responsibility for the health, education, or welfare of the child. Mandated reporters with  
277.13 ongoing responsibility for the health, education, or welfare of a child affected by the data  
277.14 include the child's teachers or other appropriate school personnel, foster parents, health care  
277.15 providers, respite care workers, therapists, social workers, child care providers, residential  
277.16 care staff, crisis nursery staff, probation officers, and court services personnel. Under this  
277.17 chapter, a mandated reporter need not have made the report to be considered a person with  
277.18 ongoing responsibility for the health, education, or welfare of a child affected by the data.  
277.19 Data provided under this chapter must be limited to data pertinent to the individual's  
277.20 responsibility for caring for the child.

277.21 (c) A reporter who receives private data on individuals under this subdivision must treat  
277.22 the data according to that classification, regardless of whether the reporter is an employee  
277.23 of a government entity. The remedies and penalties under sections 13.08 and 13.09 apply  
277.24 if a reporter releases data in violation of this chapter or other law.

277.25 Subd. 5. **Data provided to commissioner of education.** The commissioner of education  
277.26 must be provided with all requested data that are relevant to a report of maltreatment and  
277.27 are in possession of a school facility as defined in section 260E.03, subdivision 6, clause  
277.28 (2), when the data are requested pursuant to an assessment or investigation of a maltreatment  
277.29 report of a student in a school. If the commissioner of education makes a determination of  
277.30 maltreatment involving an individual performing work within a school facility who is  
277.31 licensed by a board or other agency, the commissioner shall provide a copy of its offender  
277.32 maltreatment determination report to the licensing entity with all student-identifying  
277.33 information removed. The offender maltreatment determination report shall include but is  
277.34 not limited to the following sections: report of alleged maltreatment; legal standard;

278.1 investigation; summary of findings; determination; corrective action by a school;  
278.2 reconsideration process; and a listing of records related to the investigation. Notwithstanding  
278.3 section 13.03, subdivision 4, data received by a licensing entity under this paragraph are  
278.4 governed by section 13.41 or other applicable law governing data of the receiving entity,  
278.5 except that this section applies to the classification of and access to data on the reporter of  
278.6 the maltreatment.

278.7 Subd. 6. **Data retention.** (a) Notwithstanding sections 138.163 and 138.17, a record  
278.8 maintained or a record derived from a report of maltreatment by a local welfare agency,  
278.9 agency responsible for assessing or investigating the report, court services agency, or school  
278.10 under this chapter shall be destroyed as provided in paragraphs (b) to (e) by the responsible  
278.11 authority.

278.12 (b) For a report alleging maltreatment that was not accepted for assessment or  
278.13 investigation, a family assessment case, and a case where an investigation results in no  
278.14 determination of maltreatment or the need for child protective services, the record must be  
278.15 maintained for a period of five years after the date the report was not accepted for assessment  
278.16 or investigation or the date of the final entry in the case record. A record of a report that  
278.17 was not accepted must contain sufficient information to identify the subjects of the report,  
278.18 the nature of the alleged maltreatment, and the reasons as to why the report was not accepted.  
278.19 Records under this paragraph may not be used for employment, background checks, or  
278.20 purposes other than to assist in future screening decisions and risk and safety assessments.

278.21 (c) All records relating to reports that, upon investigation, indicate either maltreatment  
278.22 or a need for child protective services shall be maintained for ten years after the date of the  
278.23 final entry in the case record.

278.24 (d) All records regarding a report of maltreatment, including a notification of intent to  
278.25 interview that was received by a school under section 260E.22, subdivision 7, shall be  
278.26 destroyed by the school when ordered to do so by the agency conducting the assessment or  
278.27 investigation. The agency shall order the destruction of the notification when other records  
278.28 relating to the report under investigation or assessment are destroyed under this subdivision.

278.29 (e) Private or confidential data released to a court services agency under subdivision 3,  
278.30 paragraph (d), must be destroyed by the court services agency when ordered to do so by the  
278.31 local welfare agency that released the data. The local welfare agency or agency responsible  
278.32 for assessing or investigating the report shall order destruction of the data when other records  
278.33 relating to the assessment or investigation are destroyed under this subdivision.

279.1 Subd. 7. **Disclosure to public.** (a) Notwithstanding any other provision of law and  
279.2 subject to this subdivision, a public agency shall disclose to the public, upon request, the  
279.3 findings and information related to a child fatality or near fatality if:

279.4 (1) a person is criminally charged with having caused the child fatality or near fatality;  
279.5 (2) a county attorney certifies that a person would have been charged with having caused  
279.6 the child fatality or near fatality but for that person's death; or

279.7 (3) a child protection investigation resulted in a determination of maltreatment.

279.8 (b) Findings and information disclosed under this subdivision consist of a written  
279.9 summary that includes any of the following information the agency is able to provide:

279.10 (1) the cause and circumstances regarding the child fatality or near fatality;  
279.11 (2) the age and gender of the child;

279.12 (3) information on any previous reports of maltreatment that are pertinent to the  
279.13 maltreatment that led to the child fatality or near fatality;

279.14 (4) information on any previous investigations that are pertinent to the maltreatment that  
279.15 led to the child fatality or near fatality;

279.16 (5) the result of any investigations described in clause (4);

279.17 (6) actions of and services provided by the local welfare agency on behalf of a child that  
279.18 are pertinent to the maltreatment that led to the child fatality or near fatality; and

279.19 (7) the result of any review of the state child mortality review panel, a local child mortality  
279.20 review panel, a local community child protection team, or any public agency.

279.21 (c) Nothing in this subdivision authorizes access to the private data in the custody of a  
279.22 local welfare agency, or the disclosure to the public of the records or content of any  
279.23 psychiatric, psychological, or therapeutic evaluation, or the disclosure of information that  
279.24 would reveal the identities of persons who provided information related to maltreatment of  
279.25 the child.

279.26 (d) A person whose request is denied may apply to the appropriate court for an order  
279.27 compelling disclosure of all or part of the findings and information of the public agency.  
279.28 The application must set forth, with reasonable particularity, factors supporting the  
279.29 application. The court has jurisdiction to issue these orders. Actions under this chapter must  
279.30 be set down for immediate hearing, and subsequent proceedings in those actions must be  
279.31 given priority by the appellate courts.

280.1 (e) A public agency or its employees acting in good faith in disclosing or declining to  
280.2 disclose information under this chapter are immune from criminal or civil liability that might  
280.3 otherwise be incurred or imposed for that action.

280.4 Subd. 8. **Disclosure not required.** When interviewing a child under this chapter, an  
280.5 individual does not include the parent or guardian of the child for purposes of section 13.04,  
280.6 subdivision 2, when the parent or guardian is the alleged offender.

280.7 Sec. 36. **[260E.36] SPECIALIZED TRAINING AND EDUCATION REQUIRED.**

280.8 Subdivision 1. **Job classification; continuing education.** (a) The commissioner of  
280.9 human services, for employees subject to the Minnesota Merit System, and directors of  
280.10 county personnel systems, for counties not subject to the Minnesota Merit System, shall  
280.11 establish a job classification consisting exclusively of persons with the specialized knowledge,  
280.12 skills, and experience required to satisfactorily perform child protection duties pursuant to  
280.13 this chapter.

280.14 (b) All child protection workers or social services staff having responsibility for child  
280.15 protection duties under this chapter shall receive 15 hours of continuing education or  
280.16 in-service training each year relevant to providing child protective services. The local welfare  
280.17 agency shall maintain a record of training completed by each employee having responsibility  
280.18 for performing child protection duties.

280.19 Subd. 2. **Child protection worker foundation education.** An individual who seeks  
280.20 employment as a child protection worker after the commissioner of human services has  
280.21 implemented the foundation training program developed under section 260E.37 must  
280.22 complete competency-based foundation training during their first six months of employment  
280.23 as a child protection worker.

280.24 Subd. 3. **Background studies.** (a) County employees hired on or after July 1, 2015, who  
280.25 have responsibility for child protection duties or current county employees who are assigned  
280.26 new child protection duties on or after July 1, 2015, are required to undergo a background  
280.27 study. A county may complete these background studies by either:

280.28 (1) use of the Department of Human Services NETStudy 2.0 system according to sections  
280.29 245C.03 and 245C.10; or

280.30 (2) an alternative process defined by the county.

280.31 (b) County social services agencies and local welfare agencies must initiate background  
280.32 studies before an individual begins a position allowing direct contact with persons served  
280.33 by the agency.



281.1 Subd. 4. **Joint training.** The commissioners of human services and public safety shall  
281.2 cooperate in the development of a joint program for training child maltreatment services  
281.3 professionals in the appropriate techniques for child maltreatment assessment and  
281.4 investigation. The program shall include but need not be limited to the following areas:

281.5 (1) the public policy goals of the state as set forth in section 260C.001 and the role of  
281.6 the assessment or investigation in meeting these goals;

281.7 (2) the special duties of child protection workers and law enforcement officers under  
281.8 this chapter;

281.9 (3) the appropriate methods for directing and managing affiliated professionals who  
281.10 may be utilized in providing protective services and strengthening family ties;

281.11 (4) the appropriate methods for interviewing alleged victims of child maltreatment and  
281.12 other children in the course of performing an assessment or an investigation;

281.13 (5) the dynamics of child maltreatment within family systems and the appropriate methods  
281.14 for interviewing parents in the course of the assessment or investigation, including training  
281.15 in recognizing cases in which one of the parents is a victim of domestic abuse and in need  
281.16 of special legal or medical services;

281.17 (6) the legal, evidentiary considerations that may be relevant to the conduct of an  
281.18 assessment or an investigation;

281.19 (7) the circumstances under which it is appropriate to remove the alleged offender or  
281.20 the alleged victim from the home;

281.21 (8) the protective social services that are available to protect alleged victims from further  
281.22 maltreatment, to prevent child maltreatment and domestic abuse, and to preserve the family  
281.23 unit; and training in the preparation of case plans to coordinate services for the alleged child  
281.24 victim with services for any parents who are victims of domestic abuse;

281.25 (9) the methods by which child protection workers and law enforcement workers  
281.26 cooperate in conducting assessments and investigations in order to avoid duplication of  
281.27 efforts; and

281.28 (10) appropriate methods for interviewing alleged victims and conducting investigations  
281.29 in cases where the alleged victim is developmentally, physically, or mentally disabled.

281.30 Subd. 5. **Priority training.** The commissioners of human services and public safety  
281.31 shall provide the program courses described in subdivision 2 at convenient times and  
281.32 locations in the state. The commissioners shall give training priority in the program areas

282.1 cited in subdivision 2 to persons currently performing assessments and investigations  
282.2 pursuant to this chapter.

282.3 Subd. 6. **Revenue.** (a) The commissioner of human services shall add the following  
282.4 funds to the funds appropriated under section 260E.37, subdivision 2, to develop and support  
282.5 training.

282.6 (b) The commissioner of human services shall submit claims for federal reimbursement  
282.7 earned through the activities and services supported through Department of Human Services  
282.8 child protection or child welfare training funds. Federal revenue earned must be used to  
282.9 improve and expand training services by the department. The department expenditures  
282.10 eligible for federal reimbursement under this section must not be made from federal funds  
282.11 or funds used to match other federal funds.

282.12 (c) Each year, the commissioner of human services shall withhold from funds distributed  
282.13 to each county under Minnesota Rules, parts 9550.0300 to 9550.0370, an amount equivalent  
282.14 to 1.5 percent of each county's annual title XX allocation under section 256M.50. The  
282.15 commissioner must use these funds to ensure decentralization of training.

282.16 (d) The federal revenue under this subdivision is available for these purposes until the  
282.17 funds are expended.

282.18 **Sec. 37. [260E.37] CHILD PROTECTION WORKERS; TRAINING.**

282.19 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the  
282.20 meanings given unless the specific context indicates otherwise.

282.21 (b) "Advanced training" means training provided to a local child protection worker after  
282.22 the person has performed an initial six months of employment as a child protection worker.

282.23 (c) "Child protection agency" means an agency authorized to receive reports, conduct  
282.24 assessments and investigations, and make determinations pursuant to this chapter.

282.25 (d) "Child protection services" means the receipt and assessment of reports of  
282.26 maltreatment and the provision of services to families and children when maltreatment has  
282.27 occurred or when there is risk of maltreatment. These services include:

282.28 (1) the assessment of risk to a child alleged to have been maltreated;

282.29 (2) interviews of any person alleged to have maltreated a child and the child or children  
282.30 involved in the report, and interviews with persons having facts or knowledge necessary to  
282.31 assess the level of risk to a child and the need for protective intervention;

282.32 (3) the gathering of written or evidentiary materials;

283.1 (4) the recording of case findings and determinations; and

283.2 (5) other actions required by this chapter, administrative rule, or agency policy.

283.3 (e) "Competency-based training" means a course of instruction that provides both  
283.4 information and skills practice, which is based upon clearly stated and measurable  
283.5 instructional objectives, and which requires demonstration of the achievement of a particular  
283.6 standard of skills and knowledge for satisfactory completion.

283.7 (f) "Foundation training" means training provided to a local child protection worker  
283.8 after the person has begun to perform child protection duties, but before the expiration of  
283.9 six months of employment as a child protection worker. This foundation training must occur  
283.10 during the performance of job duties and must include an evaluation of the employee's  
283.11 application of skills and knowledge.

283.12 Subd. 2. **Training program; development.** The commissioner of human services shall  
283.13 develop a program of competency-based foundation and advanced training for child  
283.14 protection workers if funds are appropriated to the commissioner for this purpose.

283.15 **Sec. 38. [260E.38] AUDIT.**

283.16 Subdivision 1. **Audit required.** The commissioner shall regularly audit for accuracy  
283.17 the data reported by counties on maltreatment of children.

283.18 Subd. 2. **Audit procedure.** The commissioner shall develop a plan to perform quality  
283.19 assurance reviews of local welfare agency screening practices and decisions. The  
283.20 commissioner shall provide oversight and guidance to counties to ensure consistent  
283.21 application of screening guidelines, thorough and appropriate screening decisions, and  
283.22 correct documentation and maintenance of reports.

283.23 Subd. 3. **Report required.** The commissioner shall produce an annual report of the  
283.24 summary results of the reviews. The report must only contain aggregate data and may not  
283.25 include any data that could be used to personally identify any subject whose data is included  
283.26 in the report. The report is public information and must be provided to the chairs and ranking  
283.27 minority members of the legislative committees having jurisdiction over child protection  
283.28 issues.

283.29 **Sec. 39. REPEALER.**

283.30 (a) Minnesota Statutes 2018, sections 626.556, subdivisions 1, 3, 3a, 3c, 3d, 3f, 4, 4a,  
283.31 5, 6, 6a, 7, 7a, 8, 9, 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h, 10i, 10j, 10k, 10l, 10m, 10n,

284.1 11a, 11b, 11c, 11d, 12, 14, 15, and 16; 626.5561; 626.5562; 626.558; 626.559, subdivisions  
284.2 1, 1a, 1b, 2, 3, and 5; 626.5591; and 626.561, are repealed.

284.3 (b) Minnesota Statutes 2019 Supplement, section 626.556, subdivisions 2, 3b, 3e, 10,  
284.4 and 11, are repealed.

## 284.5 ARTICLE 6

### 284.6 MALTREATMENT OF MINORS ACT CONFORMING CHANGES

284.7 Section 1. Minnesota Statutes 2018, section 13.32, subdivision 3, is amended to read:

284.8 Subd. 3. **Private data; when disclosure is permitted.** Except as provided in subdivision  
284.9 5, educational data is private data on individuals and shall not be disclosed except as follows:

284.10 (a) pursuant to section 13.05;

284.11 (b) pursuant to a valid court order;

284.12 (c) pursuant to a statute specifically authorizing access to the private data;

284.13 (d) to disclose information in health, including mental health, and safety emergencies  
284.14 pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code  
284.15 of Federal Regulations, title 34, section 99.36;

284.16 (e) pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1),  
284.17 (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3), (b)(6), (b)(7), and (i), and Code of Federal Regulations,  
284.18 title 34, sections 99.31, 99.32, 99.33, 99.34, 99.35, and 99.39;

284.19 (f) to appropriate health authorities to the extent necessary to administer immunization  
284.20 programs and for bona fide epidemiologic investigations which the commissioner of health  
284.21 determines are necessary to prevent disease or disability to individuals in the public  
284.22 educational agency or institution in which the investigation is being conducted;

284.23 (g) when disclosure is required for institutions that participate in a program under title  
284.24 IV of the Higher Education Act, United States Code, title 20, section 1092;

284.25 (h) to the appropriate school district officials to the extent necessary under subdivision  
284.26 6, annually to indicate the extent and content of remedial instruction, including the results  
284.27 of assessment testing and academic performance at a postsecondary institution during the  
284.28 previous academic year by a student who graduated from a Minnesota school district within  
284.29 two years before receiving the remedial instruction;

284.30 (i) to appropriate authorities as provided in United States Code, title 20, section  
284.31 1232g(b)(1)(E)(ii), if the data concern the juvenile justice system and the ability of the

285.1 system to effectively serve, prior to adjudication, the student whose records are released;  
285.2 provided that the authorities to whom the data are released submit a written request for the  
285.3 data that certifies that the data will not be disclosed to any other person except as authorized  
285.4 by law without the written consent of the parent of the student and the request and a record  
285.5 of the release are maintained in the student's file;

285.6 (j) to volunteers who are determined to have a legitimate educational interest in the data  
285.7 and who are conducting activities and events sponsored by or endorsed by the educational  
285.8 agency or institution for students or former students;

285.9 (k) to provide student recruiting information, from educational data held by colleges  
285.10 and universities, as required by and subject to Code of Federal Regulations, title 32, section  
285.11 216;

285.12 (l) to the juvenile justice system if information about the behavior of a student who poses  
285.13 a risk of harm is reasonably necessary to protect the health or safety of the student or other  
285.14 individuals;

285.15 (m) with respect to Social Security numbers of students in the adult basic education  
285.16 system, to Minnesota State Colleges and Universities and the Department of Employment  
285.17 and Economic Development for the purpose and in the manner described in section 124D.52,  
285.18 subdivision 7;

285.19 (n) to the commissioner of education for purposes of an assessment or investigation of  
285.20 a report of alleged maltreatment of a student as mandated by ~~section 626.556~~ chapter 260E.  
285.21 Upon request by the commissioner of education, data that are relevant to a report of  
285.22 maltreatment and are from charter school and school district investigations of alleged  
285.23 maltreatment of a student must be disclosed to the commissioner, including, but not limited  
285.24 to, the following:

285.25 (1) information regarding the student alleged to have been maltreated;

285.26 (2) information regarding student and employee witnesses;

285.27 (3) information regarding the alleged perpetrator; and

285.28 (4) what corrective or protective action was taken, if any, by the school facility in response  
285.29 to a report of maltreatment by an employee or agent of the school or school district;

285.30 (o) when the disclosure is of the final results of a disciplinary proceeding on a charge  
285.31 of a crime of violence or nonforcible sex offense to the extent authorized under United  
285.32 States Code, title 20, section 1232g(b)(6)(A) and (B) and Code of Federal Regulations, title  
285.33 34, sections 99.31 (a)(13) and (14);

286.1 (p) when the disclosure is information provided to the institution under United States  
286.2 Code, title 42, section 14071, concerning registered sex offenders to the extent authorized  
286.3 under United States Code, title 20, section 1232g(b)(7); or

286.4 (q) when the disclosure is to a parent of a student at an institution of postsecondary  
286.5 education regarding the student's violation of any federal, state, or local law or of any rule  
286.6 or policy of the institution, governing the use or possession of alcohol or of a controlled  
286.7 substance, to the extent authorized under United States Code, title 20, section 1232g(i), and  
286.8 Code of Federal Regulations, title 34, section 99.31 (a)(15), and provided the institution  
286.9 has an information release form signed by the student authorizing disclosure to a parent.  
286.10 The institution must notify parents and students about the purpose and availability of the  
286.11 information release forms. At a minimum, the institution must distribute the information  
286.12 release forms at parent and student orientation meetings.

286.13 Sec. 2. Minnesota Statutes 2018, section 13.3805, subdivision 3, is amended to read:

286.14 Subd. 3. **Office of Health Facility Complaints; investigative data.** Except for  
286.15 investigative data under ~~section 626.556~~ chapter 260E, all investigative data maintained by  
286.16 the Department of Health's Office of Health Facility Complaints are subject to provisions  
286.17 of and classified pursuant to section 626.557, subdivision 12b, paragraphs (b) to (d).  
286.18 Notwithstanding sections ~~626.556, subdivision 11,~~ 260E.21, subdivision 4; 260E.35; and  
286.19 626.557, subdivision 12b, paragraph (b), data identifying an individual substantiated as the  
286.20 perpetrator are public data. For purposes of this subdivision, an individual is substantiated  
286.21 as the perpetrator if the commissioner of health determines that the individual is the  
286.22 perpetrator and the determination of the commissioner is upheld after the individual either  
286.23 exercises applicable administrative appeal rights or fails to exercise these rights within the  
286.24 time allowed by law.

286.25 Sec. 3. Minnesota Statutes 2018, section 13.43, subdivision 14, is amended to read:

286.26 Subd. 14. **Maltreatment data.** (a) When a report of alleged maltreatment of a student  
286.27 in a school facility, as defined in section ~~626.556, subdivision 2, paragraph (e)~~ 260E.03,  
286.28 subdivision 6, is made to the commissioner of education under ~~section 626.556~~ chapter  
286.29 260E, data that are relevant to a report of maltreatment and are collected by the school  
286.30 facility about the person alleged to have committed maltreatment must be provided to the  
286.31 commissioner of education upon request for purposes of an assessment or investigation of  
286.32 the maltreatment report. Data received by the commissioner of education pursuant to these  
286.33 assessments or investigations are classified under ~~section 626.556~~ chapter 260E.

287.1 (b) Personnel data may be released for purposes of providing information to a parent,  
287.2 legal guardian, or custodian of a child under section ~~626.556, subdivision 7~~ 260E.15.

287.3 Sec. 4. Minnesota Statutes 2019 Supplement, section 13.46, subdivision 3, is amended to  
287.4 read:

287.5 Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of services,  
287.6 licensees, and applicants that is collected, maintained, used, or disseminated by the welfare  
287.7 system in an investigation, authorized by statute, and relating to the enforcement of rules  
287.8 or law are confidential data on individuals pursuant to section 13.02, subdivision 3, or  
287.9 protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and  
287.10 shall not be disclosed except:

287.11 (1) pursuant to section 13.05;

287.12 (2) pursuant to statute or valid court order;

287.13 (3) to a party named in a civil or criminal proceeding, administrative or judicial, for  
287.14 preparation of defense;

287.15 (4) to an agent of the welfare system or an investigator acting on behalf of a county,  
287.16 state, or federal government, including a law enforcement officer or attorney in the  
287.17 investigation or prosecution of a criminal, civil, or administrative proceeding, unless the  
287.18 commissioner of human services determines that disclosure may compromise a Department  
287.19 of Human Services ongoing investigation; or

287.20 (5) to provide notices required or permitted by statute.

287.21 The data referred to in this subdivision shall be classified as public data upon submission  
287.22 to an administrative law judge or court in an administrative or judicial proceeding. Inactive  
287.23 welfare investigative data shall be treated as provided in section 13.39, subdivision 3.

287.24 (b) Notwithstanding any other provision in law, the commissioner of human services  
287.25 shall provide all active and inactive investigative data, including the name of the reporter  
287.26 of alleged maltreatment under section ~~626.556 or 626.557~~ chapter 260E, to the ombudsman  
287.27 for mental health and developmental disabilities upon the request of the ombudsman.

287.28 (c) Notwithstanding paragraph (a) and section 13.39, the existence of an investigation  
287.29 by the commissioner of human services of possible overpayments of public funds to a service  
287.30 provider or recipient may be disclosed if the commissioner determines that it will not  
287.31 compromise the investigation.

288.1 Sec. 5. Minnesota Statutes 2019 Supplement, section 13.46, subdivision 4, is amended to  
288.2 read:

288.3 Subd. 4. **Licensing data.** (a) As used in this subdivision:

288.4 (1) "licensing data" are all data collected, maintained, used, or disseminated by the  
288.5 welfare system pertaining to persons licensed or registered or who apply for licensure or  
288.6 registration or who formerly were licensed or registered under the authority of the  
288.7 commissioner of human services;

288.8 (2) "client" means a person who is receiving services from a licensee or from an applicant  
288.9 for licensure; and

288.10 (3) "personal and personal financial data" are Social Security numbers, identity of and  
288.11 letters of reference, insurance information, reports from the Bureau of Criminal  
288.12 Apprehension, health examination reports, and social/home studies.

288.13 (b)(1)(i) Except as provided in paragraph (c), the following data on applicants, license  
288.14 holders, and former licensees are public: name, address, telephone number of licensees,  
288.15 date of receipt of a completed application, dates of licensure, licensed capacity, type of  
288.16 client preferred, variances granted, record of training and education in child care and child  
288.17 development, type of dwelling, name and relationship of other family members, previous  
288.18 license history, class of license, the existence and status of complaints, and the number of  
288.19 serious injuries to or deaths of individuals in the licensed program as reported to the  
288.20 commissioner of human services, the local social services agency, or any other county  
288.21 welfare agency. For purposes of this clause, a serious injury is one that is treated by a  
288.22 physician.

288.23 (ii) Except as provided in item (v), when a correction order, an order to forfeit a fine,  
288.24 an order of license suspension, an order of temporary immediate suspension, an order of  
288.25 license revocation, an order of license denial, or an order of conditional license has been  
288.26 issued, or a complaint is resolved, the following data on current and former licensees and  
288.27 applicants are public: the general nature of the complaint or allegations leading to the  
288.28 temporary immediate suspension; the substance and investigative findings of the licensing  
288.29 or maltreatment complaint, licensing violation, or substantiated maltreatment; the existence  
288.30 of settlement negotiations; the record of informal resolution of a licensing violation; orders  
288.31 of hearing; findings of fact; conclusions of law; specifications of the final correction order,  
288.32 fine, suspension, temporary immediate suspension, revocation, denial, or conditional license  
288.33 contained in the record of licensing action; whether a fine has been paid; and the status of  
288.34 any appeal of these actions.



289.1 (iii) When a license denial under section 245A.05 or a sanction under section 245A.07  
289.2 is based on a determination that a license holder, applicant, or controlling individual is  
289.3 responsible for maltreatment under section ~~626.556~~ or 626.557 or chapter 260E, the identity  
289.4 of the applicant, license holder, or controlling individual as the individual responsible for  
289.5 maltreatment is public data at the time of the issuance of the license denial or sanction.

289.6 (iv) When a license denial under section 245A.05 or a sanction under section 245A.07  
289.7 is based on a determination that a license holder, applicant, or controlling individual is  
289.8 disqualified under chapter 245C, the identity of the license holder, applicant, or controlling  
289.9 individual as the disqualified individual and the reason for the disqualification are public  
289.10 data at the time of the issuance of the licensing sanction or denial. If the applicant, license  
289.11 holder, or controlling individual requests reconsideration of the disqualification and the  
289.12 disqualification is affirmed, the reason for the disqualification and the reason to not set aside  
289.13 the disqualification are public data.

289.14 (v) A correction order or fine issued to a child care provider for a licensing violation is  
289.15 private data on individuals under section 13.02, subdivision 12, or nonpublic data under  
289.16 section 13.02, subdivision 9, if the correction order or fine is seven years old or older.

289.17 (2) For applicants who withdraw their application prior to licensure or denial of a license,  
289.18 the following data are public: the name of the applicant, the city and county in which the  
289.19 applicant was seeking licensure, the dates of the commissioner's receipt of the initial  
289.20 application and completed application, the type of license sought, and the date of withdrawal  
289.21 of the application.

289.22 (3) For applicants who are denied a license, the following data are public: the name and  
289.23 address of the applicant, the city and county in which the applicant was seeking licensure,  
289.24 the dates of the commissioner's receipt of the initial application and completed application,  
289.25 the type of license sought, the date of denial of the application, the nature of the basis for  
289.26 the denial, the existence of settlement negotiations, the record of informal resolution of a  
289.27 denial, orders of hearings, findings of fact, conclusions of law, specifications of the final  
289.28 order of denial, and the status of any appeal of the denial.

289.29 (4) When maltreatment is substantiated under section ~~626.556~~ or 626.557 or chapter  
289.30 260E and the victim and the substantiated perpetrator are affiliated with a program licensed  
289.31 under chapter 245A, the commissioner of human services, local social services agency, or  
289.32 county welfare agency may inform the license holder where the maltreatment occurred of  
289.33 the identity of the substantiated perpetrator and the victim.

290.1 (5) Notwithstanding clause (1), for child foster care, only the name of the license holder  
290.2 and the status of the license are public if the county attorney has requested that data otherwise  
290.3 classified as public data under clause (1) be considered private data based on the best interests  
290.4 of a child in placement in a licensed program.

290.5 (c) The following are private data on individuals under section 13.02, subdivision 12,  
290.6 or nonpublic data under section 13.02, subdivision 9: personal and personal financial data  
290.7 on family day care program and family foster care program applicants and licensees and  
290.8 their family members who provide services under the license.

290.9 (d) The following are private data on individuals: the identity of persons who have made  
290.10 reports concerning licensees or applicants that appear in inactive investigative data, and the  
290.11 records of clients or employees of the licensee or applicant for licensure whose records are  
290.12 received by the licensing agency for purposes of review or in anticipation of a contested  
290.13 matter. The names of reporters of complaints or alleged violations of licensing standards  
290.14 under chapters 245A, 245B, 245C, and 245D, and applicable rules and alleged maltreatment  
290.15 under ~~sections 626.556 and~~ section 626.557 and chapter 260E, are confidential data and  
290.16 may be disclosed only as provided in ~~section 626.556, subdivision 11,~~ section 260E.21,  
290.17 subdivision 4; 260E.35; or 626.557, subdivision 12b.

290.18 (e) Data classified as private, confidential, nonpublic, or protected nonpublic under this  
290.19 subdivision become public data if submitted to a court or administrative law judge as part  
290.20 of a disciplinary proceeding in which there is a public hearing concerning a license which  
290.21 has been suspended, immediately suspended, revoked, or denied.

290.22 (f) Data generated in the course of licensing investigations that relate to an alleged  
290.23 violation of law are investigative data under subdivision 3.

290.24 (g) Data that are not public data collected, maintained, used, or disseminated under this  
290.25 subdivision that relate to or are derived from a report as defined in section ~~626.556,~~  
290.26 ~~subdivision 2~~ 260E.03, or 626.5572, subdivision 18, are subject to the destruction provisions  
290.27 of sections ~~626.556, subdivision 11~~ 260E.35, subdivision 6, and 626.557, subdivision 12b.

290.28 (h) Upon request, not public data collected, maintained, used, or disseminated under  
290.29 this subdivision that relate to or are derived from a report of substantiated maltreatment as  
290.30 defined in section ~~626.556 or 626.557~~ chapter 260E may be exchanged with the  
290.31 Department of Health for purposes of completing background studies pursuant to section  
290.32 144.057 and with the Department of Corrections for purposes of completing background  
290.33 studies pursuant to section 241.021.

291.1 (i) Data on individuals collected according to licensing activities under chapters 245A  
291.2 and 245C, data on individuals collected by the commissioner of human services according  
291.3 to investigations under section 626.557 and chapters 245A, 245B, 245C, and 245D, and  
291.4 ~~sections 626.556 and 626.557~~ 260E may be shared with the Department of Human Rights,  
291.5 the Department of Health, the Department of Corrections, the ombudsman for mental health  
291.6 and developmental disabilities, and the individual's professional regulatory board when  
291.7 there is reason to believe that laws or standards under the jurisdiction of those agencies may  
291.8 have been violated or the information may otherwise be relevant to the board's regulatory  
291.9 jurisdiction. Background study data on an individual who is the subject of a background  
291.10 study under chapter 245C for a licensed service for which the commissioner of human  
291.11 services is the license holder may be shared with the commissioner and the commissioner's  
291.12 delegate by the licensing division. Unless otherwise specified in this chapter, the identity  
291.13 of a reporter of alleged maltreatment or licensing violations may not be disclosed.

291.14 (j) In addition to the notice of determinations required under ~~section 626.556, subdivision~~  
291.15 ~~10f~~, sections 260E.24, subdivisions 5 and 7, and 260E.30, subdivision 6, paragraphs (b),  
291.16 (c), (d), (e), and (f), if the commissioner or the local social services agency has determined  
291.17 that an individual is a substantiated perpetrator of maltreatment of a child based on sexual  
291.18 abuse, as defined in section ~~626.556, subdivision 2~~ 260E.03, and the commissioner or local  
291.19 social services agency knows that the individual is a person responsible for a child's care  
291.20 in another facility, the commissioner or local social services agency shall notify the head  
291.21 of that facility of this determination. The notification must include an explanation of the  
291.22 individual's available appeal rights and the status of any appeal. If a notice is given under  
291.23 this paragraph, the government entity making the notification shall provide a copy of the  
291.24 notice to the individual who is the subject of the notice.

291.25 (k) All not public data collected, maintained, used, or disseminated under this subdivision  
291.26 and subdivision 3 may be exchanged between the Department of Human Services, Licensing  
291.27 Division, and the Department of Corrections for purposes of regulating services for which  
291.28 the Department of Human Services and the Department of Corrections have regulatory  
291.29 authority.

291.30 Sec. 6. Minnesota Statutes 2018, section 13.82, subdivision 8, is amended to read:

291.31 Subd. 8. **Child abuse identity data.** Active or inactive investigative data that identify  
291.32 a victim of child abuse or neglect reported under ~~section 626.556~~ chapter 260E are private  
291.33 data on individuals. Active or inactive investigative data that identify a reporter of child  
291.34 abuse or neglect under ~~section 626.556~~ chapter 260E are confidential data on individuals,

292.1 unless the subject of the report compels disclosure under ~~section 626.556, subdivision 11~~  
292.2 sections 260E.21, subdivision 4, or 260E.35.

292.3 Sec. 7. Minnesota Statutes 2018, section 13.82, subdivision 9, is amended to read:

292.4 Subd. 9. **Inactive child abuse data.** Investigative data that become inactive under  
292.5 subdivision 7, clause (a) or (b), and that relate to the alleged abuse or neglect of a child by  
292.6 a person responsible for the child's care, as defined in section ~~626.556, subdivision 2~~ 260E.03,  
292.7 are private data.

292.8 Sec. 8. Minnesota Statutes 2018, section 13.82, subdivision 17, is amended to read:

292.9 Subd. 17. **Protection of identities.** A law enforcement agency or a law enforcement  
292.10 dispatching agency working under direction of a law enforcement agency shall withhold  
292.11 public access to data on individuals to protect the identity of individuals in the following  
292.12 circumstances:

292.13 (a) when access to the data would reveal the identity of an undercover law enforcement  
292.14 officer, as provided in section 13.43, subdivision 5;

292.15 (b) when access to the data would reveal the identity of a victim or alleged victim of  
292.16 criminal sexual conduct or sex trafficking under section 609.322, 609.341 to 609.3451, or  
292.17 617.246, subdivision 2;

292.18 (c) when access to the data would reveal the identity of a paid or unpaid informant being  
292.19 used by the agency if the agency reasonably determines that revealing the identity of the  
292.20 informant would threaten the personal safety of the informant;

292.21 (d) when access to the data would reveal the identity of a victim of or witness to a crime  
292.22 if the victim or witness specifically requests not to be identified publicly, unless the agency  
292.23 reasonably determines that revealing the identity of the victim or witness would not threaten  
292.24 the personal safety or property of the individual;

292.25 (e) when access to the data would reveal the identity of a deceased person whose body  
292.26 was unlawfully removed from a cemetery in which it was interred;

292.27 (f) when access to the data would reveal the identity of a person who placed a call to a  
292.28 911 system or the identity or telephone number of a service subscriber whose phone is used  
292.29 to place a call to the 911 system and: (1) the agency determines that revealing the identity  
292.30 may threaten the personal safety or property of any person; or (2) the object of the call is  
292.31 to receive help in a mental health emergency. For the purposes of this paragraph, a voice  
292.32 recording of a call placed to the 911 system is deemed to reveal the identity of the caller;

293.1 (g) when access to the data would reveal the identity of a juvenile witness and the agency  
293.2 reasonably determines that the subject matter of the investigation justifies protecting the  
293.3 identity of the witness; or

293.4 (h) when access to the data would reveal the identity of a mandated reporter under section  
293.5 60A.952, subdivision 2, 609.456, ~~626.556~~, or ~~626.557~~ or chapter 260E.

293.6 Data concerning individuals whose identities are protected by this subdivision are private  
293.7 data about those individuals. Law enforcement agencies shall establish procedures to acquire  
293.8 the data and make the decisions necessary to protect the identity of individuals described  
293.9 in clauses (c), (d), (f), and (g).

293.10 Sec. 9. Minnesota Statutes 2018, section 13.821, is amended to read:

293.11 **13.821 VIDEOTAPES OF CHILD ABUSE VICTIMS.**

293.12 (a) Notwithstanding section 13.04, subdivision 3, an individual subject of data may not  
293.13 obtain a copy of a videotape in which a child victim or alleged victim is alleging, explaining,  
293.14 denying, or describing an act of physical or sexual abuse without a court order under section  
293.15 13.03, subdivision 6, or 611A.90. The definitions of physical abuse and sexual abuse in  
293.16 section ~~626.556, subdivision 2~~ 260E.03, apply to this section, except that abuse is not limited  
293.17 to acts by a person responsible for the child's care or in a significant relationship with the  
293.18 child or position of authority.

293.19 (b) This section does not limit other rights of access to data by an individual under section  
293.20 13.04, subdivision 3, other than the right to obtain a copy of the videotape, nor prohibit  
293.21 rights of access pursuant to discovery in a court proceeding.

293.22 Sec. 10. Minnesota Statutes 2018, section 13.84, subdivision 9, is amended to read:

293.23 Subd. 9. **Child abuse data; release to child protective services.** A court services agency  
293.24 may release private or confidential data on an active case involving assessment or  
293.25 investigation of actions that are defined as sexual abuse, physical abuse, or neglect under  
293.26 ~~section 626.556~~ chapter 260E to a local welfare agency if:

293.27 (1) the local welfare agency has an active case involving a common client or clients who  
293.28 are the subject of the data; and

293.29 (2) the data are necessary for the local welfare agency to effectively process the agency's  
293.30 case, including investigating or performing other duties relating to the case required by law.

294.1 Court services data disclosed under this subdivision may be used only for purposes of  
294.2 the active case described in clause (1) and may not be further disclosed to any other person  
294.3 or agency, except as authorized by law.

294.4 Sec. 11. Minnesota Statutes 2018, section 13.871, subdivision 6, is amended to read:

294.5 Subd. 6. **Training; investigation; apprehension; reports.** (a) **Reports of gunshot**  
294.6 **wounds.** Disclosure of the name of a person making a report under section 626.52,  
294.7 subdivision 2, is governed by section 626.53.

294.8 (b) **Child abuse report records.** Data contained in child abuse report records are  
294.9 classified under ~~section 626.556~~ chapter 260E.

294.10 (c) **Interstate data exchange.** Disclosure of child abuse reports to agencies of another  
294.11 state is classified under section ~~626.556, subdivision 10g~~ 260E.35, subdivision 3, paragraphs  
294.12 (b) and (c).

294.13 (d) **Release to family court services.** Release of child abuse data to a court services  
294.14 agency is authorized under section ~~626.556, subdivision 10h~~ 260E.35, subdivision 3,  
294.15 paragraphs (d) and (e).

294.16 (e) **Release of data to mandated reporters.** Release of child abuse data to mandated  
294.17 reporters who have an ongoing responsibility for the health, education, or welfare of a child  
294.18 affected by the data is authorized under section ~~626.556, subdivision 10j~~ 260E.35, subdivision  
294.19 4.

294.20 (f) **Release of child abuse assessment or investigative records to other counties.**  
294.21 Release of child abuse investigative records to local welfare agencies is authorized under  
294.22 section ~~626.556, subdivision 10k~~ 260E.35, subdivision 3, paragraph (f).

294.23 (g) **Classifying and sharing records and reports of child abuse.** The classification of  
294.24 child abuse data and the sharing of records and reports of child abuse by and between local  
294.25 welfare agencies and law enforcement agencies are governed under ~~section 626.556,~~  
294.26 ~~subdivision 11~~ sections 260E.21, subdivision 4, and 260E.35.

294.27 (h) **Disclosure of information not required in certain cases.** Disclosure of certain data  
294.28 obtained from interviewing a minor is governed by section ~~626.556, subdivision 11a~~ 260E.35,  
294.29 subdivision 8.

294.30 (i) **Data received from law enforcement.** Classifying child abuse data received by  
294.31 certain agencies from law enforcement agencies is governed under section ~~626.556,~~  
294.32 ~~subdivision 11b~~ 260E.35, subdivision 3, paragraph (p).

295.1 (j) **Disclosure in child fatality cases.** Disclosure of information relating to a child fatality  
295.2 is governed under section ~~626.556, subdivision 11~~ 260E.35, subdivision 7.

295.3 (k) **Reports of prenatal exposure to controlled substances.** Data on persons making  
295.4 reports under section ~~626.5561~~ 260E.31 are classified under section ~~626.5561, subdivision~~  
295.5 3 260E.35, subdivision 3.

295.6 (l) **Vulnerable adult report records.** Data contained in vulnerable adult report records  
295.7 are classified under section 626.557, subdivision 12b.

295.8 (m) **Adult protection team information sharing.** Sharing of local welfare agency  
295.9 vulnerable adult data with a protection team is governed by section 626.5571, subdivision  
295.10 3.

295.11 (n) **Child protection team.** Data acquired by a case consultation committee or  
295.12 subcommittee of a child protection team are classified by section ~~626.558, subdivision 3~~  
295.13 260E.02, subdivision 4.

295.14 (o) **Peace officer discipline procedures.** Access by an officer under investigation to  
295.15 the investigating agency's investigative report on the officer is governed by section 626.89,  
295.16 subdivision 6.

295.17 (p) **Racial profiling study data.** Racial profiling study data is governed by Minnesota  
295.18 Statutes 2006, section 626.951.

295.19 Sec. 12. Minnesota Statutes 2018, section 13.88, is amended to read:

295.20 **13.88 COMMUNITY DISPUTE RESOLUTION CENTER DATA.**

295.21 The guidelines shall provide that all files relating to a case in a community dispute  
295.22 resolution program are to be classified as private data on individuals, pursuant to section  
295.23 13.02, subdivision 12, with the following exceptions:

295.24 (1) When a party to the case has been formally charged with a criminal offense, the data  
295.25 are to be classified as public data on individuals, pursuant to section 13.02, subdivision 15.

295.26 (2) Data relating to suspected neglect or physical or sexual abuse of children or  
295.27 maltreatment of vulnerable adults are to be subject to the reporting requirements of ~~sections~~  
295.28 ~~626.556 and~~ section 626.557 and chapter 260E.

295.29 Sec. 13. Minnesota Statutes 2018, section 120B.22, subdivision 2, is amended to read:

295.30 Subd. 2. **In-service training.** Each district is encouraged to provide training for district  
295.31 staff and school board members on the following:

296.1 (1) helping students identify violence in the family and the community so that students  
296.2 may learn to resolve conflicts in effective, nonviolent ways;

296.3 (2) responding to a disclosure of child sexual abuse in a supportive, appropriate manner;  
296.4 and

296.5 (3) complying with mandatory reporting requirements under ~~section 626.556~~ chapter  
296.6 260E.

296.7 The in-service training must be ongoing and involve experts familiar with sexual abuse,  
296.8 domestic violence, and personal safety issues.

296.9 Sec. 14. Minnesota Statutes 2019 Supplement, section 122A.20, subdivision 2, is amended  
296.10 to read:

296.11 Subd. 2. **Mandatory reporting.** (a) A school board, superintendent, charter school  
296.12 board, charter school executive director, or charter school authorizer must report to the  
296.13 Professional Educator Licensing and Standards Board, the Board of School Administrators,  
296.14 or the Board of Trustees of the Minnesota State Colleges and Universities, whichever has  
296.15 jurisdiction over the teacher's or administrator's license, when its teacher or administrator  
296.16 is discharged or resigns from employment after a charge is filed with the school board under  
296.17 section 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7, or after charges are filed  
296.18 that are grounds for discharge under section 122A.40, subdivision 13, paragraph (a), clauses  
296.19 (1) to (5), or when a teacher or administrator is suspended or resigns while an investigation  
296.20 is pending under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5), or chapter  
296.21 260E; or 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7; ~~or 626.556,~~ or when a  
296.22 teacher or administrator is suspended without an investigation under section 122A.41,  
296.23 subdivisions 6, paragraph (a), clauses (1), (2), and (3), and 7; ~~or 626.556,~~ or chapter 260E.  
296.24 The report must be made to the appropriate licensing board within ten days after the  
296.25 discharge, suspension, or resignation has occurred. The licensing board to which the report  
296.26 is made must investigate the report for violation of subdivision 1 and the reporting board,  
296.27 administrator, or authorizer must cooperate in the investigation. Notwithstanding any  
296.28 provision in chapter 13 or any law to the contrary, upon written request from the licensing  
296.29 board having jurisdiction over the license, a board, charter school, authorizer, charter school  
296.30 executive director, or school superintendent shall provide the licensing board with information  
296.31 about the teacher or administrator from the district's files, any termination or disciplinary  
296.32 proceeding, any settlement or compromise, or any investigative file. Upon written request  
296.33 from the appropriate licensing board, a board or school superintendent may, at the discretion  
296.34 of the board or school superintendent, solicit the written consent of a student and the student's



297.1 parent to provide the licensing board with information that may aid the licensing board in  
297.2 its investigation and license proceedings. The licensing board's request need not identify a  
297.3 student or parent by name. The consent of the student and the student's parent must meet  
297.4 the requirements of chapter 13 and Code of Federal Regulations, title 34, section 99.30.  
297.5 The licensing board may provide a consent form to the district. Any data transmitted to any  
297.6 board under this section is private data under section 13.02, subdivision 12, notwithstanding  
297.7 any other classification of the data when it was in the possession of any other agency.

297.8 (b) The licensing board to which a report is made must transmit to the Attorney General's  
297.9 Office any record or data it receives under this subdivision for the sole purpose of having  
297.10 the Attorney General's Office assist that board in its investigation. When the Attorney  
297.11 General's Office has informed an employee of the appropriate licensing board in writing  
297.12 that grounds exist to suspend or revoke a teacher's license to teach, that licensing board  
297.13 must consider suspending or revoking or decline to suspend or revoke the teacher's or  
297.14 administrator's license within 45 days of receiving a stipulation executed by the teacher or  
297.15 administrator under investigation or a recommendation from an administrative law judge  
297.16 that disciplinary action be taken.

297.17 (c) The Professional Educator Licensing and Standards Board and Board of School  
297.18 Administrators must report to the appropriate law enforcement authorities a revocation,  
297.19 suspension, or agreement involving a loss of license, relating to a teacher or administrator's  
297.20 inappropriate sexual conduct with a minor. For purposes of this section, "law enforcement  
297.21 authority" means a police department, county sheriff, or tribal police department. A report  
297.22 by the Professional Educator Licensing and Standards Board to appropriate law enforcement  
297.23 authorities does not diminish, modify, or otherwise affect the responsibilities of a school  
297.24 board or any person mandated to report abuse under ~~section 626.556~~ chapter 260E.

297.25 Sec. 15. Minnesota Statutes 2019 Supplement, section 122A.40, subdivision 13, is amended  
297.26 to read:

297.27 Subd. 13. **Immediate discharge.** (a) Except as otherwise provided in paragraph (b), a  
297.28 board may discharge a continuing-contract teacher, effective immediately, upon any of the  
297.29 following grounds:

297.30 (1) immoral conduct, insubordination, or conviction of a felony;

297.31 (2) conduct unbecoming a teacher which requires the immediate removal of the teacher  
297.32 from classroom or other duties;

298.1 (3) failure without justifiable cause to teach without first securing the written release of  
298.2 the school board;

298.3 (4) gross inefficiency which the teacher has failed to correct after reasonable written  
298.4 notice;

298.5 (5) willful neglect of duty; or

298.6 (6) continuing physical or mental disability subsequent to a 12 months leave of absence  
298.7 and inability to qualify for reinstatement in accordance with subdivision 12.

298.8 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair  
298.9 discriminatory practice described in section 363A.13.

298.10 Prior to discharging a teacher under this paragraph, the board must notify the teacher in  
298.11 writing and state its ground for the proposed discharge in reasonable detail. Within ten days  
298.12 after receipt of this notification the teacher may make a written request for a hearing before  
298.13 the board and it shall be granted before final action is taken. The board may suspend a  
298.14 teacher with pay pending the conclusion of the hearing and determination of the issues  
298.15 raised in the hearing after charges have been filed which constitute ground for discharge.  
298.16 If a teacher has been charged with a felony and the underlying conduct that is the subject  
298.17 of the felony charge is a ground for a proposed immediate discharge, the suspension pending  
298.18 the conclusion of the hearing and determination of the issues may be without pay. If a  
298.19 hearing under this paragraph is held, the board must reimburse the teacher for any salary  
298.20 or compensation withheld if the final decision of the board or the arbitrator does not result  
298.21 in a penalty to or suspension, termination, or discharge of the teacher.

298.22 (b) A board must discharge a continuing-contract teacher, effective immediately, upon  
298.23 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's  
298.24 license has been revoked due to a conviction for child abuse, as defined in section 609.185;  
298.25 sex trafficking in the first degree under section 609.322, subdivision 1; sex trafficking in  
298.26 the second degree under section 609.322, subdivision 1a; engaging in hiring or agreeing to  
298.27 hire a minor to engage in prostitution under section 609.324, subdivision 1; sexual abuse  
298.28 under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23,  
298.29 subdivision 3; solicitation of children to engage in sexual conduct or communication of  
298.30 sexually explicit materials to children under section 609.352; interference with privacy  
298.31 under section 609.746 or harassment or stalking under section 609.749 and the victim was  
298.32 a minor; using minors in a sexual performance under section 617.246; possessing  
298.33 pornographic works involving a minor under section 617.247; or any other offense not listed

299.1 in this paragraph that requires the person to register as a predatory offender under section  
299.2 243.166, or a crime under a similar law of another state or the United States.

299.3 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes  
299.4 a final determination of child maltreatment involving a teacher under section ~~626.556,~~  
299.5 ~~subdivision 11,~~ 260E.21, subdivision 4, or 260E.35, the school principal or other person  
299.6 having administrative control of the school must include in the teacher's employment record  
299.7 the information contained in the record of the disciplinary action or the final maltreatment  
299.8 determination, consistent with the definition of public data under section 13.41, subdivision  
299.9 5, and must provide the Professional Educator Licensing and Standards Board and the  
299.10 licensing division at the department with the necessary and relevant information to enable  
299.11 the Professional Educator Licensing and Standards Board and the department's licensing  
299.12 division to fulfill their statutory and administrative duties related to issuing, renewing,  
299.13 suspending, or revoking a teacher's license. Information received by the Professional Educator  
299.14 Licensing and Standards Board or the licensing division at the department under this  
299.15 paragraph is governed by section 13.41 or other applicable law governing data of the  
299.16 receiving entity. In addition to the background check required under section 123B.03, a  
299.17 school board or other school hiring authority must contact the Professional Educator  
299.18 Licensing and Standards Board and the department to determine whether the teacher's license  
299.19 has been suspended or revoked, consistent with the discharge and final maltreatment  
299.20 determinations identified in this paragraph. Unless restricted by federal or state data practices  
299.21 law or by the terms of a collective bargaining agreement, the responsible authority for a  
299.22 school district must disseminate to another school district private personnel data on a current  
299.23 or former teacher employee or contractor of the district, including the results of background  
299.24 investigations, if the requesting school district seeks the information because the subject of  
299.25 the data has applied for employment with the requesting school district.

299.26 Sec. 16. Minnesota Statutes 2019 Supplement, section 122A.41, subdivision 6, is amended  
299.27 to read:

299.28 Subd. 6. **Grounds for discharge or demotion.** (a) Except as otherwise provided in  
299.29 paragraph (b), causes for the discharge or demotion of a teacher either during or after the  
299.30 probationary period must be:

299.31 (1) immoral character, conduct unbecoming a teacher, or insubordination;

299.32 (2) failure without justifiable cause to teach without first securing the written release of  
299.33 the school board having the care, management, or control of the school in which the teacher  
299.34 is employed;

300.1 (3) inefficiency in teaching or in the management of a school, consistent with subdivision  
300.2 5, paragraph (b);

300.3 (4) affliction with a communicable disease must be considered as cause for removal or  
300.4 suspension while the teacher is suffering from such disability; or

300.5 (5) discontinuance of position or lack of pupils.

300.6 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair  
300.7 discriminatory practice described in section 363A.13.

300.8 (b) A probationary or continuing-contract teacher must be discharged immediately upon  
300.9 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's  
300.10 license has been revoked due to a conviction for child abuse, as defined in section 609.185;  
300.11 sex trafficking in the first degree under section 609.322, subdivision 1; sex trafficking in  
300.12 the second degree under section 609.322, subdivision 1a; engaging in hiring or agreeing to  
300.13 hire a minor to engage in prostitution under section 609.324, subdivision 1; sexual abuse  
300.14 under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23,  
300.15 subdivision 3; solicitation of children to engage in sexual conduct or communication of  
300.16 sexually explicit materials to children under section 609.352; interference with privacy  
300.17 under section 609.746 or harassment or stalking under section 609.749 and the victim was  
300.18 a minor; using minors in a sexual performance under section 617.246; possessing  
300.19 pornographic works involving a minor under section 617.247; or any other offense not listed  
300.20 in this paragraph that requires the person to register as a predatory offender under section  
300.21 243.166, or a crime under a similar law of another state or the United States.

300.22 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes  
300.23 a final determination of child maltreatment involving a teacher under section ~~626.556,~~  
300.24 ~~subdivision 11,~~ 260E.21, subdivision 4, or 260E.35, the school principal or other person  
300.25 having administrative control of the school must include in the teacher's employment record  
300.26 the information contained in the record of the disciplinary action or the final maltreatment  
300.27 determination, consistent with the definition of public data under section 13.41, subdivision  
300.28 5, and must provide the Professional Educator Licensing and Standards Board and the  
300.29 licensing division at the department with the necessary and relevant information to enable  
300.30 the Professional Educator Licensing and Standards Board and the department's licensing  
300.31 division to fulfill their statutory and administrative duties related to issuing, renewing,  
300.32 suspending, or revoking a teacher's license. Information received by the Professional Educator  
300.33 Licensing and Standards Board or the licensing division at the department under this  
300.34 paragraph is governed by section 13.41 or other applicable law governing data of the

301.1 receiving entity. In addition to the background check required under section 123B.03, a  
301.2 school board or other school hiring authority must contact the Professional Educator  
301.3 Licensing and Standards Board and the department to determine whether the teacher's license  
301.4 has been suspended or revoked, consistent with the discharge and final maltreatment  
301.5 determinations identified in this paragraph. Unless restricted by federal or state data practices  
301.6 law or by the terms of a collective bargaining agreement, the responsible authority for a  
301.7 school district must disseminate to another school district private personnel data on a current  
301.8 or former teacher employee or contractor of the district, including the results of background  
301.9 investigations, if the requesting school district seeks the information because the subject of  
301.10 the data has applied for employment with the requesting school district.

301.11 Sec. 17. Minnesota Statutes 2018, section 125A.0942, subdivision 4, is amended to read:

301.12 Subd. 4. **Prohibitions.** The following actions or procedures are prohibited:

301.13 (1) engaging in conduct prohibited under section 121A.58;

301.14 (2) requiring a child to assume and maintain a specified physical position, activity, or  
301.15 posture that induces physical pain;

301.16 (3) totally or partially restricting a child's senses as punishment;

301.17 (4) presenting an intense sound, light, or other sensory stimuli using smell, taste,  
301.18 substance, or spray as punishment;

301.19 (5) denying or restricting a child's access to equipment and devices such as walkers,  
301.20 wheelchairs, hearing aids, and communication boards that facilitate the child's functioning,  
301.21 except when temporarily removing the equipment or device is needed to prevent injury to  
301.22 the child or others or serious damage to the equipment or device, in which case the equipment  
301.23 or device shall be returned to the child as soon as possible;

301.24 (6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical  
301.25 abuse under ~~section 626.556~~ chapter 260E;

301.26 (7) withholding regularly scheduled meals or water;

301.27 (8) denying access to bathroom facilities;

301.28 (9) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs  
301.29 a child's ability to communicate distress, places pressure or weight on a child's head, throat,  
301.30 neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's  
301.31 torso; and

301.32 (10) prone restraint.

302.1 Sec. 18. Minnesota Statutes 2018, section 135A.15, subdivision 10, is amended to read:

302.2 Subd. 10. **Applicability of other laws.** This section does not exempt mandatory reporters  
302.3 from the requirements of section ~~626.556~~ or 626.557 or chapter 260E governing the reporting  
302.4 of maltreatment of minors or vulnerable adults. Nothing in this section limits the authority  
302.5 of an institution to comply with other applicable state or federal laws related to investigations  
302.6 or reports of sexual harassment, sexual violence, or sexual assault.

302.7 Sec. 19. Minnesota Statutes 2018, section 144.225, subdivision 2b, is amended to read:

302.8 Subd. 2b. **Commissioner of health; duties.** Notwithstanding the designation of certain  
302.9 of this data as confidential under subdivision 2 or private under subdivision 2a, the  
302.10 commissioner shall give the commissioner of human services access to birth record data  
302.11 and data contained in recognitions of parentage prepared according to section 257.75  
302.12 necessary to enable the commissioner of human services to identify a child who is subject  
302.13 to threatened injury, as defined in section ~~626.556, subdivision 2, paragraph (p)~~ 260E.03,  
302.14 subdivision 23, by a person responsible for the child's care, as defined in section ~~626.556,~~  
302.15 ~~subdivision 2, paragraph (j), clause (1)~~ 260E.03, subdivision 17. The commissioner shall  
302.16 be given access to all data included on official birth records.

302.17 Sec. 20. Minnesota Statutes 2018, section 144.343, subdivision 4, is amended to read:

302.18 Subd. 4. **Limitations.** No notice shall be required under this section if:

302.19 (1) the attending physician certifies in the pregnant woman's medical record that the  
302.20 abortion is necessary to prevent the woman's death and there is insufficient time to provide  
302.21 the required notice; or

302.22 (2) the abortion is authorized in writing by the person or persons who are entitled to  
302.23 notice; or

302.24 (3) the pregnant minor woman declares that she is a victim of sexual abuse, neglect, or  
302.25 physical abuse as defined in ~~section 626.556~~ chapter 260E. Notice of that declaration shall  
302.26 be made to the proper authorities as provided in section ~~626.556, subdivision 3~~ 260E.06.

302.27 Sec. 21. Minnesota Statutes 2018, section 144.7065, subdivision 10, is amended to read:

302.28 Subd. 10. **Relation to other law; data classification.** (a) Adverse health events described  
302.29 in subdivisions 2 to 6 do not constitute "maltreatment," "neglect," or "a physical injury that  
302.30 is not reasonably explained" under section ~~626.556~~ or 626.557 or chapter 260E and are  
302.31 excluded from the reporting requirements of ~~sections 626.556 and section 626.557~~ and section 626.557 and

303.1 chapter 260E, provided the facility makes a determination within 24 hours of the discovery  
303.2 of the event that this section is applicable and the facility files the reports required under  
303.3 this section in a timely fashion.

303.4 (b) A facility that has determined that an event described in subdivisions 2 to 6 has  
303.5 occurred must inform persons who are mandated reporters under section ~~626.556, subdivision~~  
303.6 ~~3, 260E.06~~ or 626.5572, subdivision 16, of that determination. A mandated reporter otherwise  
303.7 required to report under section ~~626.556, subdivision 3, 260E.06~~ or 626.557, subdivision  
303.8 3, paragraph (e), is relieved of the duty to report an event that the facility determines under  
303.9 paragraph (a) to be reportable under subdivisions 2 to 6.

303.10 (c) The protections and immunities applicable to voluntary reports under ~~sections 626.556~~  
303.11 ~~and section 626.557~~ and chapter 260E are not affected by this section.

303.12 (d) Notwithstanding section ~~626.556, 626.557, chapter 260E~~, or any other provision of  
303.13 Minnesota statute or rule to the contrary, a lead agency under section ~~626.556, subdivision~~  
303.14 ~~3e 260E.14, subdivision 1, paragraphs (a), (b), and (c)~~, a lead investigative agency under  
303.15 section 626.5572, subdivision 13, the commissioner of health, or the director of the Office  
303.16 of Health Facility Complaints is not required to conduct an investigation of or obtain or  
303.17 create investigative data or reports regarding an event described in subdivisions 2 to 6. If  
303.18 the facility satisfies the requirements described in paragraph (a), the review or investigation  
303.19 shall be conducted and data or reports shall be obtained or created only under sections  
303.20 144.706 to 144.7069, except as permitted or required under sections 144.50 to 144.564, or  
303.21 as necessary to carry out the state's certification responsibility under the provisions of  
303.22 sections 1864 and 1867 of the Social Security Act. If a licensed health care provider reports  
303.23 an event to the facility required to be reported under subdivisions 2 to 6 in a timely manner,  
303.24 the provider's licensing board is not required to conduct an investigation of or obtain or  
303.25 create investigative data or reports regarding the individual reporting of the events described  
303.26 in subdivisions 2 to 6.

303.27 (e) Data contained in the following records are nonpublic and, to the extent they contain  
303.28 data on individuals, confidential data on individuals, as defined in section 13.02:

303.29 (1) reports provided to the commissioner under sections 147.155, 147A.155, 148.267,  
303.30 151.301, and 153.255;

303.31 (2) event reports, findings of root cause analyses, and corrective action plans filed by a  
303.32 facility under this section; and

303.33 (3) records created or obtained by the commissioner in reviewing or investigating the  
303.34 reports, findings, and plans described in clause (2).

304.1 For purposes of the nonpublic data classification contained in this paragraph, the reporting  
304.2 facility shall be deemed the subject of the data.

304.3 Sec. 22. Minnesota Statutes 2018, section 144.7068, is amended to read:

304.4 **144.7068 REPORTS FROM LICENSING BOARDS.**

304.5 (a) Effective upon full implementation of the adverse health care events reporting system,  
304.6 the records maintained under sections 147.155, 147A.155, 148.267, 151.301, and 153.255,  
304.7 shall be reported to the commissioner on the schedule established in those sections.

304.8 (b) The commissioner shall forward these reports to the facility named in the report.

304.9 (c) The facility shall determine whether the event has been previously reported under  
304.10 section 144.7065. The facility shall notify the commissioner whether the event has been  
304.11 reported previously. If the event has not been previously reported, the facility shall make a  
304.12 determination whether the event was reportable under section 144.7065. If the facility  
304.13 determines the event was reportable, the date of discovery of the event for the purposes of  
304.14 section 144.7065, subdivision 10, paragraph (d), shall be as follows:

304.15 (1) if the commissioner determines that the facility knew or reasonably should have  
304.16 known about the occurrence of the event, the date the event occurred shall be the date of  
304.17 discovery. The facility shall be considered out of compliance with the reporting act, and  
304.18 the event shall be subject to ~~sections 626.556 and~~ section 626.557 and chapter 260E; or

304.19 (2) if the commissioner determines that the facility did not know about the occurrence  
304.20 of the event, the date the facility receives the report from the commissioner shall serve as  
304.21 the date of discovery.

304.22 If the facility determines that the event was not reportable under section 144.7065, the  
304.23 facility shall notify the commissioner of that determination.

304.24 Sec. 23. Minnesota Statutes 2018, section 144A.472, subdivision 1, is amended to read:

304.25 Subdivision 1. **License applications.** Each application for a home care provider license  
304.26 must include information sufficient to show that the applicant meets the requirements of  
304.27 licensure, including:

304.28 (1) the applicant's name, e-mail address, physical address, and mailing address, including  
304.29 the name of the county in which the applicant resides and has a principal place of business;

304.30 (2) the initial license fee in the amount specified in subdivision 7;



- 305.1 (3) the e-mail address, physical address, mailing address, and telephone number of the  
305.2 principal administrative office;
- 305.3 (4) the e-mail address, physical address, mailing address, and telephone number of each  
305.4 branch office, if any;
- 305.5 (5) the names, e-mail and mailing addresses, and telephone numbers of all owners and  
305.6 managerial officials;
- 305.7 (6) documentation of compliance with the background study requirements of section  
305.8 144A.476 for all persons involved in the management, operation, or control of the home  
305.9 care provider;
- 305.10 (7) documentation of a background study as required by section 144.057 for any  
305.11 individual seeking employment, paid or volunteer, with the home care provider;
- 305.12 (8) evidence of workers' compensation coverage as required by sections 176.181 and  
305.13 176.182;
- 305.14 (9) documentation of liability coverage, if the provider has it;
- 305.15 (10) identification of the license level the provider is seeking;
- 305.16 (11) documentation that identifies the managerial official who is in charge of day-to-day  
305.17 operations and attestation that the person has reviewed and understands the home care  
305.18 provider regulations;
- 305.19 (12) documentation that the applicant has designated one or more owners, managerial  
305.20 officials, or employees as an agent or agents, which shall not affect the legal responsibility  
305.21 of any other owner or managerial official under this chapter;
- 305.22 (13) the signature of the officer or managing agent on behalf of an entity, corporation,  
305.23 association, or unit of government;
- 305.24 (14) verification that the applicant has the following policies and procedures in place so  
305.25 that if a license is issued, the applicant will implement the policies and procedures and keep  
305.26 them current:
- 305.27 (i) requirements in ~~sections 626.556~~ chapter 260E, reporting of maltreatment of minors,  
305.28 and section 626.557, reporting of maltreatment of vulnerable adults;
- 305.29 (ii) conducting and handling background studies on employees;
- 305.30 (iii) orientation, training, and competency evaluations of home care staff, and a process  
305.31 for evaluating staff performance;

- 306.1 (iv) handling complaints from clients, family members, or client representatives regarding  
306.2 staff or services provided by staff;
- 306.3 (v) conducting initial evaluation of clients' needs and the providers' ability to provide  
306.4 those services;
- 306.5 (vi) conducting initial and ongoing client evaluations and assessments and how changes  
306.6 in a client's condition are identified, managed, and communicated to staff and other health  
306.7 care providers as appropriate;
- 306.8 (vii) orientation to and implementation of the home care client bill of rights;
- 306.9 (viii) infection control practices;
- 306.10 (ix) reminders for medications, treatments, or exercises, if provided; and
- 306.11 (x) conducting appropriate screenings, or documentation of prior screenings, to show  
306.12 that staff are free of tuberculosis, consistent with current United States Centers for Disease  
306.13 Control and Prevention standards; and
- 306.14 (15) other information required by the department.

306.15 Sec. 24. Minnesota Statutes 2018, section 144A.479, subdivision 6, is amended to read:

306.16 Subd. 6. **Reporting maltreatment of vulnerable adults and minors.** (a) All home care  
306.17 providers must comply with requirements for the reporting of maltreatment of minors in  
306.18 ~~section 626.556~~ chapter 260E and the requirements for the reporting of maltreatment of  
306.19 vulnerable adults in section 626.557. Each home care provider must establish and implement  
306.20 a written procedure to ensure that all cases of suspected maltreatment are reported.

306.21 (b) Each home care provider must develop and implement an individual abuse prevention  
306.22 plan for each vulnerable minor or adult for whom home care services are provided by a  
306.23 home care provider. The plan shall contain an individualized review or assessment of the  
306.24 person's susceptibility to abuse by another individual, including other vulnerable adults or  
306.25 minors; the person's risk of abusing other vulnerable adults or minors; and statements of  
306.26 the specific measures to be taken to minimize the risk of abuse to that person and other  
306.27 vulnerable adults or minors. For purposes of the abuse prevention plan, the term abuse  
306.28 includes self-abuse.

306.29 Sec. 25. Minnesota Statutes 2019 Supplement, section 144A.4796, subdivision 2, is  
306.30 amended to read:

306.31 Subd. 2. **Content.** (a) The orientation must contain the following topics:

- 307.1 (1) an overview of sections 144A.43 to 144A.4798;
- 307.2 (2) introduction and review of all the provider's policies and procedures related to the  
307.3 provision of home care services by the individual staff person;
- 307.4 (3) handling of emergencies and use of emergency services;
- 307.5 (4) compliance with and reporting of the maltreatment of minors or vulnerable adults  
307.6 under ~~sections 626.556 and~~ section 626.557 and chapter 260E;
- 307.7 (5) home care bill of rights under section 144A.44;
- 307.8 (6) handling of clients' complaints, reporting of complaints, and where to report  
307.9 complaints including information on the Office of Health Facility Complaints and the  
307.10 Common Entry Point;
- 307.11 (7) consumer advocacy services of the Office of Ombudsman for Long-Term Care,  
307.12 Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care  
307.13 Ombudsman at the Department of Human Services, county managed care advocates, or  
307.14 other relevant advocacy services; and
- 307.15 (8) review of the types of home care services the employee will be providing and the  
307.16 provider's scope of licensure.
- 307.17 (b) In addition to the topics listed in paragraph (a), orientation may also contain training  
307.18 on providing services to clients with hearing loss. Any training on hearing loss provided  
307.19 under this subdivision must be high quality and research-based, may include online training,  
307.20 and must include training on one or more of the following topics:
- 307.21 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,  
307.22 and challenges it poses to communication;
- 307.23 (2) health impacts related to untreated age-related hearing loss, such as increased  
307.24 incidence of dementia, falls, hospitalizations, isolation, and depression; or
- 307.25 (3) information about strategies and technology that may enhance communication and  
307.26 involvement, including communication strategies, assistive listening devices, hearing aids,  
307.27 visual and tactile alerting devices, communication access in real time, and closed captions.
- 307.28 Sec. 26. Minnesota Statutes 2018, section 144A.4796, subdivision 6, is amended to read:
- 307.29 Subd. 6. **Required annual training.** (a) All staff that perform direct home care services  
307.30 must complete at least eight hours of annual training for each 12 months of employment.  
307.31 The training may be obtained from the home care provider or another source and must

308.1 include topics relevant to the provision of home care services. The annual training must  
308.2 include:

308.3 (1) training on reporting of maltreatment of minors under ~~section 626.556~~ chapter 260E  
308.4 and maltreatment of vulnerable adults under section 626.557, whichever is applicable to  
308.5 the services provided;

308.6 (2) review of the home care bill of rights in section 144A.44;

308.7 (3) review of infection control techniques used in the home and implementation of  
308.8 infection control standards including a review of hand-washing techniques; the need for  
308.9 and use of protective gloves, gowns, and masks; appropriate disposal of contaminated  
308.10 materials and equipment, such as dressings, needles, syringes, and razor blades; disinfecting  
308.11 reusable equipment; disinfecting environmental surfaces; and reporting of communicable  
308.12 diseases; and

308.13 (4) review of the provider's policies and procedures relating to the provision of home  
308.14 care services and how to implement those policies and procedures.

308.15 (b) In addition to the topics listed in paragraph (a), annual training may also contain  
308.16 training on providing services to clients with hearing loss. Any training on hearing loss  
308.17 provided under this subdivision must be high quality and research-based, may include online  
308.18 training, and must include training on one or more of the following topics:

308.19 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,  
308.20 and challenges it poses to communication;

308.21 (2) health impacts related to untreated age-related hearing loss, such as increased  
308.22 incidence of dementia, falls, hospitalizations, isolation, and depression; or

308.23 (3) information about strategies and technology that may enhance communication and  
308.24 involvement, including communication strategies, assistive listening devices, hearing aids,  
308.25 visual and tactile alerting devices, communication access in real time, and closed captions.

308.26 Sec. 27. Minnesota Statutes 2018, section 144H.16, subdivision 1, is amended to read:

308.27 Subdivision 1. **Reporting of maltreatment of minors.** A PPEC center must develop  
308.28 policies and procedures for reporting suspected child maltreatment that fulfill the  
308.29 requirements of ~~section 626.556~~ chapter 260E. The policies and procedures must include  
308.30 the telephone numbers of the local county child protection agency for reporting suspected  
308.31 maltreatment. The policies and procedures specified in this subdivision must be provided

309.1 to the parents or guardians of all children at the time of admission to the PPEC center and  
309.2 must be available upon request.

309.3 Sec. 28. Minnesota Statutes 2018, section 144H.18, subdivision 3, is amended to read:

309.4 Subd. 3. **Fines for violations of other statutes.** The commissioner shall impose a fine  
309.5 of \$250 on a PPEC center, employee, or contractor for each violation by that PPEC center,  
309.6 employee, or contractor of section 144H.16, subdivision 2, ~~or 626.556~~ or chapter 260E.

309.7 Sec. 29. Minnesota Statutes 2018, section 145.902, subdivision 3, is amended to read:

309.8 Subd. 3. **Immunity.** (a) A safe place with responsibility for performing duties under  
309.9 this section, and any employee, doctor, ambulance personnel, or other medical professional  
309.10 working at the safe place, are immune from any criminal liability that otherwise might result  
309.11 from their actions, if they are acting in good faith in receiving a newborn, and are immune  
309.12 from any civil liability that otherwise might result from merely receiving a newborn.

309.13 (b) A safe place performing duties under this section, or an employee, doctor, ambulance  
309.14 personnel, or other medical professional working at the safe place who is a mandated reporter  
309.15 under ~~section 626.556~~ chapter 260E, is immune from any criminal or civil liability that  
309.16 otherwise might result from the failure to make a report under that section if the person is  
309.17 acting in good faith in complying with this section.

309.18 Sec. 30. Minnesota Statutes 2018, section 145.952, subdivision 2, is amended to read:

309.19 Subd. 2. **Abuse.** "Abuse" means physical abuse, sexual abuse, neglect, mental injury,  
309.20 and threatened injury, as those terms are defined in ~~section 626.556, subdivision 2~~ chapter  
309.21 260E.

309.22 Sec. 31. Minnesota Statutes 2018, section 146A.025, is amended to read:

309.23 **146A.025 MALTREATMENT OF MINORS.**

309.24 Nothing in this chapter shall restrict the ability of a local welfare agency, local law  
309.25 enforcement agency, the commissioner of human services, or the state to take action regarding  
309.26 the maltreatment of minors under section 609.378 ~~or 626.556~~ or chapter 260E. A parent  
309.27 who obtains complementary and alternative health care for the parent's minor child is not  
309.28 relieved of the duty to seek necessary medical care consistent with the requirements of  
309.29 ~~sections~~ section 609.378 and 626.556 and chapter 260E. A complementary or alternative  
309.30 health care practitioner who is providing services to a child who is not receiving necessary  
309.31 medical care must make a report under ~~section 626.556~~ chapter 260E. A complementary

310.1 or alternative health care provider is a mandated reporter under section ~~626.556, subdivision~~  
310.2 ~~3~~ 260E.06.

310.3 Sec. 32. Minnesota Statutes 2019 Supplement, section 148B.593, is amended to read:

310.4 **148B.593 DISCLOSURE OF INFORMATION.**

310.5 (a) A person licensed under sections 148B.50 to 148B.593 may not disclose without  
310.6 written consent of the client any communication made by the client to the licensee in the  
310.7 course of the practice of professional counseling, nor may any employee of the licensee  
310.8 reveal the information without the consent of the employer or client except as provided  
310.9 under section ~~626.556~~ or 626.557 or chapter 260E.

310.10 (b) For purposes of sections 148B.50 to 148B.593, the confidential relations and  
310.11 communications between the licensee and a client are placed upon the same basis as those  
310.12 that exist between a licensed psychologist and client. Nothing in sections 148B.50 to  
310.13 148B.593 may be construed to require any communications to be disclosed except by court  
310.14 order or as provided in paragraph (c).

310.15 (c) Private information may be disclosed without the consent of the client when a duty  
310.16 to warn arises, or as otherwise provided by law or court order. The duty to warn of, or take  
310.17 reasonable precautions to provide protection from, violent behavior arises only when a client  
310.18 or other person has communicated to the provider a specific, serious threat of physical  
310.19 violence to self or a specific, clearly identified or identifiable potential victim. If a duty to  
310.20 warn arises, the duty is discharged by the provider if reasonable efforts are made to  
310.21 communicate the threat to law enforcement agencies, the potential victim, the family of the  
310.22 client, or appropriate third parties who are in a position to prevent or avert the harm. No  
310.23 monetary liability and no cause of action or disciplinary action by the board may arise  
310.24 against a provider for disclosure of confidences to third parties, for failure to disclose  
310.25 confidences to third parties, or for erroneous disclosure of confidences to third parties in a  
310.26 good faith effort to warn against or take precautions against a client's violent behavior or  
310.27 threat of suicide.

310.28 (d) For purposes of this section, (1) "provider" includes a licensee, an applicant for  
310.29 licensure, and a student or intern practicing professional counseling or professional clinical  
310.30 counseling under supervision as part of an accredited graduate educational program or under  
310.31 a supervised postgraduate experience in professional counseling or professional clinical  
310.32 counseling required for licensure; (2) "other person" means an immediate family member  
310.33 or someone who personally knows the client and has reason to believe the client is capable  
310.34 of and will carry out the serious, specific threat of harm to a specific, clearly identified, or

311.1 identifiable victim; and (3) "reasonable efforts" means communicating the serious, specific  
311.2 threat to the potential victim and if unable to make contact with the potential victim,  
311.3 communicating the serious, specific threat to the law enforcement agency closest to the  
311.4 potential victim of the client.

311.5 Sec. 33. Minnesota Statutes 2018, section 148E.240, subdivision 7, is amended to read:

311.6 Subd. 7. **Reporting maltreatment of minors.** An applicant or licensee must comply  
311.7 with the reporting of maltreatment of minors established by ~~section 626.556~~ chapter 260E.

311.8 Sec. 34. Minnesota Statutes 2018, section 148F.13, subdivision 12, is amended to read:

311.9 Subd. 12. **Abuse or neglect of minors or vulnerable adults.** An applicant or licensee  
311.10 must comply with the reporting of maltreatment of minors established in ~~section 626.556~~  
311.11 chapter 260E and the reporting of maltreatment of vulnerable adults established in section  
311.12 626.557.

311.13 Sec. 35. Minnesota Statutes 2018, section 148F.205, subdivision 1, is amended to read:

311.14 Subdivision 1. **Mandatory reporting requirements.** A provider is required to file a  
311.15 complaint when the provider knows or has reason to believe that another provider:

311.16 (1) is unable to practice with reasonable skill and safety as a result of a physical or mental  
311.17 illness or condition, including, but not limited to, substance abuse or dependence, except  
311.18 that this mandated reporting requirement is deemed fulfilled by a report made to the Health  
311.19 Professionals Services Program (HPSP) as provided by section 214.33, subdivision 1;

311.20 (2) is engaging in or has engaged in sexual behavior with a client or former client in  
311.21 violation of section 148F.165, subdivision 6 or 7;

311.22 (3) has failed to report abuse or neglect of children or vulnerable adults in violation of  
311.23 ~~section 626.556 or 626.557~~ chapter 260E; or

311.24 (4) has employed fraud or deception in obtaining or renewing an alcohol and drug  
311.25 counseling license.

311.26 Sec. 36. Minnesota Statutes 2018, section 153B.70, is amended to read:

311.27 **153B.70 GROUNDS FOR DISCIPLINARY ACTION.**

311.28 (a) The board may refuse to issue or renew a license, revoke or suspend a license, or  
311.29 place on probation or reprimand a licensee for one or any combination of the following:

- 312.1 (1) making a material misstatement in furnishing information to the board;
- 312.2 (2) violating or intentionally disregarding the requirements of this chapter;
- 312.3 (3) conviction of a crime, including a finding or verdict of guilt, an admission of guilt,  
312.4 or a no-contest plea, in this state or elsewhere, reasonably related to the practice of the  
312.5 profession. Conviction, as used in this clause, includes a conviction of an offense which, if  
312.6 committed in this state, would be deemed a felony, gross misdemeanor, or misdemeanor,  
312.7 without regard to its designation elsewhere, or a criminal proceeding where a finding or  
312.8 verdict of guilty is made or returned but the adjudication of guilt is either withheld or not  
312.9 entered;
- 312.10 (4) making a misrepresentation in order to obtain or renew a license;
- 312.11 (5) displaying a pattern of practice or other behavior that demonstrates incapacity or  
312.12 incompetence to practice;
- 312.13 (6) aiding or assisting another person in violating the provisions of this chapter;
- 312.14 (7) failing to provide information within 60 days in response to a written request from  
312.15 the board, including documentation of completion of continuing education requirements;
- 312.16 (8) engaging in dishonorable, unethical, or unprofessional conduct;
- 312.17 (9) engaging in conduct of a character likely to deceive, defraud, or harm the public;
- 312.18 (10) inability to practice due to habitual intoxication, addiction to drugs, or mental or  
312.19 physical illness;
- 312.20 (11) being disciplined by another state or territory of the United States, the federal  
312.21 government, a national certification organization, or foreign nation, if at least one of the  
312.22 grounds for the discipline is the same or substantially equivalent to one of the grounds in  
312.23 this section;
- 312.24 (12) directly or indirectly giving to or receiving from a person, firm, corporation,  
312.25 partnership, or association a fee, commission, rebate, or other form of compensation for  
312.26 professional services not actually or personally rendered;
- 312.27 (13) incurring a finding by the board that the licensee, after the licensee has been placed  
312.28 on probationary status, has violated the conditions of the probation;
- 312.29 (14) abandoning a patient or client;



313.1 (15) willfully making or filing false records or reports in the course of the licensee's  
313.2 practice including, but not limited to, false records or reports filed with state or federal  
313.3 agencies;

313.4 (16) willfully failing to report child maltreatment as required under the Maltreatment of  
313.5 Minors Act, ~~section 626.556~~ chapter 260E; or

313.6 (17) soliciting professional services using false or misleading advertising.

313.7 (b) A license to practice is automatically suspended if (1) a guardian of a licensee is  
313.8 appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other  
313.9 than the minority of the licensee, or (2) the licensee is committed by order of a court pursuant  
313.10 to chapter 253B. The license remains suspended until the licensee is restored to capacity  
313.11 by a court and, upon petition by the licensee, the suspension is terminated by the board after  
313.12 a hearing. The licensee may be reinstated to practice, either with or without restrictions, by  
313.13 demonstrating clear and convincing evidence of rehabilitation. The regulated person is not  
313.14 required to prove rehabilitation if the subsequent court decision overturns previous court  
313.15 findings of public risk.

313.16 (c) If the board has probable cause to believe that a licensee or applicant has violated  
313.17 paragraph (a), clause (10), it may direct the person to submit to a mental or physical  
313.18 examination. For the purpose of this section, every person is deemed to have consented to  
313.19 submit to a mental or physical examination when directed in writing by the board and to  
313.20 have waived all objections to the admissibility of the examining physician's testimony or  
313.21 examination report on the grounds that the testimony or report constitutes a privileged  
313.22 communication. Failure of a regulated person to submit to an examination when directed  
313.23 constitutes an admission of the allegations against the person, unless the failure was due to  
313.24 circumstances beyond the person's control, in which case a default and final order may be  
313.25 entered without the taking of testimony or presentation of evidence. A regulated person  
313.26 affected under this paragraph shall at reasonable intervals be given an opportunity to  
313.27 demonstrate that the person can resume the competent practice of the regulated profession  
313.28 with reasonable skill and safety to the public. In any proceeding under this paragraph, neither  
313.29 the record of proceedings nor the orders entered by the board shall be used against a regulated  
313.30 person in any other proceeding.

313.31 (d) In addition to ordering a physical or mental examination, the board may,  
313.32 notwithstanding section 13.384 or 144.293, or any other law limiting access to medical or  
313.33 other health data, obtain medical data and health records relating to a licensee or applicant  
313.34 without the person's or applicant's consent if the board has probable cause to believe that a

314.1 licensee is subject to paragraph (a), clause (10). The medical data may be requested from  
314.2 a provider as defined in section 144.291, subdivision 2, paragraph (i), an insurance company,  
314.3 or a government agency, including the Department of Human Services. A provider, insurance  
314.4 company, or government agency shall comply with any written request of the board under  
314.5 this section and is not liable in any action for damages for releasing the data requested by  
314.6 the board if the data are released pursuant to a written request under this section, unless the  
314.7 information is false and the provider giving the information knew, or had reason to know,  
314.8 the information was false. Information obtained under this section is private data on  
314.9 individuals as defined in section 13.02.

314.10 (e) If the board issues an order of immediate suspension of a license, a hearing must be  
314.11 held within 30 days of the suspension and completed without delay.

314.12 Sec. 37. Minnesota Statutes 2018, section 214.103, subdivision 8, is amended to read:

314.13 Subd. 8. **Dismissal and reopening of a complaint.** (a) A complaint may not be dismissed  
314.14 without the concurrence of at least two board members and, upon the request of the  
314.15 complainant, a review by a representative of the attorney general's office. The designee of  
314.16 the attorney general must review before dismissal any complaints which allege any violation  
314.17 of chapter 609, any conduct which would be required to be reported under section ~~626.556~~  
314.18 ~~or 626.557~~ or chapter 260E, any sexual contact or sexual conduct with a client, any violation  
314.19 of a federal law, any actual or potential inability to practice the regulated profession or  
314.20 occupation by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or  
314.21 as a result of any mental or physical condition, any violation of state medical assistance  
314.22 laws, or any disciplinary action related to credentialing in another jurisdiction or country  
314.23 which was based on the same or related conduct specified in this subdivision.

314.24 (b) The board may reopen a dismissed complaint if the board receives newly discovered  
314.25 information that was not available to the board during the initial investigation of the  
314.26 complaint, or if the board receives a new complaint that indicates a pattern of behavior or  
314.27 conduct.

314.28 Sec. 38. Minnesota Statutes 2018, section 214.104, is amended to read:

314.29 **214.104 HEALTH-RELATED LICENSING BOARDS; SUBSTANTIATED**  
314.30 **MALTREATMENT.**

314.31 (a) A health-related licensing board shall make determinations as to whether regulated  
314.32 persons who are under the board's jurisdiction should be the subject of disciplinary or  
314.33 corrective action because of substantiated maltreatment under section ~~626.556~~ ~~or 626.557~~.

315.1 or chapter 260E. The board shall make a determination upon receipt, and after the review,  
315.2 of an investigation memorandum or other notice of substantiated maltreatment under section  
315.3 ~~626.556~~ or 626.557, chapter 260E, or of a notice from the commissioner of human services  
315.4 that a background study of a regulated person shows substantiated maltreatment.

315.5 (b) Upon completion of its review of a report of substantiated maltreatment, the board  
315.6 shall notify the commissioner of human services of its determination. The board shall notify  
315.7 the commissioner of human services if, following a review of the report of substantiated  
315.8 maltreatment, the board determines that it does not have jurisdiction in the matter and the  
315.9 commissioner shall make the appropriate disqualification decision regarding the regulated  
315.10 person as otherwise provided in chapter 245C. The board shall also notify the commissioner  
315.11 of health or the commissioner of human services immediately upon receipt of knowledge  
315.12 of a facility or program allowing a regulated person to provide direct contact services at the  
315.13 facility or program while not complying with requirements placed on the regulated person.

315.14 (c) In addition to any other remedy provided by law, the board may, through its designated  
315.15 board member, temporarily suspend the license of a licensee; deny a credential to an  
315.16 applicant; or require the regulated person to be continuously supervised, if the board finds  
315.17 there is probable cause to believe the regulated person referred to the board according to  
315.18 paragraph (a) poses an immediate risk of harm to vulnerable persons. The board shall  
315.19 consider all relevant information available, which may include but is not limited to:

315.20 (1) the extent the action is needed to protect persons receiving services or the public;

315.21 (2) the recency of the maltreatment;

315.22 (3) the number of incidents of maltreatment;

315.23 (4) the intrusiveness or violence of the maltreatment; and

315.24 (5) the vulnerability of the victim of maltreatment.

315.25 The action shall take effect upon written notice to the regulated person, served by certified  
315.26 mail, specifying the statute violated. The board shall notify the commissioner of health or  
315.27 the commissioner of human services of the suspension or denial of a credential. The action  
315.28 shall remain in effect until the board issues a temporary stay or a final order in the matter  
315.29 after a hearing or upon agreement between the board and the regulated person. At the time  
315.30 the board issues the notice, the regulated person shall inform the board of all settings in  
315.31 which the regulated person is employed or practices. The board shall inform all known  
315.32 employment and practice settings of the board action and schedule a disciplinary hearing  
315.33 to be held under chapter 14. The board shall provide the regulated person with at least 30

316.1 days' notice of the hearing, unless the parties agree to a hearing date that provides less than  
316.2 30 days' notice, and shall schedule the hearing to begin no later than 90 days after issuance  
316.3 of the notice of hearing.

316.4 Sec. 39. Minnesota Statutes 2019 Supplement, section 243.166, subdivision 7, is amended  
316.5 to read:

316.6 Subd. 7. **Use of data.** (a) Except as otherwise provided in subdivision 4b or 7a or sections  
316.7 244.052 and 299C.093, the data provided under this section is private data on individuals  
316.8 under section 13.02, subdivision 12.

316.9 (b) The data may be used only by law enforcement and corrections agencies for law  
316.10 enforcement and corrections purposes. Law enforcement or a corrections agent may disclose  
316.11 the status of an individual as a predatory offender to a child protection worker with a local  
316.12 welfare agency for purposes of doing a family assessment under ~~section 626.556~~ chapter  
316.13 260E. A corrections agent may also disclose the status of an individual as a predatory  
316.14 offender to comply with section 244.057.

316.15 (c) The commissioner of human services is authorized to have access to the data for:

316.16 (1) state-operated services, as defined in section 246.014, for the purposes described in  
316.17 section 246.13, subdivision 2, paragraph (b); and

316.18 (2) purposes of completing background studies under chapter 245C.

316.19 Sec. 40. Minnesota Statutes 2018, section 245.8261, subdivision 9, is amended to read:

316.20 Subd. 9. **Conditions on use of restrictive procedures.** Restrictive procedures must not:

316.21 (1) be implemented with a child in a manner that constitutes sexual abuse, neglect, or  
316.22 physical abuse under ~~section 626.556~~ chapter 260E, the reporting of maltreatment of minors;

316.23 (2) restrict a child's normal access to a nutritious diet, drinking water, adequate ventilation,  
316.24 necessary medical care, ordinary hygiene facilities, or necessary clothing or to any protection  
316.25 required by state licensing standards and federal regulations governing the program;

316.26 (3) be used as punishment or for the convenience of staff; or

316.27 (4) deny the child visitation or contact with legal counsel and next of kin.

317.1 Sec. 41. Minnesota Statutes 2018, section 245A.04, subdivision 5, is amended to read:

317.2 Subd. 5. **Commissioner's right of access.** (a) When the commissioner is exercising the  
317.3 powers conferred by this chapter ~~and~~<sup>2</sup> sections 245.69, ~~626.556~~, and 626.557, and chapter  
317.4 260E, the commissioner must be given access to:

317.5 (1) the physical plant and grounds where the program is provided;

317.6 (2) documents and records, including records maintained in electronic format;

317.7 (3) persons served by the program; and

317.8 (4) staff and personnel records of current and former staff whenever the program is in  
317.9 operation and the information is relevant to inspections or investigations conducted by the  
317.10 commissioner. Upon request, the license holder must provide the commissioner verification  
317.11 of documentation of staff work experience, training, or educational requirements.

317.12 The commissioner must be given access without prior notice and as often as the  
317.13 commissioner considers necessary if the commissioner is investigating alleged maltreatment,  
317.14 conducting a licensing inspection, or investigating an alleged violation of applicable laws  
317.15 or rules. In conducting inspections, the commissioner may request and shall receive assistance  
317.16 from other state, county, and municipal governmental agencies and departments. The  
317.17 applicant or license holder shall allow the commissioner to photocopy, photograph, and  
317.18 make audio and video tape recordings during the inspection of the program at the  
317.19 commissioner's expense. The commissioner shall obtain a court order or the consent of the  
317.20 subject of the records or the parents or legal guardian of the subject before photocopying  
317.21 hospital medical records.

317.22 (b) Persons served by the program have the right to refuse to consent to be interviewed,  
317.23 photographed, or audio or videotaped. Failure or refusal of an applicant or license holder  
317.24 to fully comply with this subdivision is reasonable cause for the commissioner to deny the  
317.25 application or immediately suspend or revoke the license.

317.26 Sec. 42. Minnesota Statutes 2018, section 245A.06, subdivision 8, is amended to read:

317.27 Subd. 8. **Requirement to post conditional license.** For licensed family child care  
317.28 providers and child care centers, upon receipt of any order of conditional license issued by  
317.29 the commissioner under this section, and notwithstanding a pending request for  
317.30 reconsideration of the order of conditional license by the license holder, the license holder  
317.31 shall post the order of conditional license in a place that is conspicuous to the people receiving  
317.32 services and all visitors to the facility for two years. When the order of conditional license  
317.33 is accompanied by a maltreatment investigation memorandum prepared under section

318.1 ~~626.556~~ or 626.557 or chapter 260E, the investigation memoranda must be posted with the  
318.2 order of conditional license.

318.3 Sec. 43. Minnesota Statutes 2019 Supplement, section 245A.07, subdivision 3, is amended  
318.4 to read:

318.5 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend  
318.6 or revoke a license, or impose a fine if:

318.7 (1) a license holder fails to comply fully with applicable laws or rules including but not  
318.8 limited to the requirements of this chapter and chapter 245C;

318.9 (2) a license holder, a controlling individual, or an individual living in the household  
318.10 where the licensed services are provided or is otherwise subject to a background study has  
318.11 been disqualified and the disqualification was not set aside and no variance has been granted;

318.12 (3) a license holder knowingly withholds relevant information from or gives false or  
318.13 misleading information to the commissioner in connection with an application for a license,  
318.14 in connection with the background study status of an individual, during an investigation,  
318.15 or regarding compliance with applicable laws or rules;

318.16 (4) a license holder is excluded from any program administered by the commissioner  
318.17 under section 245.095; or

318.18 (5) revocation is required under section 245A.04, subdivision 7, paragraph (d).

318.19 A license holder who has had a license issued under this chapter suspended, revoked,  
318.20 or has been ordered to pay a fine must be given notice of the action by certified mail or  
318.21 personal service. If mailed, the notice must be mailed to the address shown on the application  
318.22 or the last known address of the license holder. The notice must state in plain language the  
318.23 reasons the license was suspended or revoked, or a fine was ordered.

318.24 (b) If the license was suspended or revoked, the notice must inform the license holder  
318.25 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts  
318.26 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking  
318.27 a license. The appeal of an order suspending or revoking a license must be made in writing  
318.28 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to  
318.29 the commissioner within ten calendar days after the license holder receives notice that the  
318.30 license has been suspended or revoked. If a request is made by personal service, it must be  
318.31 received by the commissioner within ten calendar days after the license holder received the  
318.32 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a  
318.33 timely appeal of an order suspending or revoking a license, the license holder may continue

319.1 to operate the program as provided in section 245A.04, subdivision 7, paragraphs (f) and  
319.2 (g), until the commissioner issues a final order on the suspension or revocation.

319.3 (c)(1) If the license holder was ordered to pay a fine, the notice must inform the license  
319.4 holder of the responsibility for payment of fines and the right to a contested case hearing  
319.5 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an  
319.6 order to pay a fine must be made in writing by certified mail or personal service. If mailed,  
319.7 the appeal must be postmarked and sent to the commissioner within ten calendar days after  
319.8 the license holder receives notice that the fine has been ordered. If a request is made by  
319.9 personal service, it must be received by the commissioner within ten calendar days after  
319.10 the license holder received the order.

319.11 (2) The license holder shall pay the fines assessed on or before the payment date specified.  
319.12 If the license holder fails to fully comply with the order, the commissioner may issue a  
319.13 second fine or suspend the license until the license holder complies. If the license holder  
319.14 receives state funds, the state, county, or municipal agencies or departments responsible for  
319.15 administering the funds shall withhold payments and recover any payments made while the  
319.16 license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine  
319.17 until the commissioner issues a final order.

319.18 (3) A license holder shall promptly notify the commissioner of human services, in writing,  
319.19 when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the  
319.20 commissioner determines that a violation has not been corrected as indicated by the order  
319.21 to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify  
319.22 the license holder by certified mail or personal service that a second fine has been assessed.  
319.23 The license holder may appeal the second fine as provided under this subdivision.

319.24 (4) Fines shall be assessed as follows:

319.25 (i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a  
319.26 child under ~~section 626.556~~ chapter 260E or the maltreatment of a vulnerable adult under  
319.27 section 626.557 for which the license holder is determined responsible for the maltreatment  
319.28 under ~~section 626.556, subdivision 10c, paragraph (i), 260E.30, subdivision 4, paragraphs~~  
319.29 (a) and (b), or 626.557, subdivision 9c, paragraph (c);

319.30 (ii) if the commissioner determines that a determination of maltreatment for which the  
319.31 license holder is responsible is the result of maltreatment that meets the definition of serious  
319.32 maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit  
319.33 \$5,000;

320.1 (iii) for a program that operates out of the license holder's home and a program licensed  
320.2 under Minnesota Rules, parts 9502.0300 to 9502.0445, the fine assessed against the license  
320.3 holder shall not exceed \$1,000 for each determination of maltreatment;

320.4 (iv) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule  
320.5 governing matters of health, safety, or supervision, including but not limited to the provision  
320.6 of adequate staff-to-child or adult ratios, and failure to comply with background study  
320.7 requirements under chapter 245C; and

320.8 (v) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule  
320.9 other than those subject to a \$5,000, \$1,000, or \$200 fine in items (i) to (iv).

320.10 For purposes of this section, "occurrence" means each violation identified in the  
320.11 commissioner's fine order. Fines assessed against a license holder that holds a license to  
320.12 provide home and community-based services, as identified in section 245D.03, subdivision  
320.13 1, and a community residential setting or day services facility license under chapter 245D  
320.14 where the services are provided, may be assessed against both licenses for the same  
320.15 occurrence, but the combined amount of the fines shall not exceed the amount specified in  
320.16 this clause for that occurrence.

320.17 (5) When a fine has been assessed, the license holder may not avoid payment by closing,  
320.18 selling, or otherwise transferring the licensed program to a third party. In such an event, the  
320.19 license holder will be personally liable for payment. In the case of a corporation, each  
320.20 controlling individual is personally and jointly liable for payment.

320.21 (d) Except for background study violations involving the failure to comply with an order  
320.22 to immediately remove an individual or an order to provide continuous, direct supervision,  
320.23 the commissioner shall not issue a fine under paragraph (c) relating to a background study  
320.24 violation to a license holder who self-corrects a background study violation before the  
320.25 commissioner discovers the violation. A license holder who has previously exercised the  
320.26 provisions of this paragraph to avoid a fine for a background study violation may not avoid  
320.27 a fine for a subsequent background study violation unless at least 365 days have passed  
320.28 since the license holder self-corrected the earlier background study violation.

320.29 Sec. 44. Minnesota Statutes 2018, section 245A.07, subdivision 5, is amended to read:

320.30 Subd. 5. **Requirement to post licensing order or fine.** For licensed family child care  
320.31 providers and child care centers, upon receipt of any order of license suspension, temporary  
320.32 immediate suspension, fine, or revocation issued by the commissioner under this section,  
320.33 and notwithstanding a pending appeal of the order of license suspension, temporary



321.1 immediate suspension, fine, or revocation by the license holder, the license holder shall  
321.2 post the order of license suspension, temporary immediate suspension, fine, or revocation  
321.3 in a place that is conspicuous to the people receiving services and all visitors to the facility  
321.4 for two years. When the order of license suspension, temporary immediate suspension, fine,  
321.5 or revocation is accompanied by a maltreatment investigation memorandum prepared under  
321.6 section ~~626.556~~ or 626.557 or chapter 260E, the investigation memoranda must be posted  
321.7 with the order of license suspension, temporary immediate suspension, fine, or revocation.

321.8 Sec. 45. Minnesota Statutes 2018, section 245A.08, subdivision 2a, is amended to read:

321.9 Subd. 2a. **Consolidated contested case hearings.** (a) When a denial of a license under  
321.10 section 245A.05 or a licensing sanction under section 245A.07, subdivision 3, is based on  
321.11 a disqualification for which reconsideration was timely requested and which was not set  
321.12 aside under section 245C.22, the scope of the contested case hearing shall include the  
321.13 disqualification and the licensing sanction or denial of a license, unless otherwise specified  
321.14 in this subdivision. When the licensing sanction or denial of a license is based on a  
321.15 determination of maltreatment under section ~~626.556~~ or 626.557 or chapter 260E, or a  
321.16 disqualification for serious or recurring maltreatment which was not set aside, the scope of  
321.17 the contested case hearing shall include the maltreatment determination, disqualification,  
321.18 and the licensing sanction or denial of a license, unless otherwise specified in this subdivision.  
321.19 In such cases, a fair hearing under section 256.045 shall not be conducted as provided for  
321.20 in sections 245C.27, ~~626.556, subdivision 10;~~ 260E.33, and 626.557, subdivision 9d.

321.21 (b) Except for family child care and child foster care, reconsideration of a maltreatment  
321.22 determination under sections ~~626.556, subdivision 10;~~ 260E.33 and 626.557, subdivision  
321.23 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted  
321.24 when:

321.25 (1) a denial of a license under section 245A.05, or a licensing sanction under section  
321.26 245A.07, is based on a determination that the license holder is responsible for maltreatment  
321.27 or the disqualification of a license holder is based on serious or recurring maltreatment;

321.28 (2) the denial of a license or licensing sanction is issued at the same time as the  
321.29 maltreatment determination or disqualification; and

321.30 (3) the license holder appeals the maltreatment determination or disqualification, and  
321.31 denial of a license or licensing sanction. In these cases, a fair hearing shall not be conducted  
321.32 under sections 245C.27, ~~626.556, subdivision 10;~~ 260E.33, and 626.557, subdivision 9d.  
321.33 The scope of the contested case hearing must include the maltreatment determination,  
321.34 disqualification, and denial of a license or licensing sanction.

322.1 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment  
322.2 determination or disqualification, but does not appeal the denial of a license or a licensing  
322.3 sanction, reconsideration of the maltreatment determination shall be conducted under sections  
322.4 ~~626.556, subdivision 10i~~, 260E.33 and 626.557, subdivision 9d, and reconsideration of the  
322.5 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall  
322.6 also be conducted as provided under sections 245C.27, ~~626.556, subdivision 10i~~ 260E.33,  
322.7 and 626.557, subdivision 9d.

322.8 (c) In consolidated contested case hearings regarding sanctions issued in family child  
322.9 care, child foster care, family adult day services, adult foster care, and community residential  
322.10 settings, the county attorney shall defend the commissioner's orders in accordance with  
322.11 section 245A.16, subdivision 4.

322.12 (d) The commissioner's final order under subdivision 5 is the final agency action on the  
322.13 issue of maltreatment and disqualification, including for purposes of subsequent background  
322.14 studies under chapter 245C and is the only administrative appeal of the final agency  
322.15 determination, specifically, including a challenge to the accuracy and completeness of data  
322.16 under section 13.04.

322.17 (e) When consolidated hearings under this subdivision involve a licensing sanction based  
322.18 on a previous maltreatment determination for which the commissioner has issued a final  
322.19 order in an appeal of that determination under section 256.045, or the individual failed to  
322.20 exercise the right to appeal the previous maltreatment determination under section ~~626.556,~~  
322.21 ~~subdivision 10i~~, 260E.33 or 626.557, subdivision 9d, the commissioner's order is conclusive  
322.22 on the issue of maltreatment. In such cases, the scope of the administrative law judge's  
322.23 review shall be limited to the disqualification and the licensing sanction or denial of a license.  
322.24 In the case of a denial of a license or a licensing sanction issued to a facility based on a  
322.25 maltreatment determination regarding an individual who is not the license holder or a  
322.26 household member, the scope of the administrative law judge's review includes the  
322.27 maltreatment determination.

322.28 (f) The hearings of all parties may be consolidated into a single contested case hearing  
322.29 upon consent of all parties and the administrative law judge, if:

322.30 (1) a maltreatment determination or disqualification, which was not set aside under  
322.31 section 245C.22, is the basis for a denial of a license under section 245A.05 or a licensing  
322.32 sanction under section 245A.07;

322.33 (2) the disqualified subject is an individual other than the license holder and upon whom  
322.34 a background study must be conducted under section 245C.03; and

323.1 (3) the individual has a hearing right under section 245C.27.

323.2 (g) When a denial of a license under section 245A.05 or a licensing sanction under  
323.3 section 245A.07 is based on a disqualification for which reconsideration was requested and  
323.4 was not set aside under section 245C.22, and the individual otherwise has no hearing right  
323.5 under section 245C.27, the scope of the administrative law judge's review shall include the  
323.6 denial or sanction and a determination whether the disqualification should be set aside,  
323.7 unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether  
323.8 the disqualification should be set aside, the administrative law judge shall consider the  
323.9 factors under section 245C.22, subdivision 4, to determine whether the individual poses a  
323.10 risk of harm to any person receiving services from the license holder.

323.11 (h) Notwithstanding section 245C.30, subdivision 5, when a licensing sanction under  
323.12 section 245A.07 is based on the termination of a variance under section 245C.30, subdivision  
323.13 4, the scope of the administrative law judge's review shall include the sanction and a  
323.14 determination whether the disqualification should be set aside, unless section 245C.24  
323.15 prohibits the set-aside of the disqualification. In determining whether the disqualification  
323.16 should be set aside, the administrative law judge shall consider the factors under section  
323.17 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any  
323.18 person receiving services from the license holder.

323.19 Sec. 46. Minnesota Statutes 2018, section 245A.085, is amended to read:

323.20 **245A.085 CONSOLIDATION OF HEARINGS; RECONSIDERATION.**

323.21 Hearings authorized under this chapter, ~~chapter 245C,~~ and sections 256.045, 256B.04,  
323.22 ~~626.556,~~ and 626.557, and chapters 245C and 260E, shall be consolidated if feasible and  
323.23 in accordance with other applicable statutes and rules. Reconsideration under sections  
323.24 245C.28; ~~626.556, subdivision 10;~~ 260E.33; and 626.557, subdivision 9d, shall also be  
323.25 consolidated if feasible.

323.26 Sec. 47. Minnesota Statutes 2018, section 245A.11, subdivision 7b, is amended to read:

323.27 Subd. 7b. **Adult foster care data privacy and security.** (a) An adult foster care or  
323.28 community residential setting license holder who creates, collects, records, maintains, stores,  
323.29 or discloses any individually identifiable recipient data, whether in an electronic or any  
323.30 other format, must comply with the privacy and security provisions of applicable privacy  
323.31 laws and regulations, including:

324.1 (1) the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA),  
324.2 Public Law 104-1; and the HIPAA Privacy Rule, Code of Federal Regulations, title 45, part  
324.3 160, and subparts A and E of part 164; and

324.4 (2) the Minnesota Government Data Practices Act as codified in chapter 13.

324.5 (b) For purposes of licensure, the license holder shall be monitored for compliance with  
324.6 the following data privacy and security provisions:

324.7 (1) the license holder must control access to data on residents served by the program  
324.8 according to the definitions of public and private data on individuals under section 13.02;  
324.9 classification of the data on individuals as private under section 13.46, subdivision 2; and  
324.10 control over the collection, storage, use, access, protection, and contracting related to data  
324.11 according to section 13.05, in which the license holder is assigned the duties of a government  
324.12 entity;

324.13 (2) the license holder must provide each resident served by the program with a notice  
324.14 that meets the requirements under section 13.04, in which the license holder is assigned the  
324.15 duties of the government entity, and that meets the requirements of Code of Federal  
324.16 Regulations, title 45, part 164.52. The notice shall describe the purpose for collection of  
324.17 the data, and to whom and why it may be disclosed pursuant to law. The notice must inform  
324.18 the individual that the license holder uses electronic monitoring and, if applicable, that  
324.19 recording technology is used;

324.20 (3) the license holder must not install monitoring cameras in bathrooms;

324.21 (4) electronic monitoring cameras must not be concealed from the residents served by  
324.22 the program; and

324.23 (5) electronic video and audio recordings of residents served by the program shall be  
324.24 stored by the license holder for five days unless: (i) a resident served by the program or  
324.25 legal representative requests that the recording be held longer based on a specific report of  
324.26 alleged maltreatment; or (ii) the recording captures an incident or event of alleged  
324.27 maltreatment under section ~~626.556~~ or 626.557 or chapter 260E or a crime under chapter  
324.28 609. When requested by a resident served by the program or when a recording captures an  
324.29 incident or event of alleged maltreatment or a crime, the license holder must maintain the  
324.30 recording in a secured area for no longer than 30 days to give the investigating agency an  
324.31 opportunity to make a copy of the recording. The investigating agency will maintain the  
324.32 electronic video or audio recordings as required in section 626.557, subdivision 12b.

325.1 (c) The commissioner shall develop, and make available to license holders and county  
325.2 licensing workers, a checklist of the data privacy provisions to be monitored for purposes  
325.3 of licensure.

325.4 Sec. 48. Minnesota Statutes 2019 Supplement, section 245A.145, subdivision 1, is amended  
325.5 to read:

325.6 Subdivision 1. **Policies and procedures.** (a) The Department of Human Services must  
325.7 develop policies and procedures for reporting suspected child maltreatment that fulfill the  
325.8 requirements in ~~section 626.556~~ chapter 260E and provide the policies and procedures to  
325.9 all licensed child care providers. The policies and procedures must be written in plain  
325.10 language.

325.11 (b) The policies and procedures required in paragraph (a) must:

325.12 (1) be provided to the parents of all children at the time of enrollment in the child care  
325.13 program; and

325.14 (2) be made available upon request.

325.15 Sec. 49. Minnesota Statutes 2019 Supplement, section 245A.40, subdivision 1, is amended  
325.16 to read:

325.17 Subdivision 1. **Orientation.** (a) The child care center license holder must ensure that  
325.18 the director, staff persons, substitutes, and unsupervised volunteers are given orientation  
325.19 training and successfully complete the training before starting assigned duties. The orientation  
325.20 training must include information about:

325.21 (1) the center's philosophy, child care program, and procedures for maintaining health  
325.22 and safety according to section 245A.41 and Minnesota Rules, part 9503.0140, and handling  
325.23 emergencies and accidents according to Minnesota Rules, part 9503.0110;

325.24 (2) specific job responsibilities;

325.25 (3) the behavior guidance standards in Minnesota Rules, part 9503.0055;

325.26 (4) the reporting responsibilities in ~~section 626.556~~, chapter 260E and Minnesota Rules,  
325.27 part 9503.0130;

325.28 (5) the center's drug and alcohol policy under section 245A.04, subdivision 1, paragraph  
325.29 (c);

325.30 (6) the center's risk reduction plan as required under section 245A.66, subdivision 2;

326.1 (7) at least one-half hour of training on the standards under section 245A.1435 and on  
326.2 reducing the risk of sudden unexpected infant death as required in subdivision 5, if applicable;

326.3 (8) at least one-half hour of training on the risk of abusive head trauma as required for  
326.4 the director and staff under subdivision 5a, if applicable; and

326.5 (9) training required by a child's individual child care program plan as required under  
326.6 Minnesota Rules, part 9503.0065, subpart 3, if applicable.

326.7 (b) In addition to paragraph (a), before having unsupervised direct contact with a child,  
326.8 the director and staff persons within the first 90 days of employment, and substitutes and  
326.9 unsupervised volunteers within 90 days after the first date of direct contact with a child,  
326.10 must complete:

326.11 (1) pediatric first aid, in accordance with subdivision 3; and

326.12 (2) pediatric cardiopulmonary resuscitation, in accordance with subdivision 4.

326.13 (c) In addition to paragraph (b), the director and staff persons within the first 90 days  
326.14 of employment, and substitutes and unsupervised volunteers within 90 days from the first  
326.15 date of direct contact with a child, must complete training in child development, in accordance  
326.16 with subdivision 2.

326.17 (d) The license holder must ensure that documentation, as required in subdivision 10,  
326.18 identifies the number of hours completed for each topic with a minimum training time  
326.19 identified, if applicable, and that all required content is included.

326.20 (e) Training in this subdivision must not be used to meet in-service training requirements  
326.21 in subdivision 7.

326.22 (f) Training completed within the previous 12 months under paragraphs (a), clauses (7)  
326.23 and (8), and (c) are transferable to another child care center.

326.24 Sec. 50. Minnesota Statutes 2018, section 245C.05, subdivision 6, is amended to read:

326.25 Subd. 6. **Applicant, license holder, other entities, and agencies.** (a) The applicant,  
326.26 license holder, other entities as provided in this chapter, Bureau of Criminal Apprehension,  
326.27 law enforcement agencies, commissioner of health, and county agencies shall help with the  
326.28 study by giving the commissioner criminal conviction data and reports about the maltreatment  
326.29 of adults substantiated under section 626.557 and the maltreatment of minors substantiated  
326.30 under ~~section 626.556~~ chapter 260E.

326.31 (b) If a background study is initiated by an applicant, license holder, or other entities as  
326.32 provided in this chapter, and the applicant, license holder, or other entity receives information

327.1 about the possible criminal or maltreatment history of an individual who is the subject of  
327.2 the background study, the applicant, license holder, or other entity must immediately provide  
327.3 the information to the commissioner.

327.4 (c) The program or county or other agency must provide written notice to the individual  
327.5 who is the subject of the background study of the requirements under this subdivision.

327.6 Sec. 51. Minnesota Statutes 2018, section 245C.15, subdivision 4, is amended to read:

327.7 Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section  
327.8 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed,  
327.9 if any, for the offense; and (2) the individual has committed a misdemeanor-level violation  
327.10 of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182  
327.11 (fraud); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.2112,  
327.12 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.221 (assault in the first  
327.13 degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree);  
327.14 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242  
327.15 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure  
327.16 to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the  
327.17 third degree); 609.27 (coercion); violation of an order for protection under 609.3232  
327.18 (protective order authorized; procedures; penalties); 609.466 (medical assistance fraud);  
327.19 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft);  
327.20 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.611  
327.21 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference  
327.22 with privacy); 609.79 (obscene or harassing telephone calls); 609.795 (letter, telegram, or  
327.23 package; opening; harassment); 609.82 (fraud in obtaining credit); 609.821 (financial  
327.24 transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.293 (harmful  
327.25 materials; dissemination and display to minors prohibited); or Minnesota Statutes 2012,  
327.26 section 609.21; or violation of an order for protection under section 518B.01 (Domestic  
327.27 Abuse Act).

327.28 (b) An individual is disqualified under section 245C.14 if less than seven years has  
327.29 passed since a determination or disposition of the individual's:

327.30 (1) failure to make required reports under section ~~626.556, subdivision 3~~, 260E.06 or  
327.31 626.557, subdivision 3, for incidents in which: (i) the final disposition under section ~~626.556~~  
327.32 ~~or 626.557~~ or chapter 260E was substantiated maltreatment, and (ii) the maltreatment was  
327.33 recurring or serious; or

328.1 (2) substantiated serious or recurring maltreatment of a minor under ~~section 626.556~~  
328.2 chapter 260E, a vulnerable adult under section 626.557, or serious or recurring maltreatment  
328.3 in any other state, the elements of which are substantially similar to the elements of  
328.4 maltreatment under section ~~626.556~~ or 626.557 or chapter 260E for which: (i) there is a  
328.5 preponderance of evidence that the maltreatment occurred, and (ii) the subject was  
328.6 responsible for the maltreatment.

328.7 (c) An individual is disqualified under section 245C.14 if less than seven years has  
328.8 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of  
328.9 the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota  
328.10 Statutes.

328.11 (d) An individual is disqualified under section 245C.14 if less than seven years has  
328.12 passed since the discharge of the sentence imposed for an offense in any other state or  
328.13 country, the elements of which are substantially similar to the elements of any of the offenses  
328.14 listed in paragraphs (a) and (b).

328.15 (e) When a disqualification is based on a judicial determination other than a conviction,  
328.16 the disqualification period begins from the date of the court order. When a disqualification  
328.17 is based on an admission, the disqualification period begins from the date of an admission  
328.18 in court. When a disqualification is based on an Alford Plea, the disqualification period  
328.19 begins from the date the Alford Plea is entered in court. When a disqualification is based  
328.20 on a preponderance of evidence of a disqualifying act, the disqualification date begins from  
328.21 the date of the dismissal, the date of discharge of the sentence imposed for a conviction for  
328.22 a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

328.23 (f) An individual is disqualified under section 245C.14 if less than seven years has passed  
328.24 since the individual was disqualified under section 256.98, subdivision 8.

328.25 Sec. 52. Minnesota Statutes 2018, section 245C.16, subdivision 1, is amended to read:

328.26 Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines  
328.27 that the individual studied has a disqualifying characteristic, the commissioner shall review  
328.28 the information immediately available and make a determination as to the subject's immediate  
328.29 risk of harm to persons served by the program where the individual studied will have direct  
328.30 contact with, or access to, people receiving services.

328.31 (b) The commissioner shall consider all relevant information available, including the  
328.32 following factors in determining the immediate risk of harm:

328.33 (1) the recency of the disqualifying characteristic;



- 329.1 (2) the recency of discharge from probation for the crimes;
- 329.2 (3) the number of disqualifying characteristics;
- 329.3 (4) the intrusiveness or violence of the disqualifying characteristic;
- 329.4 (5) the vulnerability of the victim involved in the disqualifying characteristic;
- 329.5 (6) the similarity of the victim to the persons served by the program where the individual
- 329.6 studied will have direct contact;
- 329.7 (7) whether the individual has a disqualification from a previous background study that
- 329.8 has not been set aside; and
- 329.9 (8) if the individual has a disqualification which may not be set aside because it is a
- 329.10 permanent bar under section 245C.24, subdivision 1, or the individual is a child care
- 329.11 background study subject who has a felony-level conviction for a drug-related offense in
- 329.12 the last five years, the commissioner may order the immediate removal of the individual
- 329.13 from any position allowing direct contact with, or access to, persons receiving services from
- 329.14 the program.
- 329.15 (c) This section does not apply when the subject of a background study is regulated by
- 329.16 a health-related licensing board as defined in chapter 214, and the subject is determined to
- 329.17 be responsible for substantiated maltreatment under section ~~626.556~~ or 626.557 or chapter
- 329.18 260E.
- 329.19 (d) This section does not apply to a background study related to an initial application
- 329.20 for a child foster care license.
- 329.21 (e) Except for paragraph (f), this section does not apply to a background study that is
- 329.22 also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for a
- 329.23 personal care assistant or a qualified professional as defined in section 256B.0659,
- 329.24 subdivision 1.
- 329.25 (f) If the commissioner has reason to believe, based on arrest information or an active
- 329.26 maltreatment investigation, that an individual poses an imminent risk of harm to persons
- 329.27 receiving services, the commissioner may order that the person be continuously supervised
- 329.28 or immediately removed pending the conclusion of the maltreatment investigation or criminal
- 329.29 proceedings.

329.30 Sec. 53. Minnesota Statutes 2018, section 245C.17, subdivision 3, is amended to read:

329.31 Subd. 3. **Disqualification notification.** (a) The commissioner shall notify an applicant,

329.32 license holder, or other entity as provided in this chapter who is not the subject of the study:

330.1 (1) that the commissioner has found information that disqualifies the individual studied  
330.2 from being in a position allowing direct contact with, or access to, people served by the  
330.3 program; and

330.4 (2) the commissioner's determination of the individual's risk of harm under section  
330.5 245C.16.

330.6 (b) If the commissioner determines under section 245C.16 that an individual studied  
330.7 poses an imminent risk of harm to persons served by the program where the individual  
330.8 studied will have direct contact with, or access to, people served by the program, the  
330.9 commissioner shall order the license holder to immediately remove the individual studied  
330.10 from any position allowing direct contact with, or access to, people served by the program.

330.11 (c) If the commissioner determines under section 245C.16 that an individual studied  
330.12 poses a risk of harm that requires continuous, direct supervision, the commissioner shall  
330.13 order the applicant, license holder, or other entities as provided in this chapter to:

330.14 (1) immediately remove the individual studied from any position allowing direct contact  
330.15 with, or access to, people receiving services; or

330.16 (2) before allowing the disqualified individual to be in a position allowing direct contact  
330.17 with, or access to, people receiving services, the applicant, license holder, or other entity,  
330.18 as provided in this chapter, must:

330.19 (i) obtain from the disqualified individual a copy of the individual's notice of  
330.20 disqualification from the commissioner that explains the reason for disqualification;

330.21 (ii) ensure that the individual studied is under continuous, direct supervision when in a  
330.22 position allowing direct contact with, or access to, people receiving services during the  
330.23 period in which the individual may request a reconsideration of the disqualification under  
330.24 section 245C.21; and

330.25 (iii) ensure that the disqualified individual requests reconsideration within 30 days of  
330.26 receipt of the notice of disqualification.

330.27 (d) If the commissioner determines under section 245C.16 that an individual studied  
330.28 does not pose a risk of harm that requires continuous, direct supervision, the commissioner  
330.29 shall order the applicant, license holder, or other entities as provided in this chapter to:

330.30 (1) immediately remove the individual studied from any position allowing direct contact  
330.31 with, or access to, people receiving services; or

331.1 (2) before allowing the disqualified individual to be in any position allowing direct  
331.2 contact with, or access to, people receiving services, the applicant, license holder, or other  
331.3 entity as provided in this chapter must:

331.4 (i) obtain from the disqualified individual a copy of the individual's notice of  
331.5 disqualification from the commissioner that explains the reason for disqualification; and

331.6 (ii) ensure that the disqualified individual requests reconsideration within 15 days of  
331.7 receipt of the notice of disqualification.

331.8 (e) The commissioner shall not notify the applicant, license holder, or other entity as  
331.9 provided in this chapter of the information contained in the subject's background study  
331.10 unless:

331.11 (1) the basis for the disqualification is failure to cooperate with the background study  
331.12 or substantiated maltreatment under section ~~626.556~~ or 626.557 or chapter 260E;

331.13 (2) the Data Practices Act under chapter 13 provides for release of the information; or

331.14 (3) the individual studied authorizes the release of the information.

331.15 Sec. 54. Minnesota Statutes 2018, section 245C.21, subdivision 2, is amended to read:

331.16 **Subd. 2. Time frame for requesting reconsideration.** (a) When the commissioner  
331.17 sends an individual a notice of disqualification based on a finding under section 245C.16,  
331.18 subdivision 2, paragraph (a), clause (1) or (2), the disqualified individual must submit the  
331.19 request for a reconsideration within 30 calendar days of the individual's receipt of the notice  
331.20 of disqualification. If mailed, the request for reconsideration must be postmarked and sent  
331.21 to the commissioner within 30 calendar days of the individual's receipt of the notice of  
331.22 disqualification. If a request for reconsideration is made by personal service, it must be  
331.23 received by the commissioner within 30 calendar days after the individual's receipt of the  
331.24 notice of disqualification. Upon showing that the information under subdivision 3 cannot  
331.25 be obtained within 30 days, the disqualified individual may request additional time, not to  
331.26 exceed 30 days, to obtain the information.

331.27 (b) When the commissioner sends an individual a notice of disqualification based on a  
331.28 finding under section 245C.16, subdivision 2, paragraph (a), clause (3), the disqualified  
331.29 individual must submit the request for reconsideration within 15 calendar days of the  
331.30 individual's receipt of the notice of disqualification. If mailed, the request for reconsideration  
331.31 must be postmarked and sent to the commissioner within 15 calendar days of the individual's  
331.32 receipt of the notice of disqualification. If a request for reconsideration is made by personal

332.1 service, it must be received by the commissioner within 15 calendar days after the individual's  
332.2 receipt of the notice of disqualification.

332.3 (c) An individual who was determined to have maltreated a child under ~~section 626.556~~  
332.4 chapter 260E or a vulnerable adult under section 626.557, and who is disqualified on the  
332.5 basis of serious or recurring maltreatment, may request a reconsideration of both the  
332.6 maltreatment and the disqualification determinations. The request must be submitted within  
332.7 30 calendar days of the individual's receipt of the notice of disqualification. If mailed, the  
332.8 request for reconsideration must be postmarked and sent to the commissioner within 30  
332.9 calendar days of the individual's receipt of the notice of disqualification. If a request for  
332.10 reconsideration is made by personal service, it must be received by the commissioner within  
332.11 30 calendar days after the individual's receipt of the notice of disqualification.

332.12 (d) Except for family child care and child foster care, reconsideration of a maltreatment  
332.13 determination under sections ~~626.556, subdivision 10i,~~ 260E.33 and 626.557, subdivision  
332.14 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted  
332.15 when:

332.16 (1) a denial of a license under section 245A.05, or a licensing sanction under section  
332.17 245A.07, is based on a determination that the license holder is responsible for maltreatment  
332.18 or the disqualification of a license holder based on serious or recurring maltreatment;

332.19 (2) the denial of a license or licensing sanction is issued at the same time as the  
332.20 maltreatment determination or disqualification; and

332.21 (3) the license holder appeals the maltreatment determination, disqualification, and  
332.22 denial of a license or licensing sanction. In such cases, a fair hearing under section 256.045  
332.23 must not be conducted under sections 245C.27, ~~626.556, subdivision 10i,~~ 260E.33, and  
332.24 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the  
332.25 consolidated contested case hearing must include the maltreatment determination,  
332.26 disqualification, and denial of a license or licensing sanction.

332.27 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment  
332.28 determination or disqualification, but does not appeal the denial of a license or a licensing  
332.29 sanction, reconsideration of the maltreatment determination shall be conducted under sections  
332.30 ~~626.556, subdivision 10i,~~ 260E.33 and 626.557, subdivision 9d, and reconsideration of the  
332.31 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall  
332.32 also be conducted as provided under sections 245C.27, ~~626.556, subdivision 10i,~~ 260E.33,  
332.33 and 626.557, subdivision 9d.

333.1 Sec. 55. Minnesota Statutes 2018, section 245C.24, subdivision 4, is amended to read:

333.2 Subd. 4. **Seven-year bar to set aside disqualification.** The commissioner may not set  
333.3 aside the disqualification of an individual in connection with a license to provide family  
333.4 child care for children, foster care for children in the provider's home, or foster care or day  
333.5 care services for adults in the provider's home if within seven years preceding the study:

333.6 (1) the individual committed an act that constitutes maltreatment of a child under ~~section~~  
333.7 ~~626.556, subdivision 10e,~~ sections 260E.24, subdivisions 1, 2, and 3, and 260E.30,  
333.8 subdivisions 1, 2, and 4, and the maltreatment resulted in substantial bodily harm as defined  
333.9 in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by  
333.10 competent psychological or psychiatric evidence; or

333.11 (2) the individual was determined under section 626.557 to be the perpetrator of a  
333.12 substantiated incident of maltreatment of a vulnerable adult that resulted in substantial  
333.13 bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional  
333.14 harm as supported by competent psychological or psychiatric evidence.

333.15 Sec. 56. Minnesota Statutes 2018, section 245C.25, is amended to read:

333.16 **245C.25 CONSOLIDATED RECONSIDERATION OF MALTREATMENT**  
333.17 **DETERMINATION AND DISQUALIFICATION.**

333.18 If an individual is disqualified on the basis of a determination of maltreatment under  
333.19 section ~~626.556 or~~ 626.557 or chapter 260E, which was serious or recurring, and the  
333.20 individual requests reconsideration of the maltreatment determination under section ~~626.556,~~  
333.21 ~~subdivision 10i,~~ 260E.33 or 626.557, subdivision 9d, and also requests reconsideration of  
333.22 the disqualification under section 245C.21, the commissioner shall consolidate the  
333.23 reconsideration of the maltreatment determination and the disqualification into a single  
333.24 reconsideration.

333.25 Sec. 57. Minnesota Statutes 2018, section 245C.27, subdivision 1, is amended to read:

333.26 Subdivision 1. **Fair hearing following a reconsideration decision.** (a) An individual  
333.27 who is disqualified on the basis of a preponderance of evidence that the individual committed  
333.28 an act or acts that meet the definition of any of the crimes listed in section 245C.15; for a  
333.29 determination under section ~~626.556 or~~ 626.557 or chapter 260E of substantiated  
333.30 maltreatment that was serious or recurring under section 245C.15; or for failure to make  
333.31 required reports under section ~~626.556, subdivision 3;~~ 260E.06, subdivision 1 or 2; 260E.11,  
333.32 subdivision 1; or 626.557, subdivision 3, pursuant to section 245C.15, subdivision 4,

334.1 paragraph (b), clause (1), may request a fair hearing under section 256.045, following a  
334.2 reconsideration decision issued under section 245C.23, unless the disqualification is deemed  
334.3 conclusive under section 245C.29.

334.4 (b) The fair hearing is the only administrative appeal of the final agency determination  
334.5 for purposes of appeal by the disqualified individual. The disqualified individual does not  
334.6 have the right to challenge the accuracy and completeness of data under section 13.04.

334.7 (c) Except as provided under paragraph (e), if the individual was disqualified based on  
334.8 a conviction of, admission to, or Alford Plea to any crimes listed in section 245C.15,  
334.9 subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision 8, the  
334.10 reconsideration decision under section 245C.22 is the final agency determination for purposes  
334.11 of appeal by the disqualified individual and is not subject to a hearing under section 256.045.  
334.12 If the individual was disqualified based on a judicial determination, that determination is  
334.13 treated the same as a conviction for purposes of appeal.

334.14 (d) This subdivision does not apply to a public employee's appeal of a disqualification  
334.15 under section 245C.28, subdivision 3.

334.16 (e) Notwithstanding paragraph (c), if the commissioner does not set aside a  
334.17 disqualification of an individual who was disqualified based on both a preponderance of  
334.18 evidence and a conviction or admission, the individual may request a fair hearing under  
334.19 section 256.045, unless the disqualifications are deemed conclusive under section 245C.29.  
334.20 The scope of the hearing conducted under section 256.045 with regard to the disqualification  
334.21 based on a conviction or admission shall be limited solely to whether the individual poses  
334.22 a risk of harm, according to section 256.045, subdivision 3b. In this case, the reconsideration  
334.23 decision under section 245C.22 is not the final agency decision for purposes of appeal by  
334.24 the disqualified individual.

334.25 Sec. 58. Minnesota Statutes 2018, section 245C.27, subdivision 2, is amended to read:

334.26 Subd. 2. **Consolidated fair hearing following a reconsideration decision.** (a) If an  
334.27 individual who is disqualified on the bases of serious or recurring maltreatment requests a  
334.28 fair hearing on the maltreatment determination under section ~~626.556, subdivision 10i,~~  
334.29 260E.33 or 626.557, subdivision 9d, and requests a fair hearing under this section on the  
334.30 disqualification following a reconsideration decision under section 245C.23, the scope of  
334.31 the fair hearing under section 256.045 shall include the maltreatment determination and the  
334.32 disqualification.

335.1 (b) A fair hearing is the only administrative appeal of the final agency determination.  
335.2 The disqualified individual does not have the right to challenge the accuracy and  
335.3 completeness of data under section 13.04.

335.4 (c) This subdivision does not apply to a public employee's appeal of a disqualification  
335.5 under section 245C.28, subdivision 3.

335.6 Sec. 59. Minnesota Statutes 2018, section 245C.28, subdivision 1, is amended to read:

335.7 Subdivision 1. **License holder.** (a) If a maltreatment determination or a disqualification  
335.8 for which reconsideration was timely requested and which was not set aside is the basis for  
335.9 a denial of a license under section 245A.05 or a licensing sanction under section 245A.07,  
335.10 the license holder has the right to a contested case hearing under chapter 14 and Minnesota  
335.11 Rules, parts 1400.8505 to 1400.8612. The license holder must submit the appeal under  
335.12 section 245A.05 or 245A.07, subdivision 3.

335.13 (b) As provided under section 245A.08, subdivision 2a, if the denial of a license or  
335.14 licensing sanction is based on a disqualification for which reconsideration was timely  
335.15 requested and was not set aside, the scope of the consolidated contested case hearing must  
335.16 include:

335.17 (1) the disqualification, to the extent the license holder otherwise has a hearing right on  
335.18 the disqualification under this chapter; and

335.19 (2) the licensing sanction or denial of a license.

335.20 (c) As provided for under section 245A.08, subdivision 2a, if the denial of a license or  
335.21 licensing sanction is based on a determination of maltreatment under section ~~626.556~~ or  
335.22 ~~626.557~~ or chapter 260E, or a disqualification for serious or recurring maltreatment which  
335.23 was not set aside, the scope of the contested case hearing must include:

335.24 (1) the maltreatment determination, if the maltreatment is not conclusive under section  
335.25 245C.29;

335.26 (2) the disqualification, if the disqualification is not conclusive under section 245C.29;  
335.27 and

335.28 (3) the licensing sanction or denial of a license. In such cases, a fair hearing must not  
335.29 be conducted under section 256.045. If the disqualification was based on a determination  
335.30 of substantiated serious or recurring maltreatment under section ~~626.556~~ or ~~626.557~~ or  
335.31 chapter 260E, the appeal must be submitted under sections 245A.07, subdivision 3, and  
335.32 ~~626.556, subdivision 10i, 260E.33,~~ or 626.557, subdivision 9d.

336.1 (d) Except for family child care and child foster care, reconsideration of a maltreatment  
336.2 determination under sections ~~626.556, subdivision 10i, 260E.33~~ and 626.557, subdivision  
336.3 9d, and reconsideration of a disqualification under section 245C.22, must not be conducted  
336.4 when:

336.5 (1) a denial of a license under section 245A.05, or a licensing sanction under section  
336.6 245A.07, is based on a determination that the license holder is responsible for maltreatment  
336.7 or the disqualification of a license holder based on serious or recurring maltreatment;

336.8 (2) the denial of a license or licensing sanction is issued at the same time as the  
336.9 maltreatment determination or disqualification; and

336.10 (3) the license holder appeals the maltreatment determination, disqualification, and  
336.11 denial of a license or licensing sanction. In such cases a fair hearing under section 256.045  
336.12 must not be conducted under sections 245C.27, ~~626.556, subdivision 10i, 260E.33~~, and  
336.13 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the  
336.14 consolidated contested case hearing must include the maltreatment determination,  
336.15 disqualification, and denial of a license or licensing sanction.

336.16 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment  
336.17 determination or disqualification, but does not appeal the denial of a license or a licensing  
336.18 sanction, reconsideration of the maltreatment determination shall be conducted under sections  
336.19 ~~626.556, subdivision 10i, 260E.33~~ and 626.557, subdivision 9d, and reconsideration of the  
336.20 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall  
336.21 also be conducted as provided under sections 245C.27, ~~626.556, subdivision 10i, 260E.33~~,  
336.22 and 626.557, subdivision 9d.

336.23 Sec. 60. Minnesota Statutes 2018, section 245C.29, subdivision 1, is amended to read:

336.24 Subdivision 1. **Conclusive maltreatment determination or disposition.** Unless  
336.25 otherwise specified in statute, a maltreatment determination or disposition under section  
336.26 ~~626.556 or 626.557~~ or chapter 260E is conclusive, if:

336.27 (1) the commissioner has issued a final order in an appeal of that determination or  
336.28 disposition under section 245A.08, subdivision 5, or 256.045;

336.29 (2) the individual did not request reconsideration of the maltreatment determination or  
336.30 disposition under section ~~626.556 or 626.557~~ or chapter 260E; or

336.31 (3) the individual did not request a hearing of the maltreatment determination or  
336.32 disposition under section 256.045.



337.1 Sec. 61. Minnesota Statutes 2018, section 245C.31, subdivision 1, is amended to read:

337.2 Subdivision 1. **Board determines disciplinary or corrective action.** (a) When the  
337.3 subject of a background study is regulated by a health-related licensing board as defined in  
337.4 chapter 214, and the commissioner determines that the regulated individual is responsible  
337.5 for substantiated maltreatment under section ~~626.556~~ or 626.557 or chapter 260E, instead  
337.6 of the commissioner making a decision regarding disqualification, the board shall make a  
337.7 determination whether to impose disciplinary or corrective action under chapter 214.

337.8 (b) This section does not apply to a background study of an individual regulated by a  
337.9 health-related licensing board if the individual's study is related to child foster care, adult  
337.10 foster care, or family child care licensure.

337.11 Sec. 62. Minnesota Statutes 2018, section 245C.32, subdivision 2, is amended to read:

337.12 Subd. 2. **Use.** (a) The commissioner may also use these systems and records to obtain  
337.13 and provide criminal history data from the Bureau of Criminal Apprehension, criminal  
337.14 history data held by the commissioner, and data about substantiated maltreatment under  
337.15 section ~~626.556~~ or 626.557 or chapter 260E, for other purposes, provided that:

337.16 (1) the background study is specifically authorized in statute; or

337.17 (2) the request is made with the informed consent of the subject of the study as provided  
337.18 in section 13.05, subdivision 4.

337.19 (b) An individual making a request under paragraph (a), clause (2), must agree in writing  
337.20 not to disclose the data to any other individual without the consent of the subject of the data.

337.21 (c) The commissioner may recover the cost of obtaining and providing background study  
337.22 data by charging the individual or entity requesting the study a fee of no more than \$20 per  
337.23 study. The fees collected under this paragraph are appropriated to the commissioner for the  
337.24 purpose of conducting background studies.

337.25 (d) The commissioner shall recover the cost of obtaining background study data required  
337.26 under section 524.5-118 through a fee of \$50 per study for an individual who has not lived  
337.27 outside Minnesota for the past ten years, and a fee of \$100 for an individual who has resided  
337.28 outside of Minnesota for any period during the ten years preceding the background study.  
337.29 The commissioner shall recover, from the individual, any additional fees charged by other  
337.30 states' licensing agencies that are associated with these data requests. Fees under subdivision  
337.31 3 also apply when criminal history data from the National Criminal Records Repository is  
337.32 required.

- 338.1 Sec. 63. Minnesota Statutes 2018, section 245D.02, subdivision 11, is amended to read:
- 338.2 Subd. 11. **Incident.** "Incident" means an occurrence which involves a person and requires
- 338.3 the program to make a response that is not a part of the program's ordinary provision of
- 338.4 services to that person, and includes:
- 338.5 (1) serious injury of a person as determined by section 245.91, subdivision 6;
- 338.6 (2) a person's death;
- 338.7 (3) any medical emergency, unexpected serious illness, or significant unexpected change
- 338.8 in an illness or medical condition of a person that requires the program to call 911, physician
- 338.9 treatment, or hospitalization;
- 338.10 (4) any mental health crisis that requires the program to call 911, a mental health crisis
- 338.11 intervention team, or a similar mental health response team or service when available and
- 338.12 appropriate;
- 338.13 (5) an act or situation involving a person that requires the program to call 911, law
- 338.14 enforcement, or the fire department;
- 338.15 (6) a person's unauthorized or unexplained absence from a program;
- 338.16 (7) conduct by a person receiving services against another person receiving services
- 338.17 that:
- 338.18 (i) is so severe, pervasive, or objectively offensive that it substantially interferes with a
- 338.19 person's opportunities to participate in or receive service or support;
- 338.20 (ii) places the person in actual and reasonable fear of harm;
- 338.21 (iii) places the person in actual and reasonable fear of damage to property of the person;
- 338.22 or
- 338.23 (iv) substantially disrupts the orderly operation of the program;
- 338.24 (8) any sexual activity between persons receiving services involving force or coercion
- 338.25 as defined under section 609.341, subdivisions 3 and 14;
- 338.26 (9) any emergency use of manual restraint as identified in section 245D.061 or successor
- 338.27 provisions; or
- 338.28 (10) a report of alleged or suspected child or vulnerable adult maltreatment under section
- 338.29 ~~626.556~~ or 626.557 or chapter 260E.

339.1 Sec. 64. Minnesota Statutes 2018, section 245D.06, subdivision 1, is amended to read:

339.2 Subdivision 1. **Incident response and reporting.** (a) The license holder must respond  
339.3 to incidents under section 245D.02, subdivision 11, that occur while providing services to  
339.4 protect the health and safety of and minimize risk of harm to the person.

339.5 (b) The license holder must maintain information about and report incidents to the  
339.6 person's legal representative or designated emergency contact and case manager within 24  
339.7 hours of an incident occurring while services are being provided, within 24 hours of discovery  
339.8 or receipt of information that an incident occurred, unless the license holder has reason to  
339.9 know that the incident has already been reported, or as otherwise directed in a person's  
339.10 coordinated service and support plan or coordinated service and support plan addendum.  
339.11 An incident of suspected or alleged maltreatment must be reported as required under  
339.12 paragraph (d), and an incident of serious injury or death must be reported as required under  
339.13 paragraph (e).

339.14 (c) When the incident involves more than one person, the license holder must not disclose  
339.15 personally identifiable information about any other person when making the report to each  
339.16 person and case manager unless the license holder has the consent of the person.

339.17 (d) Within 24 hours of reporting maltreatment as required under section ~~626.556~~ or  
339.18 626.557 or chapter 260E, the license holder must inform the case manager of the report  
339.19 unless there is reason to believe that the case manager is involved in the suspected  
339.20 maltreatment. The license holder must disclose the nature of the activity or occurrence  
339.21 reported and the agency that received the report.

339.22 (e) The license holder must report the death or serious injury of the person as required  
339.23 in paragraph (b) and to the Department of Human Services Licensing Division, and the  
339.24 Office of Ombudsman for Mental Health and Developmental Disabilities as required under  
339.25 section 245.94, subdivision 2a, within 24 hours of the death or serious injury, or receipt of  
339.26 information that the death or serious injury occurred, unless the license holder has reason  
339.27 to know that the death or serious injury has already been reported.

339.28 (f) When a death or serious injury occurs in a facility certified as an intermediate care  
339.29 facility for persons with developmental disabilities, the death or serious injury must be  
339.30 reported to the Department of Health, Office of Health Facility Complaints, and the Office  
339.31 of Ombudsman for Mental Health and Developmental Disabilities, as required under sections  
339.32 245.91 and 245.94, subdivision 2a, unless the license holder has reason to know that the  
339.33 death or serious injury has already been reported.

340.1 (g) The license holder must conduct an internal review of incident reports of deaths and  
340.2 serious injuries that occurred while services were being provided and that were not reported  
340.3 by the program as alleged or suspected maltreatment, for identification of incident patterns,  
340.4 and implementation of corrective action as necessary to reduce occurrences. The review  
340.5 must include an evaluation of whether related policies and procedures were followed,  
340.6 whether the policies and procedures were adequate, whether there is a need for additional  
340.7 staff training, whether the reported event is similar to past events with the persons or the  
340.8 services involved, and whether there is a need for corrective action by the license holder to  
340.9 protect the health and safety of persons receiving services. Based on the results of this  
340.10 review, the license holder must develop, document, and implement a corrective action plan  
340.11 designed to correct current lapses and prevent future lapses in performance by staff or the  
340.12 license holder, if any.

340.13 (h) The license holder must verbally report the emergency use of manual restraint of a  
340.14 person as required in paragraph (b) within 24 hours of the occurrence. The license holder  
340.15 must ensure the written report and internal review of all incident reports of the emergency  
340.16 use of manual restraints are completed according to the requirements in section 245D.061  
340.17 or successor provisions.

340.18 Sec. 65. Minnesota Statutes 2018, section 245D.06, subdivision 6, is amended to read:

340.19 Subd. 6. **Restricted procedures.** (a) The following procedures are allowed when the  
340.20 procedures are implemented in compliance with the standards governing their use as  
340.21 identified in clauses (1) to (3). Allowed but restricted procedures include:

340.22 (1) permitted actions and procedures subject to the requirements in subdivision 7;

340.23 (2) procedures identified in a positive support transition plan subject to the requirements  
340.24 in subdivision 8; or

340.25 (3) emergency use of manual restraint subject to the requirements in section 245D.061.

340.26 (b) A restricted procedure identified in paragraph (a) must not:

340.27 (1) be implemented with a child in a manner that constitutes sexual abuse, neglect,  
340.28 physical abuse, or mental injury, as defined in section ~~626.556, subdivision 2~~ 260E.03;

340.29 (2) be implemented with an adult in a manner that constitutes abuse or neglect as defined  
340.30 in section 626.5572, subdivision 2 or 17;

340.31 (3) be implemented in a manner that violates a person's rights identified in section  
340.32 245D.04;

341.1 (4) restrict a person's normal access to a nutritious diet, drinking water, adequate  
341.2 ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions,  
341.3 necessary clothing, or any protection required by state licensing standards or federal  
341.4 regulations governing the program;

341.5 (5) deny the person visitation or ordinary contact with legal counsel, a legal representative,  
341.6 or next of kin;

341.7 (6) be used for the convenience of staff, as punishment, as a substitute for adequate  
341.8 staffing, or as a consequence if the person refuses to participate in the treatment or services  
341.9 provided by the program;

341.10 (7) use prone restraint. For purposes of this section, "prone restraint" means use of  
341.11 manual restraint that places a person in a face-down position. Prone restraint does not include  
341.12 brief physical holding of a person who, during an emergency use of manual restraint, rolls  
341.13 into a prone position, if the person is restored to a standing, sitting, or side-lying position  
341.14 as quickly as possible;

341.15 (8) apply back or chest pressure while a person is in a prone position as identified in  
341.16 clause (7), supine position, or side-lying position; or

341.17 (9) be implemented in a manner that is contraindicated for any of the person's known  
341.18 medical or psychological limitations.

341.19 Sec. 66. Minnesota Statutes 2018, section 245D.09, subdivision 4, is amended to read:

341.20 Subd. 4. **Orientation to program requirements.** Except for a license holder who does  
341.21 not supervise any direct support staff, within 60 calendar days of hire, unless stated otherwise,  
341.22 the license holder must provide and ensure completion of orientation sufficient to create  
341.23 staff competency for direct support staff that combines supervised on-the-job training with  
341.24 review of and instruction in the following areas:

341.25 (1) the job description and how to complete specific job functions, including:

341.26 (i) responding to and reporting incidents as required under section 245D.06, subdivision  
341.27 1; and

341.28 (ii) following safety practices established by the license holder and as required in section  
341.29 245D.06, subdivision 2;

341.30 (2) the license holder's current policies and procedures required under this chapter,  
341.31 including their location and access, and staff responsibilities related to implementation of  
341.32 those policies and procedures;

342.1 (3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal  
342.2 Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff  
342.3 responsibilities related to complying with data privacy practices;

342.4 (4) the service recipient rights and staff responsibilities related to ensuring the exercise  
342.5 and protection of those rights according to the requirements in section 245D.04;

342.6 (5) sections 245A.65, 245A.66, ~~626.556~~, and 626.557 and chapter 260E, governing  
342.7 maltreatment reporting and service planning for children and vulnerable adults, and staff  
342.8 responsibilities related to protecting persons from maltreatment and reporting maltreatment.  
342.9 This orientation must be provided within 72 hours of first providing direct contact services  
342.10 and annually thereafter according to section 245A.65, subdivision 3;

342.11 (6) the principles of person-centered service planning and delivery as identified in section  
342.12 245D.07, subdivision 1a, and how they apply to direct support service provided by the staff  
342.13 person;

342.14 (7) the safe and correct use of manual restraint on an emergency basis according to the  
342.15 requirements in section 245D.061 or successor provisions, and what constitutes the use of  
342.16 restraints, time out, and seclusion, including chemical restraint;

342.17 (8) staff responsibilities related to prohibited procedures under section 245D.06,  
342.18 subdivision 5, or successor provisions, why such procedures are not effective for reducing  
342.19 or eliminating symptoms or undesired behavior, and why such procedures are not safe;

342.20 (9) basic first aid; and

342.21 (10) other topics as determined necessary in the person's coordinated service and support  
342.22 plan by the case manager or other areas identified by the license holder.

342.23 Sec. 67. Minnesota Statutes 2018, section 245D.32, subdivision 5, is amended to read:

342.24 Subd. 5. **Investigations of alleged or suspected maltreatment.** Nothing in this section  
342.25 changes the commissioner's responsibilities to investigate alleged or suspected maltreatment  
342.26 of a minor under ~~section 626.556~~ chapter 260E or a vulnerable adult under section 626.557.

342.27 Sec. 68. Minnesota Statutes 2018, section 245F.04, subdivision 1, is amended to read:

342.28 Subdivision 1. **General application and license requirements.** An applicant for licensure  
342.29 as a clinically managed withdrawal management program or medically monitored withdrawal  
342.30 management program must meet the following requirements, except where otherwise noted.  
342.31 All programs must comply with federal requirements and the general requirements in

343.1 ~~chapters 245A and 245C and sections 626.556, 626.557, and 626.5572~~ and chapters 245A,  
343.2 245C, and 260E. A withdrawal management program must be located in a hospital licensed  
343.3 under sections 144.50 to 144.581, or must be a supervised living facility with a class B  
343.4 license from the Department of Health under Minnesota Rules, parts 4665.0100 to 4665.9900.

343.5 Sec. 69. Minnesota Statutes 2018, section 245F.15, subdivision 3, is amended to read:

343.6 Subd. 3. **Program director qualifications.** A program director must:

343.7 (1) have at least one year of work experience in direct service to individuals with  
343.8 substance use disorders or one year of work experience in the management or administration  
343.9 of direct service to individuals with substance use disorders;

343.10 (2) have a baccalaureate degree or three years of work experience in administration or  
343.11 personnel supervision in human services; and

343.12 (3) know and understand the requirements of this chapter ~~and chapters 245A and 245C,~~  
343.13 ~~and,~~ sections 253B.04, 253B.05, ~~626.556, 626.557, and 626.5572,~~ and chapters 245A, 245C,  
343.14 and 260E.

343.15 Sec. 70. Minnesota Statutes 2018, section 245F.15, subdivision 5, is amended to read:

343.16 Subd. 5. **Responsible staff person qualifications.** Each responsible staff person must  
343.17 know and understand the requirements of this chapter ~~and,~~ sections 245A.65, 253B.04,  
343.18 253B.05, ~~626.556, 626.557, and 626.5572,~~ and chapter 260E. In a clinically managed  
343.19 program, the responsible staff person must be a licensed practical nurse employed by or  
343.20 under contract with the license holder. In a medically monitored program, the responsible  
343.21 staff person must be a registered nurse, program director, or physician.

343.22 Sec. 71. Minnesota Statutes 2018, section 245F.16, subdivision 1, is amended to read:

343.23 Subdivision 1. **Policy requirements.** A license holder must have written personnel  
343.24 policies and must make them available to staff members at all times. The personnel policies  
343.25 must:

343.26 (1) ensure that a staff member's retention, promotion, job assignment, or pay are not  
343.27 affected by a good-faith communication between the staff member and the Department of  
343.28 Human Services, Department of Health, Ombudsman for Mental Health and Developmental  
343.29 Disabilities, law enforcement, or local agencies that investigate complaints regarding patient  
343.30 rights, health, or safety;

344.1 (2) include a job description for each position that specifies job responsibilities, degree  
344.2 of authority to execute job responsibilities, standards of job performance related to specified  
344.3 job responsibilities, and qualifications;

344.4 (3) provide for written job performance evaluations for staff members of the license  
344.5 holder at least annually;

344.6 (4) describe behavior that constitutes grounds for disciplinary action, suspension, or  
344.7 dismissal, including policies that address substance use problems and meet the requirements  
344.8 of section 245F.15, subdivisions 1 and 2. The policies and procedures must list behaviors  
344.9 or incidents that are considered substance use problems. The list must include:

344.10 (i) receiving treatment for substance use disorder within the period specified for the  
344.11 position in the staff qualification requirements;

344.12 (ii) substance use that has a negative impact on the staff member's job performance;

344.13 (iii) substance use that affects the credibility of treatment services with patients, referral  
344.14 sources, or other members of the community; and

344.15 (iv) symptoms of intoxication or withdrawal on the job;

344.16 (5) include policies prohibiting personal involvement with patients and policies  
344.17 prohibiting patient maltreatment as specified under ~~chapter 604~~ and sections 245A.65,  
344.18 ~~626.556~~, 626.557, and 626.5572 and chapters 260E and 604;

344.19 (6) include a chart or description of organizational structure indicating the lines of  
344.20 authority and responsibilities;

344.21 (7) include a written plan for new staff member orientation that, at a minimum, includes  
344.22 training related to the specific job functions for which the staff member was hired, program  
344.23 policies and procedures, patient needs, and the areas identified in subdivision 2, paragraphs  
344.24 (b) to (e); and

344.25 (8) include a policy on the confidentiality of patient information.

344.26 Sec. 72. Minnesota Statutes 2018, section 245F.16, subdivision 2, is amended to read:

344.27 Subd. 2. **Staff development.** (a) A license holder must ensure that each staff member  
344.28 receives orientation training before providing direct patient care and at least 30 hours of  
344.29 continuing education every two years. A written record must be kept to demonstrate  
344.30 completion of training requirements.



- 345.1 (b) Within 72 hours of beginning employment, all staff having direct patient contact  
345.2 must be provided orientation on the following:
- 345.3 (1) specific license holder and staff responsibilities for patient confidentiality;
- 345.4 (2) standards governing the use of protective procedures;
- 345.5 (3) patient ethical boundaries and patient rights, including the rights of patients admitted  
345.6 under chapter 253B;
- 345.7 (4) infection control procedures;
- 345.8 (5) mandatory reporting under sections 245A.65, ~~626.556~~, and 626.557; and chapter  
345.9 260E, including specific training covering the facility's policies concerning obtaining patient  
345.10 releases of information;
- 345.11 (6) HIV minimum standards as required in section 245A.19;
- 345.12 (7) motivational counseling techniques and identifying stages of change; and
- 345.13 (8) eight hours of training on the program's protective procedures policy required in  
345.14 section 245F.09, including:
- 345.15 (i) approved therapeutic holds;
- 345.16 (ii) protective procedures used to prevent patients from imminent danger of harming  
345.17 self or others;
- 345.18 (iii) the emergency conditions under which the protective procedures may be used, if  
345.19 any;
- 345.20 (iv) documentation standards for using protective procedures;
- 345.21 (v) how to monitor and respond to patient distress; and
- 345.22 (vi) person-centered planning and trauma-informed care.
- 345.23 (c) All staff having direct patient contact must be provided annual training on the  
345.24 following:
- 345.25 (1) infection control procedures;
- 345.26 (2) mandatory reporting under sections 245A.65, ~~626.556~~, and 626.557; and chapter  
345.27 260E, including specific training covering the facility's policies concerning obtaining patient  
345.28 releases of information;
- 345.29 (3) HIV minimum standards as required in section 245A.19; and
- 345.30 (4) motivational counseling techniques and identifying stages of change.

346.1 (d) All staff having direct patient contact must be provided training every two years on  
346.2 the following:

346.3 (1) specific license holder and staff responsibilities for patient confidentiality;

346.4 (2) standards governing use of protective procedures, including:

346.5 (i) approved therapeutic holds;

346.6 (ii) protective procedures used to prevent patients from imminent danger of harming  
346.7 self or others;

346.8 (iii) the emergency conditions under which the protective procedures may be used, if  
346.9 any;

346.10 (iv) documentation standards for using protective procedures;

346.11 (v) how to monitor and respond to patient distress; and

346.12 (vi) person-centered planning and trauma-informed care; and

346.13 (3) patient ethical boundaries and patient rights, including the rights of patients admitted  
346.14 under chapter 253B.

346.15 (e) Continuing education that is completed in areas outside of the required topics must  
346.16 provide information to the staff person that is useful to the performance of the individual  
346.17 staff person's duties.

346.18 Sec. 73. Minnesota Statutes 2018, section 245F.18, is amended to read:

346.19 **245F.18 POLICY AND PROCEDURES MANUAL.**

346.20 A license holder must develop a written policy and procedures manual that is  
346.21 alphabetically indexed and has a table of contents, so that staff have immediate access to  
346.22 all policies and procedures, and that consumers of the services and other authorized parties  
346.23 have access to all policies and procedures. The manual must contain the following materials:

346.24 (1) a description of patient education services as required in section 245F.06;

346.25 (2) personnel policies that comply with section 245F.16;

346.26 (3) admission information and referral and discharge policies that comply with section  
346.27 245F.05;

346.28 (4) a health monitoring plan that complies with section 245F.12;

346.29 (5) a protective procedures policy that complies with section 245F.09, if the program  
346.30 elects to use protective procedures;

347.1 (6) policies and procedures for assuring appropriate patient-to-staff ratios that comply  
347.2 with section 245F.14;

347.3 (7) policies and procedures for assessing and documenting the susceptibility for risk of  
347.4 abuse to the patient as the basis for the individual abuse prevention plan required by section  
347.5 245A.65;

347.6 (8) procedures for mandatory reporting as required by sections 245A.65, ~~626.556~~, and  
347.7 ~~626.557~~ and chapter 260E;

347.8 (9) a medication control plan that complies with section 245F.13; and

347.9 (10) policies and procedures regarding HIV that meet the minimum standards under  
347.10 section 245A.19.

347.11 Sec. 74. Minnesota Statutes 2018, section 245G.03, subdivision 1, is amended to read:

347.12 Subdivision 1. **License requirements.** (a) An applicant for a license to provide substance  
347.13 use disorder treatment must comply with the general requirements in ~~chapters 245A and~~  
347.14 ~~245C, sections 626.556 and~~ section 626.557, chapters 245A, 245C, and 260E, and Minnesota  
347.15 Rules, chapter 9544.

347.16 (b) The commissioner may grant variances to the requirements in this chapter that do  
347.17 not affect the client's health or safety if the conditions in section 245A.04, subdivision 9,  
347.18 are met.

347.19 Sec. 75. Minnesota Statutes 2018, section 245G.10, subdivision 3, is amended to read:

347.20 Subd. 3. **Responsible staff member.** A treatment director must designate a staff member  
347.21 who, when present in the facility, is responsible for the delivery of treatment service. A  
347.22 license holder must have a designated staff member during all hours of operation. A license  
347.23 holder providing room and board and treatment at the same site must have a responsible  
347.24 staff member on duty 24 hours a day. The designated staff member must know and understand  
347.25 the implications of this chapter, ~~and~~ sections 245A.65, ~~626.556~~, 626.557, and 626.5572,  
347.26 and chapter 260E.

347.27 Sec. 76. Minnesota Statutes 2018, section 245G.11, subdivision 3, is amended to read:

347.28 Subd. 3. **Treatment directors.** A treatment director must:

347.29 (1) have at least one year of work experience in direct service to an individual with  
347.30 substance use disorder or one year of work experience in the management or administration  
347.31 of direct service to an individual with substance use disorder;

348.1 (2) have a baccalaureate degree or three years of work experience in administration or  
348.2 personnel supervision in human services; and

348.3 (3) know and understand the implications of this chapter, ~~chapter 245A,~~ and sections  
348.4 ~~626.556, 626.557,~~ and 626.5572, and chapters 245A and 260E. Demonstration of the  
348.5 treatment director's knowledge must be documented in the personnel record.

348.6 Sec. 77. Minnesota Statutes 2018, section 245G.11, subdivision 4, is amended to read:

348.7 Subd. 4. **Alcohol and drug counselor supervisors.** An alcohol and drug counselor  
348.8 supervisor must:

348.9 (1) meet the qualification requirements in subdivision 5;

348.10 (2) have three or more years of experience providing individual and group counseling  
348.11 to individuals with substance use disorder; and

348.12 (3) know and understand the implications of this chapter ~~and,~~ sections 245A.65, ~~626.556,~~  
348.13 ~~626.557,~~ and 626.5572, and chapter 260E.

348.14 Sec. 78. Minnesota Statutes 2019 Supplement, section 245G.12, is amended to read:

348.15 **245G.12 PROVIDER POLICIES AND PROCEDURES.**

348.16 A license holder must develop a written policies and procedures manual, indexed  
348.17 according to section 245A.04, subdivision 14, paragraph (c), that provides staff members  
348.18 immediate access to all policies and procedures and provides a client and other authorized  
348.19 parties access to all policies and procedures. The manual must contain the following  
348.20 materials:

348.21 (1) assessment and treatment planning policies, including screening for mental health  
348.22 concerns and treatment objectives related to the client's identified mental health concerns  
348.23 in the client's treatment plan;

348.24 (2) policies and procedures regarding HIV according to section 245A.19;

348.25 (3) the license holder's methods and resources to provide information on tuberculosis  
348.26 and tuberculosis screening to each client and to report a known tuberculosis infection  
348.27 according to section 144.4804;

348.28 (4) personnel policies according to section 245G.13;

348.29 (5) policies and procedures that protect a client's rights according to section 245G.15;

348.30 (6) a medical services plan according to section 245G.08;

- 349.1 (7) emergency procedures according to section 245G.16;
- 349.2 (8) policies and procedures for maintaining client records according to section 245G.09;
- 349.3 (9) procedures for reporting the maltreatment of minors according to ~~section 626.556~~
- 349.4 chapter 260E, and vulnerable adults according to sections 245A.65, 626.557, and 626.5572;
- 349.5 (10) a description of treatment services that: (i) includes the amount and type of services
- 349.6 provided; (ii) identifies which services meet the definition of group counseling under section
- 349.7 245G.01, subdivision 13a; and (iii) defines the program's treatment week;
- 349.8 (11) the methods used to achieve desired client outcomes;
- 349.9 (12) the hours of operation; and
- 349.10 (13) the target population served.

349.11 Sec. 79. Minnesota Statutes 2019 Supplement, section 245G.13, subdivision 1, is amended

349.12 to read:

349.13 Subdivision 1. **Personnel policy requirements.** A license holder must have written

349.14 personnel policies that are available to each staff member. The personnel policies must:

- 349.15 (1) ensure that staff member retention, promotion, job assignment, or pay are not affected
- 349.16 by a good faith communication between a staff member and the department, the Department
- 349.17 of Health, the ombudsman for mental health and developmental disabilities, law enforcement,
- 349.18 or a local agency for the investigation of a complaint regarding a client's rights, health, or
- 349.19 safety;
- 349.20 (2) contain a job description for each staff member position specifying responsibilities,
- 349.21 degree of authority to execute job responsibilities, and qualification requirements;
- 349.22 (3) provide for a job performance evaluation based on standards of job performance
- 349.23 conducted on a regular and continuing basis, including a written annual review;
- 349.24 (4) describe behavior that constitutes grounds for disciplinary action, suspension, or
- 349.25 dismissal, including policies that address staff member problematic substance use and the
- 349.26 requirements of section 245G.11, subdivision 1, policies prohibiting personal involvement
- 349.27 with a client in violation of chapter 604, and policies prohibiting client abuse described in
- 349.28 sections 245A.65, ~~626.556~~, 626.557, and 626.5572, and chapter 260E;
- 349.29 (5) identify how the program will identify whether behaviors or incidents are problematic
- 349.30 substance use, including a description of how the facility must address:

- 350.1 (i) receiving treatment for substance use within the period specified for the position in  
350.2 the staff qualification requirements, including medication-assisted treatment;
- 350.3 (ii) substance use that negatively impacts the staff member's job performance;
- 350.4 (iii) substance use that affects the credibility of treatment services with a client, referral  
350.5 source, or other member of the community;
- 350.6 (iv) symptoms of intoxication or withdrawal on the job; and
- 350.7 (v) the circumstances under which an individual who participates in monitoring by the  
350.8 health professional services program for a substance use or mental health disorder is able  
350.9 to provide services to the program's clients;
- 350.10 (6) include a chart or description of the organizational structure indicating lines of  
350.11 authority and responsibilities;
- 350.12 (7) include orientation within 24 working hours of starting for each new staff member  
350.13 based on a written plan that, at a minimum, must provide training related to the staff member's  
350.14 specific job responsibilities, policies and procedures, client confidentiality, HIV minimum  
350.15 standards, and client needs; and
- 350.16 (8) include policies outlining the license holder's response to a staff member with a  
350.17 behavior problem that interferes with the provision of treatment service.
- 350.18 Sec. 80. Minnesota Statutes 2018, section 245G.13, subdivision 2, is amended to read:
- 350.19 Subd. 2. **Staff development.** (a) A license holder must ensure that each staff member  
350.20 has the training described in this subdivision.
- 350.21 (b) Each staff member must be trained every two years in:
- 350.22 (1) client confidentiality rules and regulations and client ethical boundaries; and
- 350.23 (2) emergency procedures and client rights as specified in sections 144.651, 148F.165,  
350.24 and 253B.03.
- 350.25 (c) Annually each staff member with direct contact must be trained on mandatory  
350.26 reporting as specified in sections 245A.65, ~~626.556, 626.5561~~, 626.557, and 626.5572, and  
350.27 chapter 260E, including specific training covering the license holder's policies for obtaining  
350.28 a release of client information.
- 350.29 (d) Upon employment and annually thereafter, each staff member with direct contact  
350.30 must receive training on HIV minimum standards according to section 245A.19.

351.1 (e) A treatment director, supervisor, nurse, or counselor must have a minimum of 12  
351.2 hours of training in co-occurring disorders that includes competencies related to philosophy,  
351.3 trauma-informed care, screening, assessment, diagnosis and person-centered treatment  
351.4 planning, documentation, programming, medication, collaboration, mental health  
351.5 consultation, and discharge planning. A new staff member who has not obtained the training  
351.6 must complete the training within six months of employment. A staff member may request,  
351.7 and the license holder may grant, credit for relevant training obtained before employment,  
351.8 which must be documented in the staff member's personnel file.

351.9 Sec. 81. Minnesota Statutes 2019 Supplement, section 245H.11, is amended to read:

351.10 **245H.11 REPORTING.**

351.11 (a) The certification holder must comply and must have written policies for staff to  
351.12 comply with the reporting requirements for abuse and neglect specified in ~~section 626.556~~  
351.13 chapter 260E. A person mandated to report physical or sexual child abuse or neglect occurring  
351.14 within a certified center shall report the information to the commissioner.

351.15 (b) The certification holder must inform the commissioner within 24 hours of:

351.16 (1) the death of a child in the program; and

351.17 (2) any injury to a child in the program that required treatment by a physician.

351.18 Sec. 82. Minnesota Statutes 2018, section 254A.09, is amended to read:

351.19 **254A.09 CONFIDENTIALITY OF RECORDS.**

351.20 The Department of Human Services shall assure confidentiality to individuals who are  
351.21 the subject of research by the state authority or are recipients of substance misuse or substance  
351.22 use disorder information, assessment, or treatment from a licensed or approved program.  
351.23 The commissioner shall withhold from all persons not connected with the conduct of the  
351.24 research the names or other identifying characteristics of a subject of research unless the  
351.25 individual gives written permission that information relative to treatment and recovery may  
351.26 be released. Persons authorized to protect the privacy of subjects of research may not be  
351.27 compelled in any federal, state or local, civil, criminal, administrative or other proceeding  
351.28 to identify or disclose other confidential information about the individuals. Identifying  
351.29 information and other confidential information related to substance misuse or substance use  
351.30 disorder information, assessment, treatment, or aftercare services may be ordered to be  
351.31 released by the court for the purpose of civil or criminal investigations or proceedings if,  
351.32 after review of the records considered for disclosure, the court determines that the information

352.1 is relevant to the purpose for which disclosure is requested. The court shall order disclosure  
352.2 of only that information which is determined relevant. In determining whether to compel  
352.3 disclosure, the court shall weigh the public interest and the need for disclosure against the  
352.4 injury to the patient, to the treatment relationship in the program affected and in other  
352.5 programs similarly situated, and the actual or potential harm to the ability of programs to  
352.6 attract and retain patients if disclosure occurs. This section does not exempt any person  
352.7 from the reporting obligations under ~~section 626.556~~ chapter 260E, nor limit the use of  
352.8 information reported in any proceeding arising out of the abuse or neglect of a child.  
352.9 Identifying information and other confidential information related to substance misuse or  
352.10 substance use disorder, assessment, treatment, or aftercare services may be ordered to be  
352.11 released by the court for the purpose of civil or criminal investigations or proceedings. No  
352.12 information may be released pursuant to this section that would not be released pursuant to  
352.13 section 595.02, subdivision 2.

352.14 Sec. 83. Minnesota Statutes 2019 Supplement, section 254B.04, subdivision 1, is amended  
352.15 to read:

352.16 Subdivision 1. **Eligibility.** (a) Persons eligible for benefits under Code of Federal  
352.17 Regulations, title 25, part 20, who meet the income standards of section 256B.056,  
352.18 subdivision 4, and are not enrolled in medical assistance, are entitled to chemical dependency  
352.19 fund services. State money appropriated for this paragraph must be placed in a separate  
352.20 account established for this purpose.

352.21 (b) Persons with dependent children who are determined to be in need of chemical  
352.22 dependency treatment pursuant to an assessment under ~~section 626.556, subdivision 10,~~  
352.23 260E.20, subdivision 1, or a case plan under section 260C.201, subdivision 6, or 260C.212,  
352.24 shall be assisted by the local agency to access needed treatment services. Treatment services  
352.25 must be appropriate for the individual or family, which may include long-term care treatment  
352.26 or treatment in a facility that allows the dependent children to stay in the treatment facility.  
352.27 The county shall pay for out-of-home placement costs, if applicable.

352.28 (c) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible  
352.29 for room and board services under section 254B.05, subdivision 5, paragraph (b), clause  
352.30 (12).

352.31 Sec. 84. Minnesota Statutes 2018, section 256.01, subdivision 12, is amended to read:

352.32 Subd. 12. **Child mortality review panel.** (a) The commissioner shall establish a child  
352.33 mortality review panel to review deaths of children in Minnesota, including deaths attributed



353.1 to maltreatment or in which maltreatment may be a contributing cause and to review near  
353.2 fatalities as defined in section ~~626.556, subdivision 11d~~ 260E.35. The commissioners of  
353.3 health, education, and public safety and the attorney general shall each designate a  
353.4 representative to the child mortality review panel. Other panel members shall be appointed  
353.5 by the commissioner, including a board-certified pathologist and a physician who is a coroner  
353.6 or a medical examiner. The purpose of the panel shall be to make recommendations to the  
353.7 state and to county agencies for improving the child protection system, including  
353.8 modifications in statute, rule, policy, and procedure.

353.9 (b) The commissioner may require a county agency to establish a local child mortality  
353.10 review panel. The commissioner may establish procedures for conducting local reviews  
353.11 and may require that all professionals with knowledge of a child mortality case participate  
353.12 in the local review. In this section, "professional" means a person licensed to perform or a  
353.13 person performing a specific service in the child protective service system. "Professional"  
353.14 includes law enforcement personnel, social service agency attorneys, educators, and social  
353.15 service, health care, and mental health care providers.

353.16 (c) If the commissioner of human services has reason to believe that a child's death was  
353.17 caused by maltreatment or that maltreatment was a contributing cause, the commissioner  
353.18 has access to not public data under chapter 13 maintained by state agencies, statewide  
353.19 systems, or political subdivisions that are related to the child's death or circumstances  
353.20 surrounding the care of the child. The commissioner shall also have access to records of  
353.21 private hospitals as necessary to carry out the duties prescribed by this section. Access to  
353.22 data under this paragraph is limited to police investigative data; autopsy records and coroner  
353.23 or medical examiner investigative data; hospital, public health, or other medical records of  
353.24 the child; hospital and other medical records of the child's parent that relate to prenatal care;  
353.25 and records created by social service agencies that provided services to the child or family  
353.26 within three years preceding the child's death. A state agency, statewide system, or political  
353.27 subdivision shall provide the data upon request of the commissioner. Not public data may  
353.28 be shared with members of the state or local child mortality review panel in connection with  
353.29 an individual case.

353.30 (d) Notwithstanding the data's classification in the possession of any other agency, data  
353.31 acquired by a local or state child mortality review panel in the exercise of its duties is  
353.32 protected nonpublic or confidential data as defined in section 13.02, but may be disclosed  
353.33 as necessary to carry out the purposes of the review panel. The data is not subject to subpoena  
353.34 or discovery. The commissioner may disclose conclusions of the review panel, but shall  
353.35 not disclose data that was classified as confidential or private data on decedents, under

354.1 section 13.10, or private, confidential, or protected nonpublic data in the disseminating  
354.2 agency, except that the commissioner may disclose local social service agency data as  
354.3 provided in section 626.556, subdivision 11d, on individual cases involving a fatality or  
354.4 near fatality of a person served by the local social service agency prior to the date of death.

354.5 (e) A person attending a child mortality review panel meeting shall not disclose what  
354.6 transpired at the meeting, except to carry out the purposes of the mortality review panel.  
354.7 The proceedings and records of the mortality review panel are protected nonpublic data as  
354.8 defined in section 13.02, subdivision 13, and are not subject to discovery or introduction  
354.9 into evidence in a civil or criminal action against a professional, the state or a county agency,  
354.10 arising out of the matters the panel is reviewing. Information, documents, and records  
354.11 otherwise available from other sources are not immune from discovery or use in a civil or  
354.12 criminal action solely because they were presented during proceedings of the review panel.  
354.13 A person who presented information before the review panel or who is a member of the  
354.14 panel shall not be prevented from testifying about matters within the person's knowledge.  
354.15 However, in a civil or criminal proceeding a person shall not be questioned about the person's  
354.16 presentation of information to the review panel or opinions formed by the person as a result  
354.17 of the review meetings.

354.18 Sec. 85. Minnesota Statutes 2019 Supplement, section 256.01, subdivision 14b, is amended  
354.19 to read:

354.20 Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of human  
354.21 services may authorize projects to initiate tribal delivery of child welfare services to American  
354.22 Indian children and their parents and custodians living on the reservation. The commissioner  
354.23 has authority to solicit and determine which tribes may participate in a project. Grants may  
354.24 be issued to Minnesota Indian tribes to support the projects. The commissioner may waive  
354.25 existing state rules as needed to accomplish the projects. The commissioner may authorize  
354.26 projects to use alternative methods of (1) screening, investigating, and assessing reports of  
354.27 child maltreatment, and (2) administrative reconsideration, administrative appeal, and  
354.28 judicial appeal of maltreatment determinations, provided the alternative methods used by  
354.29 the projects comply with the provisions of ~~sections~~ section 256.045 and 626.556 and chapter  
354.30 260E that deal with the rights of individuals who are the subjects of reports or investigations,  
354.31 including notice and appeal rights and data practices requirements. The commissioner shall  
354.32 only authorize alternative methods that comply with the public policy under section 626.556,  
354.33 subdivision 1. The commissioner may seek any federal approvals necessary to carry out the  
354.34 projects as well as seek and use any funds available to the commissioner, including use of  
354.35 federal funds, foundation funds, existing grant funds, and other funds. The commissioner

355.1 is authorized to advance state funds as necessary to operate the projects. Federal  
355.2 reimbursement applicable to the projects is appropriated to the commissioner for the purposes  
355.3 of the projects. The projects must be required to address responsibility for safety, permanency,  
355.4 and well-being of children.

355.5 (b) For the purposes of this section, "American Indian child" means a person under 21  
355.6 years old and who is a tribal member or eligible for membership in one of the tribes chosen  
355.7 for a project under this subdivision and who is residing on the reservation of that tribe.

355.8 (c) In order to qualify for an American Indian child welfare project, a tribe must:

355.9 (1) be one of the existing tribes with reservation land in Minnesota;

355.10 (2) have a tribal court with jurisdiction over child custody proceedings;

355.11 (3) have a substantial number of children for whom determinations of maltreatment have  
355.12 occurred;

355.13 (4)(i) have capacity to respond to reports of abuse and neglect under ~~section 626.556~~  
355.14 chapter 260E; or (ii) have codified the tribe's screening, investigation, and assessment of  
355.15 reports of child maltreatment procedures, if authorized to use an alternative method by the  
355.16 commissioner under paragraph (a);

355.17 (5) provide a wide range of services to families in need of child welfare services; and

355.18 (6) have a tribal-state title IV-E agreement in effect.

355.19 (d) Grants awarded under this section may be used for the nonfederal costs of providing  
355.20 child welfare services to American Indian children on the tribe's reservation, including costs  
355.21 associated with:

355.22 (1) assessment and prevention of child abuse and neglect;

355.23 (2) family preservation;

355.24 (3) facilitative, supportive, and reunification services;

355.25 (4) out-of-home placement for children removed from the home for child protective  
355.26 purposes; and

355.27 (5) other activities and services approved by the commissioner that further the goals of  
355.28 providing safety, permanency, and well-being of American Indian children.

355.29 (e) When a tribe has initiated a project and has been approved by the commissioner to  
355.30 assume child welfare responsibilities for American Indian children of that tribe under this  
355.31 section, the affected county social service agency is relieved of responsibility for responding

356.1 to reports of abuse and neglect under ~~section 626.556~~ chapter 260E for those children during  
356.2 the time within which the tribal project is in effect and funded. The commissioner shall  
356.3 work with tribes and affected counties to develop procedures for data collection, evaluation,  
356.4 and clarification of ongoing role and financial responsibilities of the county and tribe for  
356.5 child welfare services prior to initiation of the project. Children who have not been identified  
356.6 by the tribe as participating in the project shall remain the responsibility of the county.  
356.7 Nothing in this section shall alter responsibilities of the county for law enforcement or court  
356.8 services.

356.9 (f) Participating tribes may conduct children's mental health screenings under section  
356.10 245.4874, subdivision 1, paragraph (a), clause (12), for children who are eligible for the  
356.11 initiative and living on the reservation and who meet one of the following criteria:

356.12 (1) the child must be receiving child protective services;

356.13 (2) the child must be in foster care; or

356.14 (3) the child's parents must have had parental rights suspended or terminated.

356.15 Tribes may access reimbursement from available state funds for conducting the screenings.  
356.16 Nothing in this section shall alter responsibilities of the county for providing services under  
356.17 section 245.487.

356.18 (g) Participating tribes may establish a local child mortality review panel. In establishing  
356.19 a local child mortality review panel, the tribe agrees to conduct local child mortality reviews  
356.20 for child deaths or near-fatalities occurring on the reservation under subdivision 12. Tribes  
356.21 with established child mortality review panels shall have access to nonpublic data and shall  
356.22 protect nonpublic data under subdivision 12, paragraphs (c) to (e). The tribe shall provide  
356.23 written notice to the commissioner and affected counties when a local child mortality review  
356.24 panel has been established and shall provide data upon request of the commissioner for  
356.25 purposes of sharing nonpublic data with members of the state child mortality review panel  
356.26 in connection to an individual case.

356.27 (h) The commissioner shall collect information on outcomes relating to child safety,  
356.28 permanency, and well-being of American Indian children who are served in the projects.  
356.29 Participating tribes must provide information to the state in a format and completeness  
356.30 deemed acceptable by the state to meet state and federal reporting requirements.

356.31 (i) In consultation with the White Earth Band, the commissioner shall develop and submit  
356.32 to the chairs and ranking minority members of the legislative committees with jurisdiction  
356.33 over health and human services a plan to transfer legal responsibility for providing child

357.1 protective services to White Earth Band member children residing in Hennepin County to  
357.2 the White Earth Band. The plan shall include a financing proposal, definitions of key terms,  
357.3 statutory amendments required, and other provisions required to implement the plan. The  
357.4 commissioner shall submit the plan by January 15, 2012.

357.5 Sec. 86. Minnesota Statutes 2018, section 256.01, subdivision 15, is amended to read:

357.6 Subd. 15. **Citizen review panels.** (a) The commissioner shall establish a minimum of  
357.7 three citizen review panels to examine the policies and procedures of state and local welfare  
357.8 agencies to evaluate the extent to which the agencies are effectively discharging their child  
357.9 protection responsibilities. Local social service agencies shall cooperate and work with the  
357.10 citizen review panels. Where appropriate, the panels may examine specific cases to evaluate  
357.11 the effectiveness of child protection activities. The panels must examine the extent to which  
357.12 the state and local agencies are meeting the requirements of the federal Child Abuse  
357.13 Prevention and Treatment Act and the Reporting of Maltreatment of Minors Act. The  
357.14 commissioner may authorize mortality review panels or child protection teams to carry out  
357.15 the duties of a citizen review panel if membership meets or is expanded to meet the  
357.16 requirements of this section.

357.17 (b) The panel membership must include volunteers who broadly represent the community  
357.18 in which the panel is established, including members who have expertise in the prevention  
357.19 and treatment of child abuse and neglect, child protection advocates, and representatives of  
357.20 the councils of color and ombudsperson for families.

357.21 (c) A citizen review panel has access to the following data for specific case review under  
357.22 this paragraph: police investigative data; autopsy records and coroner or medical examiner  
357.23 investigative data; hospital, public health, or other medical records of the child; hospital  
357.24 and other medical records of the child's parent that relate to prenatal care; records created  
357.25 by social service agencies that provided services to the child or family; and personnel data  
357.26 related to an employee's performance in discharging child protection responsibilities. A  
357.27 state agency, statewide system, or political subdivision shall provide the data upon request  
357.28 of the commissioner. Not public data may be shared with members of the state or local  
357.29 citizen review panel in connection with an individual case.

357.30 (d) Notwithstanding the data's classification in the possession of any other agency, data  
357.31 acquired by a local or state citizen review panel in the exercise of its duties are protected  
357.32 nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary  
357.33 to carry out the purposes of the review panel. The data are not subject to subpoena or  
357.34 discovery. The commissioner may disclose conclusions of the review panel, but may not

358.1 disclose data on individuals that were classified as confidential or private data on individuals  
358.2 in the possession of the state agency, statewide system, or political subdivision from which  
358.3 the data were received, except that the commissioner may disclose local social service  
358.4 agency data as provided in section ~~626.556, subdivision 11d~~ 260E.35, on individual cases  
358.5 involving a fatality or near fatality of a person served by the local social service agency  
358.6 prior to the date of death.

358.7 (e) A person attending a citizen review panel meeting may not disclose what transpired  
358.8 at the meeting, except to carry out the purposes of the review panel. The proceedings and  
358.9 records of the review panel are protected nonpublic data as defined in section 13.02,  
358.10 subdivision 13, and are not subject to discovery or introduction into evidence in a civil or  
358.11 criminal action against a professional, the state, or county agency arising out of the matters  
358.12 the panel is reviewing. Information, documents, and records otherwise available from other  
358.13 sources are not immune from discovery or use in a civil or criminal action solely because  
358.14 they were presented during proceedings of the review panel. A person who presented  
358.15 information before the review panel or who is a member of the panel is not prevented from  
358.16 testifying about matters within the person's knowledge. However, in a civil or criminal  
358.17 proceeding, a person must not be questioned about the person's presentation of information  
358.18 to the review panel or opinions formed by the person as a result of the review panel meetings.

358.19 Sec. 87. Minnesota Statutes 2018, section 256.045, subdivision 3, is amended to read:

358.20 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

358.21 (1) any person applying for, receiving or having received public assistance, medical  
358.22 care, or a program of social services granted by the state agency or a county agency or the  
358.23 federal Food Stamp Act whose application for assistance is denied, not acted upon with  
358.24 reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed  
358.25 to have been incorrectly paid;

358.26 (2) any patient or relative aggrieved by an order of the commissioner under section  
358.27 252.27;

358.28 (3) a party aggrieved by a ruling of a prepaid health plan;

358.29 (4) except as provided under chapter 245C, any individual or facility determined by a  
358.30 lead investigative agency to have maltreated a vulnerable adult under section 626.557 after  
358.31 they have exercised their right to administrative reconsideration under section 626.557;

- 359.1 (5) any person whose claim for foster care payment according to a placement of the  
359.2 child resulting from a child protection assessment under ~~section 626.556~~ chapter 260E is  
359.3 denied or not acted upon with reasonable promptness, regardless of funding source;
- 359.4 (6) any person to whom a right of appeal according to this section is given by other  
359.5 provision of law;
- 359.6 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver  
359.7 under section 256B.15;
- 359.8 (8) an applicant aggrieved by an adverse decision to an application or redetermination  
359.9 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;
- 359.10 (9) except as provided under chapter 245A, an individual or facility determined to have  
359.11 maltreated a minor under ~~section 626.556~~ chapter 260E, after the individual or facility has  
359.12 exercised the right to administrative reconsideration under ~~section 626.556~~ chapter 260E;
- 359.13 (10) except as provided under chapter 245C, an individual disqualified under sections  
359.14 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,  
359.15 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the  
359.16 individual has committed an act or acts that meet the definition of any of the crimes listed  
359.17 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section  
359.18 ~~626.556, subdivision 3,~~ 260E.06, subdivision 1, or 626.557, subdivision 3. Hearings regarding  
359.19 a maltreatment determination under clause (4) or (9) and a disqualification under this clause  
359.20 in which the basis for a disqualification is serious or recurring maltreatment, shall be  
359.21 consolidated into a single fair hearing. In such cases, the scope of review by the human  
359.22 services judge shall include both the maltreatment determination and the disqualification.  
359.23 The failure to exercise the right to an administrative reconsideration shall not be a bar to a  
359.24 hearing under this section if federal law provides an individual the right to a hearing to  
359.25 dispute a finding of maltreatment;
- 359.26 (11) any person with an outstanding debt resulting from receipt of public assistance,  
359.27 medical care, or the federal Food Stamp Act who is contesting a setoff claim by the  
359.28 Department of Human Services or a county agency. The scope of the appeal is the validity  
359.29 of the claimant agency's intention to request a setoff of a refund under chapter 270A against  
359.30 the debt;
- 359.31 (12) a person issued a notice of service termination under section 245D.10, subdivision  
359.32 3a, from residential supports and services as defined in section 245D.03, subdivision 1,  
359.33 paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a;

360.1 (13) an individual disability waiver recipient based on a denial of a request for a rate  
360.2 exception under section 256B.4914; or

360.3 (14) a person issued a notice of service termination under section 245A.11, subdivision  
360.4 11, that is not otherwise subject to appeal under subdivision 4a.

360.5 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10),  
360.6 is the only administrative appeal to the final agency determination specifically, including  
360.7 a challenge to the accuracy and completeness of data under section 13.04. Hearings requested  
360.8 under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or  
360.9 after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged  
360.10 to have maltreated a resident prior to October 1, 1995, shall be held as a contested case  
360.11 proceeding under the provisions of chapter 14. Hearings requested under paragraph (a),  
360.12 clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A  
360.13 hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only  
360.14 available when there is no district court action pending. If such action is filed in district  
360.15 court while an administrative review is pending that arises out of some or all of the events  
360.16 or circumstances on which the appeal is based, the administrative review must be suspended  
360.17 until the judicial actions are completed. If the district court proceedings are completed,  
360.18 dismissed, or overturned, the matter may be considered in an administrative hearing.

360.19 (c) For purposes of this section, bargaining unit grievance procedures are not an  
360.20 administrative appeal.

360.21 (d) The scope of hearings involving claims to foster care payments under paragraph (a),  
360.22 clause (5), shall be limited to the issue of whether the county is legally responsible for a  
360.23 child's placement under court order or voluntary placement agreement and, if so, the correct  
360.24 amount of foster care payment to be made on the child's behalf and shall not include review  
360.25 of the propriety of the county's child protection determination or child placement decision.

360.26 (e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to  
360.27 whether the proposed termination of services is authorized under section 245D.10,  
360.28 subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements  
360.29 of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a,  
360.30 paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of  
360.31 termination of services, the scope of the hearing shall also include whether the case  
360.32 management provider has finalized arrangements for a residential facility, a program, or  
360.33 services that will meet the assessed needs of the recipient by the effective date of the service  
360.34 termination.



361.1 (f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor  
361.2 under contract with a county agency to provide social services is not a party and may not  
361.3 request a hearing under this section, except if assisting a recipient as provided in subdivision  
361.4 4.

361.5 (g) An applicant or recipient is not entitled to receive social services beyond the services  
361.6 prescribed under chapter 256M or other social services the person is eligible for under state  
361.7 law.

361.8 (h) The commissioner may summarily affirm the county or state agency's proposed  
361.9 action without a hearing when the sole issue is an automatic change due to a change in state  
361.10 or federal law.

361.11 (i) Unless federal or Minnesota law specifies a different time frame in which to file an  
361.12 appeal, an individual or organization specified in this section may contest the specified  
361.13 action, decision, or final disposition before the state agency by submitting a written request  
361.14 for a hearing to the state agency within 30 days after receiving written notice of the action,  
361.15 decision, or final disposition, or within 90 days of such written notice if the applicant,  
361.16 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision  
361.17 13, why the request was not submitted within the 30-day time limit. The individual filing  
361.18 the appeal has the burden of proving good cause by a preponderance of the evidence.

361.19 Sec. 88. Minnesota Statutes 2018, section 256.045, subdivision 3b, is amended to read:

361.20 Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.** (a)  
361.21 The state human services judge shall determine that maltreatment has occurred if a  
361.22 preponderance of evidence exists to support the final disposition under ~~sections 626.556~~  
361.23 ~~and section 626.557 and chapter 260E~~. For purposes of hearings regarding disqualification,  
361.24 the state human services judge shall affirm the proposed disqualification in an appeal under  
361.25 subdivision 3, paragraph (a), clause (10), if a preponderance of the evidence shows the  
361.26 individual has:

361.27 (1) committed maltreatment under section ~~626.556 or 626.557 or chapter 260E~~, which  
361.28 is serious or recurring;

361.29 (2) committed an act or acts meeting the definition of any of the crimes listed in section  
361.30 245C.15, subdivisions 1 to 4; or

361.31 (3) failed to make required reports under section ~~626.556 or 626.557 or chapter 260E~~,  
361.32 for incidents in which the final disposition under section ~~626.556 or 626.557 or chapter~~  
361.33 ~~260E~~ was substantiated maltreatment that was serious or recurring.

362.1 (b) If the disqualification is affirmed, the state human services judge shall determine  
362.2 whether the individual poses a risk of harm in accordance with the requirements of section  
362.3 245C.22, and whether the disqualification should be set aside or not set aside. In determining  
362.4 whether the disqualification should be set aside, the human services judge shall consider  
362.5 all of the characteristics that cause the individual to be disqualified, including those  
362.6 characteristics that were not subject to review under paragraph (a), in order to determine  
362.7 whether the individual poses a risk of harm. A decision to set aside a disqualification that  
362.8 is the subject of the hearing constitutes a determination that the individual does not pose a  
362.9 risk of harm and that the individual may provide direct contact services in the individual  
362.10 program specified in the set aside.

362.11 (c) If a disqualification is based solely on a conviction or is conclusive for any reason  
362.12 under section 245C.29, the disqualified individual does not have a right to a hearing under  
362.13 this section.

362.14 (d) The state human services judge shall recommend an order to the commissioner of  
362.15 health, education, or human services, as applicable, who shall issue a final order. The  
362.16 commissioner shall affirm, reverse, or modify the final disposition. Any order of the  
362.17 commissioner issued in accordance with this subdivision is conclusive upon the parties  
362.18 unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under  
362.19 chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.482, the  
362.20 commissioner's determination as to maltreatment is conclusive, as provided under section  
362.21 245C.29.

362.22 Sec. 89. Minnesota Statutes 2018, section 256.045, subdivision 4, is amended to read:

362.23 Subd. 4. **Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b,  
362.24 or 4a shall be conducted according to the provisions of the federal Social Security Act and  
362.25 the regulations implemented in accordance with that act to enable this state to qualify for  
362.26 federal grants-in-aid, and according to the rules and written policies of the commissioner  
362.27 of human services. County agencies shall install equipment necessary to conduct telephone  
362.28 hearings. A state human services judge may schedule a telephone conference hearing when  
362.29 the distance or time required to travel to the county agency offices will cause a delay in the  
362.30 issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings  
362.31 may be conducted by telephone conferences unless the applicant, recipient, former recipient,  
362.32 person, or facility contesting maltreatment objects. A human services judge may grant a  
362.33 request for a hearing in person by holding the hearing by interactive video technology or  
362.34 in person. The human services judge must hear the case in person if the person asserts that

363.1 either the person or a witness has a physical or mental disability that would impair the  
363.2 person's or witness's ability to fully participate in a hearing held by interactive video  
363.3 technology. The hearing shall not be held earlier than five days after filing of the required  
363.4 notice with the county or state agency. The state human services judge shall notify all  
363.5 interested persons of the time, date, and location of the hearing at least five days before the  
363.6 date of the hearing. Interested persons may be represented by legal counsel or other  
363.7 representative of their choice, including a provider of therapy services, at the hearing and  
363.8 may appear personally, testify and offer evidence, and examine and cross-examine witnesses.  
363.9 The applicant, recipient, former recipient, person, or facility contesting maltreatment shall  
363.10 have the opportunity to examine the contents of the case file and all documents and records  
363.11 to be used by the county or state agency at the hearing at a reasonable time before the date  
363.12 of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses  
363.13 (4), (9), and (10), either party may subpoena the private data relating to the investigation  
363.14 prepared by the agency under section ~~626.556~~ or 626.557 or chapter 260E that is not  
363.15 otherwise accessible under section 13.04, provided the identity of the reporter may not be  
363.16 disclosed.

363.17 (b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph  
363.18 (a), clause (4), (9), or (10), must be subject to a protective order which prohibits its disclosure  
363.19 for any other purpose outside the hearing provided for in this section without prior order of  
363.20 the district court. Disclosure without court order is punishable by a sentence of not more  
363.21 than 90 days imprisonment or a fine of not more than \$1,000, or both. These restrictions on  
363.22 the use of private data do not prohibit access to the data under section 13.03, subdivision  
363.23 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), (9), and (10), upon  
363.24 request, the county agency shall provide reimbursement for transportation, child care,  
363.25 photocopying, medical assessment, witness fee, and other necessary and reasonable costs  
363.26 incurred by the applicant, recipient, or former recipient in connection with the appeal. All  
363.27 evidence, except that privileged by law, commonly accepted by reasonable people in the  
363.28 conduct of their affairs as having probative value with respect to the issues shall be submitted  
363.29 at the hearing and such hearing shall not be "a contested case" within the meaning of section  
363.30 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and  
363.31 may not submit evidence after the hearing except by agreement of the parties at the hearing,  
363.32 provided the petitioner has the opportunity to respond.

363.33 (c) In hearings under subdivision 3, paragraph (a), clauses (4), (9), and (10), involving  
363.34 determinations of maltreatment or disqualification made by more than one county agency,  
363.35 by a county agency and a state agency, or by more than one state agency, the hearings may

364.1 be consolidated into a single fair hearing upon the consent of all parties and the state human  
364.2 services judge.

364.3 (d) For hearings under subdivision 3, paragraph (a), clause (4) or (10), involving a  
364.4 vulnerable adult, the human services judge shall notify the vulnerable adult who is the  
364.5 subject of the maltreatment determination and, if known, a guardian of the vulnerable adult  
364.6 appointed under section 524.5-310, or a health care agent designated by the vulnerable adult  
364.7 in a health care directive that is currently effective under section 145C.06 and whose authority  
364.8 to make health care decisions is not suspended under section 524.5-310, of the hearing. The  
364.9 notice must be sent by certified mail and inform the vulnerable adult of the right to file a  
364.10 signed written statement in the proceedings. A guardian or health care agent who prepares  
364.11 or files a written statement for the vulnerable adult must indicate in the statement that the  
364.12 person is the vulnerable adult's guardian or health care agent and sign the statement in that  
364.13 capacity. The vulnerable adult, the guardian, or the health care agent may file a written  
364.14 statement with the human services judge hearing the case no later than five business days  
364.15 before commencement of the hearing. The human services judge shall include the written  
364.16 statement in the hearing record and consider the statement in deciding the appeal. This  
364.17 subdivision does not limit, prevent, or excuse the vulnerable adult from being called as a  
364.18 witness testifying at the hearing or grant the vulnerable adult, the guardian, or health care  
364.19 agent a right to participate in the proceedings or appeal the human services judge's decision  
364.20 in the case. The lead investigative agency must consider including the vulnerable adult  
364.21 victim of maltreatment as a witness in the hearing. If the lead investigative agency determines  
364.22 that participation in the hearing would endanger the well-being of the vulnerable adult or  
364.23 not be in the best interests of the vulnerable adult, the lead investigative agency shall inform  
364.24 the human services judge of the basis for this determination, which must be included in the  
364.25 final order. If the human services judge is not reasonably able to determine the address of  
364.26 the vulnerable adult, the guardian, or the health care agent, the human services judge is not  
364.27 required to send a hearing notice under this subdivision.

364.28 Sec. 90. Minnesota Statutes 2018, section 256B.0621, subdivision 4, is amended to read:

364.29 Subd. 4. **Relocation targeted county case management provider qualifications.** (a)  
364.30 A relocation targeted county case management provider is an enrolled medical assistance  
364.31 provider who is determined by the commissioner to have all of the following characteristics:

364.32 (1) the legal authority to provide public welfare under sections 393.01, subdivision 7;  
364.33 and 393.07; or a federally recognized Indian tribe;

365.1 (2) the demonstrated capacity and experience to provide the components of case  
365.2 management to coordinate and link community resources needed by the eligible population;

365.3 (3) the administrative capacity and experience to serve the target population for whom  
365.4 it will provide services and ensure quality of services under state and federal requirements;

365.5 (4) the legal authority to provide complete investigative and protective services under  
365.6 section ~~626.556, subdivision 10~~ 260E.14; and child welfare and foster care services under  
365.7 section 393.07, subdivisions 1 and 2; or a federally recognized Indian tribe;

365.8 (5) a financial management system that provides accurate documentation of services  
365.9 and costs under state and federal requirements; and

365.10 (6) the capacity to document and maintain individual case records under state and federal  
365.11 requirements.

365.12 (b) A provider of targeted case management under section 256B.0625, subdivision 20,  
365.13 may be deemed a certified provider of relocation targeted case management.

365.14 (c) A relocation targeted county case management provider may subcontract with another  
365.15 provider to deliver relocation targeted case management services. Subcontracted providers  
365.16 must demonstrate the ability to provide the services outlined in subdivision 6, and have a  
365.17 procedure in place that notifies the recipient and the recipient's legal representative of any  
365.18 conflict of interest if the contracted targeted case management provider also provides, or  
365.19 will provide, the recipient's services and supports. Counties must require that contracted  
365.20 providers must provide information on all conflicts of interest and obtain the recipient's  
365.21 informed consent or provide the recipient with alternatives.

365.22 Sec. 91. Minnesota Statutes 2018, section 256B.0625, subdivision 33, is amended to read:

365.23 Subd. 33. **Child welfare targeted case management.** Medical assistance, subject to  
365.24 federal approval, covers child welfare targeted case management services as defined in  
365.25 section 256B.094 to children under age 21 who have been assessed and determined in  
365.26 accordance with section 256F.10 to be:

365.27 (1) at risk of placement or in placement as defined in section 260C.212, subdivision 1;

365.28 (2) at risk of maltreatment or experiencing maltreatment as defined in section ~~626.556,~~  
365.29 ~~subdivision 10~~ 260E.03, subdivision 12; or

365.30 (3) in need of protection or services as defined in section 260C.007, subdivision 6.

366.1 Sec. 92. Minnesota Statutes 2018, section 256B.0945, subdivision 1, is amended to read:

366.2 Subdivision 1. **Residential services; provider qualifications.** (a) Counties must arrange  
366.3 to provide residential services for children with severe emotional disturbance according to  
366.4 sections 245.4882, 245.4885, and this section.

366.5 (b) Services must be provided by a facility that is licensed according to section 245.4882  
366.6 and administrative rules promulgated thereunder, and under contract with the county.

366.7 (c) Eligible service costs may be claimed for a facility that is located in a state that  
366.8 borders Minnesota if:

366.9 (1) the facility is the closest facility to the child's home, providing the appropriate level  
366.10 of care; and

366.11 (2) the commissioner of human services has completed an inspection of the out-of-state  
366.12 program according to the interagency agreement with the commissioner of corrections under  
366.13 section 260B.198, subdivision 11, paragraph (b), and the program has been certified by the  
366.14 commissioner of corrections under section 260B.198, subdivision 11, paragraph (a), to  
366.15 substantially meet the standards applicable to children's residential mental health treatment  
366.16 programs under Minnesota Rules, chapter 2960. Nothing in this section requires the  
366.17 commissioner of human services to enforce the background study requirements under chapter  
366.18 245C or the requirements related to prevention and investigation of alleged maltreatment  
366.19 under section ~~626.556~~ or 626.557 or chapter 260E. Complaints received by the commissioner  
366.20 of human services must be referred to the out-of-state licensing authority for possible  
366.21 follow-up.

366.22 (d) Notwithstanding paragraph (b), eligible service costs may be claimed for an  
366.23 out-of-state inpatient treatment facility if:

366.24 (1) the facility specializes in providing mental health services to children who are deaf,  
366.25 deafblind, or hard-of-hearing and who use American Sign Language as their first language;

366.26 (2) the facility is licensed by the state in which it is located; and

366.27 (3) the state in which the facility is located is a member state of the Interstate Compact  
366.28 on Mental Health.

366.29 Sec. 93. Minnesota Statutes 2018, section 256B.0949, subdivision 16, is amended to read:

366.30 Subd. 16. **Agency duties.** (a) An agency delivering an EIDBI service under this section  
366.31 must:

- 367.1 (1) enroll as a medical assistance Minnesota health care program provider according to  
367.2 Minnesota Rules, part 9505.0195, and section 256B.04, subdivision 21, and meet all  
367.3 applicable provider standards and requirements;
- 367.4 (2) demonstrate compliance with federal and state laws for EIDBI service;
- 367.5 (3) verify and maintain records of a service provided to the person or the person's legal  
367.6 representative as required under Minnesota Rules, parts 9505.2175 and 9505.2197;
- 367.7 (4) demonstrate that while enrolled or seeking enrollment as a Minnesota health care  
367.8 program provider the agency did not have a lead agency contract or provider agreement  
367.9 discontinued because of a conviction of fraud; or did not have an owner, board member, or  
367.10 manager fail a state or federal criminal background check or appear on the list of excluded  
367.11 individuals or entities maintained by the federal Department of Human Services Office of  
367.12 Inspector General;
- 367.13 (5) have established business practices including written policies and procedures, internal  
367.14 controls, and a system that demonstrates the organization's ability to deliver quality EIDBI  
367.15 services;
- 367.16 (6) have an office located in Minnesota;
- 367.17 (7) conduct a criminal background check on an individual who has direct contact with  
367.18 the person or the person's legal representative;
- 367.19 (8) report maltreatment according to ~~sections 626.556 and~~ section 626.557 and chapter  
367.20 260E;
- 367.21 (9) comply with any data requests consistent with the Minnesota Government Data  
367.22 Practices Act, sections 256B.064 and 256B.27;
- 367.23 (10) provide training for all agency staff on the requirements and responsibilities listed  
367.24 in the Maltreatment of Minors Act, ~~section 626.556~~ chapter 260E, and the Vulnerable Adult  
367.25 Protection Act, section 626.557, including mandated and voluntary reporting, nonretaliation,  
367.26 and the agency's policy for all staff on how to report suspected abuse and neglect;
- 367.27 (11) have a written policy to resolve issues collaboratively with the person and the  
367.28 person's legal representative when possible. The policy must include a timeline for when  
367.29 the person and the person's legal representative will be notified about issues that arise in  
367.30 the provision of services;
- 367.31 (12) provide the person's legal representative with prompt notification if the person is  
367.32 injured while being served by the agency. An incident report must be completed by the

368.1 agency staff member in charge of the person. A copy of all incident and injury reports must  
368.2 remain on file at the agency for at least five years from the report of the incident; and

368.3 (13) before starting a service, provide the person or the person's legal representative a  
368.4 description of the treatment modality that the person shall receive, including the staffing  
368.5 certification levels and training of the staff who shall provide a treatment.

368.6 (b) When delivering the ITP, and annually thereafter, an agency must provide the person  
368.7 or the person's legal representative with:

368.8 (1) a written copy and a verbal explanation of the person's or person's legal  
368.9 representative's rights and the agency's responsibilities;

368.10 (2) documentation in the person's file the date that the person or the person's legal  
368.11 representative received a copy and explanation of the person's or person's legal  
368.12 representative's rights and the agency's responsibilities; and

368.13 (3) reasonable accommodations to provide the information in another format or language  
368.14 as needed to facilitate understanding of the person's or person's legal representative's rights  
368.15 and the agency's responsibilities.

368.16 Sec. 94. Minnesota Statutes 2018, section 256B.0951, subdivision 5, is amended to read:

368.17 Subd. 5. **Variance of certain standards prohibited.** The safety standards, rights, or  
368.18 procedural protections under ~~chapter 245C~~ and sections 245.825; 245.91 to 245.97; 245A.09,  
368.19 subdivision 2, paragraph (c), clauses (2) and (5); 245A.12; 245A.13; 252.41, subdivision  
368.20 9; 256B.092, subdivisions 1b, clause (7), and 10; ~~626.556; and 626.557; and chapters 245C~~  
368.21 and 260E, and procedures for the monitoring of psychotropic medications shall not be varied  
368.22 under the alternative quality assurance licensing system. The commission may make  
368.23 recommendations to the commissioners of human services and health or to the legislature  
368.24 regarding alternatives to or modifications of the rules and procedures referenced in this  
368.25 subdivision.

368.26 Sec. 95. Minnesota Statutes 2018, section 256B.0954, is amended to read:

368.27 **256B.0954 CERTAIN PERSONS DEFINED AS MANDATED REPORTERS.**

368.28 Members of the Quality Assurance Commission established under section 256B.0951,  
368.29 members of quality assurance review councils established under section 256B.0952, quality  
368.30 assurance managers appointed under section 256B.0952, and members of quality assurance  
368.31 teams established under section 256B.0952 are mandated reporters as that term is defined  
368.32 in sections ~~626.556, subdivision 3~~ 260E.06, subdivision 1, and 626.5572, subdivision 16.



369.1 Sec. 96. Minnesota Statutes 2018, section 256B.097, subdivision 4, is amended to read:

369.2 Subd. 4. **Regional quality councils.** (a) The commissioner shall establish, as selected  
369.3 by the State Quality Council, regional quality councils of key stakeholders, including regional  
369.4 representatives of:

369.5 (1) disability service recipients and their family members;

369.6 (2) disability service providers;

369.7 (3) disability advocacy groups; and

369.8 (4) county human services agencies and staff from the Department of Human Services  
369.9 and Ombudsman for Mental Health and Developmental Disabilities.

369.10 (b) Each regional quality council shall:

369.11 (1) direct and monitor the community-based, person-directed quality assurance system  
369.12 in this section;

369.13 (2) approve a training program for quality assurance team members under clause (13);

369.14 (3) review summary reports from quality assurance team reviews and make  
369.15 recommendations to the State Quality Council regarding program licensure;

369.16 (4) make recommendations to the State Quality Council regarding the system;

369.17 (5) resolve complaints between the quality assurance teams, counties, providers, persons  
369.18 receiving services, their families, and legal representatives;

369.19 (6) analyze and review quality outcomes and critical incident data reporting incidents  
369.20 of life safety concerns immediately to the Department of Human Services licensing division;

369.21 (7) provide information and training programs for persons with disabilities and their  
369.22 families and legal representatives on service options and quality expectations;

369.23 (8) disseminate information and resources developed to other regional quality councils;

369.24 (9) respond to state-level priorities;

369.25 (10) establish regional priorities for quality improvement;

369.26 (11) submit an annual report to the State Quality Council on the status, outcomes,  
369.27 improvement priorities, and activities in the region;

369.28 (12) choose a representative to participate on the State Quality Council and assume other  
369.29 responsibilities consistent with the priorities of the State Quality Council; and

370.1 (13) recruit, train, and assign duties to members of quality assurance teams, taking into  
370.2 account the size of the service provider, the number of services to be reviewed, the skills  
370.3 necessary for the team members to complete the process, and ensure that no team member  
370.4 has a financial, personal, or family relationship with the facility, program, or service being  
370.5 reviewed or with anyone served at the facility, program, or service. Quality assurance teams  
370.6 must be comprised of county staff, persons receiving services or the person's families, legal  
370.7 representatives, members of advocacy organizations, providers, and other involved  
370.8 community members. Team members must complete the training program approved by the  
370.9 regional quality council and must demonstrate performance-based competency. Team  
370.10 members may be paid a per diem and reimbursed for expenses related to their participation  
370.11 in the quality assurance process.

370.12 (c) The commissioner shall monitor the safety standards, rights, and procedural  
370.13 protections for the monitoring of psychotropic medications and those identified under  
370.14 sections 245.825; 245.91 to 245.97; 245A.09, subdivision 2, paragraph (c), clauses (2) and  
370.15 (5); 245A.12; 245A.13; 252.41, subdivision 9; 256B.092, subdivision 1b, clause (7); ~~626.556;~~  
370.16 and ~~626.557;~~ and chapter 260E.

370.17 (d) The regional quality councils may hire staff to perform the duties assigned in this  
370.18 subdivision.

370.19 (e) The regional quality councils may charge fees for their services.

370.20 (f) The quality assurance process undertaken by a regional quality council consists of  
370.21 an evaluation by a quality assurance team of the facility, program, or service. The process  
370.22 must include an evaluation of a random sample of persons served. The sample must be  
370.23 representative of each service provided. The sample size must be at least five percent but  
370.24 not less than two persons served. All persons must be given the opportunity to be included  
370.25 in the quality assurance process in addition to those chosen for the random sample.

370.26 (g) A facility, program, or service may contest a licensing decision of the regional quality  
370.27 council as permitted under chapter 245A.

370.28 Sec. 97. Minnesota Statutes 2018, section 256B.097, subdivision 6, is amended to read:

370.29 Subd. 6. **Mandated reporters.** Members of the State Quality Council under subdivision  
370.30 3, the regional quality councils under subdivision 4, and quality assurance team members  
370.31 under subdivision 4, paragraph (b), clause (13), are mandated reporters as defined in sections  
370.32 ~~626.556, subdivision 3~~ 260E.06, subdivision 1, and 626.5572, subdivision 16.

371.1 Sec. 98. Minnesota Statutes 2018, section 256B.77, subdivision 17, is amended to read:

371.2 Subd. 17. **Approval of alternatives.** The commissioner may approve alternatives to  
371.3 administrative rules if the commissioner determines that appropriate alternative measures  
371.4 are in place to protect the health, safety, and rights of enrollees and to assure that services  
371.5 are of sufficient quality to produce the outcomes described in the personal support plans.  
371.6 Prior approved waivers, if needed by the demonstration project, shall be extended. The  
371.7 commissioner shall not waive the rights or procedural protections under sections 245.825;  
371.8 245.91 to 245.97; 252.41, subdivision 9; 256B.092, subdivision 10; ~~626.556~~; and 626.557;  
371.9 and chapter 260E or procedures for the monitoring of psychotropic medications. Prohibited  
371.10 practices as defined in statutes and rules governing service delivery to eligible individuals  
371.11 are applicable to services delivered under this demonstration project.

371.12 Sec. 99. Minnesota Statutes 2019 Supplement, section 256B.85, subdivision 10, is amended  
371.13 to read:

371.14 Subd. 10. **Agency-provider and FMS provider qualifications and duties.** (a)  
371.15 Agency-providers identified in subdivision 11 and FMS providers identified in subdivision  
371.16 13a shall:

371.17 (1) enroll as a medical assistance Minnesota health care programs provider and meet all  
371.18 applicable provider standards and requirements;

371.19 (2) demonstrate compliance with federal and state laws and policies for CFSS as  
371.20 determined by the commissioner;

371.21 (3) comply with background study requirements under chapter 245C and maintain  
371.22 documentation of background study requests and results;

371.23 (4) verify and maintain records of all services and expenditures by the participant,  
371.24 including hours worked by support workers;

371.25 (5) not engage in any agency-initiated direct contact or marketing in person, by telephone,  
371.26 or other electronic means to potential participants, guardians, family members, or participants'  
371.27 representatives;

371.28 (6) directly provide services and not use a subcontractor or reporting agent;

371.29 (7) meet the financial requirements established by the commissioner for financial  
371.30 solvency;

371.31 (8) have never had a lead agency contract or provider agreement discontinued due to  
371.32 fraud, or have never had an owner, board member, or manager fail a state or FBI-based

372.1 criminal background check while enrolled or seeking enrollment as a Minnesota health care  
372.2 programs provider; and

372.3 (9) have an office located in Minnesota.

372.4 (b) In conducting general duties, agency-providers and FMS providers shall:

372.5 (1) pay support workers based upon actual hours of services provided;

372.6 (2) pay for worker training and development services based upon actual hours of services  
372.7 provided or the unit cost of the training session purchased;

372.8 (3) withhold and pay all applicable federal and state payroll taxes;

372.9 (4) make arrangements and pay unemployment insurance, taxes, workers' compensation,  
372.10 liability insurance, and other benefits, if any;

372.11 (5) enter into a written agreement with the participant, participant's representative, or  
372.12 legal representative that assigns roles and responsibilities to be performed before services,  
372.13 supports, or goods are provided;

372.14 (6) report maltreatment as required under ~~sections 626.556 and~~ section 626.557 and  
372.15 chapter 260E;

372.16 (7) comply with the labor market reporting requirements described in section 256B.4912,  
372.17 subdivision 1a;

372.18 (8) comply with any data requests from the department consistent with the Minnesota  
372.19 Government Data Practices Act under chapter 13; and

372.20 (9) maintain documentation for the requirements under subdivision 16, paragraph (e),  
372.21 clause (2), to qualify for an enhanced rate under this section.

372.22 Sec. 100. Minnesota Statutes 2018, section 256B.85, subdivision 12a, is amended to read:

372.23 Subd. 12a. **CFSS agency-provider requirements; policies for complaint process and**  
372.24 **incident response.** (a) The CFSS agency-provider must establish policies and procedures  
372.25 that promote service recipient rights by providing a simple complaint process for participants  
372.26 served by the program and their authorized representatives to bring a grievance. The  
372.27 complaint process must:

372.28 (1) provide staff assistance with the complaint process when requested;

372.29 (2) allow the participant to bring the complaint to the highest level of authority in the  
372.30 program if the grievance cannot be resolved by other staff members, and provide the name,  
372.31 address, and telephone number of that person;

- 373.1 (3) provide the addresses and telephone numbers of outside agencies to assist the  
373.2 participant;
- 373.3 (4) require a prompt response to all complaints affecting a participant's health and safety  
373.4 and a timely response to all other complaints;
- 373.5 (5) require an evaluation of whether:
- 373.6 (i) related policies and procedures were followed and adequate;
- 373.7 (ii) there is a need for additional staff training;
- 373.8 (iii) the complaint is similar to past complaints with the persons, staff, or services  
373.9 involved; and
- 373.10 (iv) there is a need for corrective action by the agency-provider to protect the health and  
373.11 safety of participants receiving services;
- 373.12 (6) provide a written summary of the complaint and a notice of the complaint resolution  
373.13 to the participant and, if applicable, case manager or care coordinator; and
- 373.14 (7) require that the complaint summary and resolution notice be maintained in the  
373.15 participant's service record.
- 373.16 (b) The CFSS agency-provider must establish policies and procedures for responding  
373.17 to incidents that occur while services are being provided. When a participant has a legal  
373.18 representative or a participant's representative, incidents must be reported to these  
373.19 representatives. For the purposes of this paragraph, "incident" means an occurrence that  
373.20 involves a participant and requires a response that is not a part of the ordinary provision of  
373.21 the services to that participant, and includes:
- 373.22 (1) serious injury of a participant as determined by section 245.91, subdivision 6;
- 373.23 (2) a participant's death;
- 373.24 (3) any medical emergency, unexpected serious illness, or significant unexpected change  
373.25 in a participant's illness or medical condition that requires a call to 911, physician treatment,  
373.26 or hospitalization;
- 373.27 (4) any mental health crisis that requires a call to 911 or a mental health crisis intervention  
373.28 team;
- 373.29 (5) an act or situation involving a participant that requires a call to 911, law enforcement,  
373.30 or the fire department;
- 373.31 (6) a participant's unexplained absence;

374.1 (7) behavior that creates an imminent risk of harm to the participant or another; and

374.2 (8) a report of alleged or suspected child or vulnerable adult maltreatment under section  
374.3 ~~626.556~~ or 626.557 or chapter 260E.

374.4 Sec. 101. Minnesota Statutes 2018, section 256E.21, subdivision 5, is amended to read:

374.5 Subd. 5. **Child abuse.** "Child abuse" means sexual abuse, neglect, or physical abuse as  
374.6 defined in section ~~626.556, subdivision 2, paragraphs (g), (k), and (n)~~ 260E.03, subdivisions  
374.7 15, 18, and 20.

374.8 Sec. 102. Minnesota Statutes 2018, section 256F.10, subdivision 1, is amended to read:

374.9 Subdivision 1. **Eligibility.** Persons under 21 years of age who are eligible to receive  
374.10 medical assistance are eligible for child welfare targeted case management services under  
374.11 section 256B.094 and this section if they have received an assessment and have been  
374.12 determined by the local county or tribal social services agency to be:

374.13 (1) at risk of placement or in placement as described in section 260C.212, subdivision  
374.14 1;

374.15 (2) at risk of maltreatment or experiencing maltreatment as defined in section ~~626.556,~~  
374.16 ~~subdivision 10e~~ 260E.03, subdivision 12; or

374.17 (3) in need of protection or services as defined in section 260C.007, subdivision 6.

374.18 Sec. 103. Minnesota Statutes 2018, section 256F.10, subdivision 4, is amended to read:

374.19 Subd. 4. **Provider qualifications and certification standards.** The commissioner must  
374.20 certify each provider before enrolling it as a child welfare targeted case management provider  
374.21 of services under section 256B.094 and this section. The certification process shall examine  
374.22 the provider's ability to meet the qualification requirements and certification standards in  
374.23 this subdivision and other federal and state requirements of this service. A certified child  
374.24 welfare targeted case management provider is an enrolled medical assistance provider who  
374.25 is determined by the commissioner to have all of the following:

374.26 (1) the legal authority to provide public welfare under sections 393.01, subdivision 7,  
374.27 and 393.07 or a federally recognized Indian tribe;

374.28 (2) the demonstrated capacity and experience to provide the components of case  
374.29 management to coordinate and link community resources needed by the eligible population;

375.1 (3) administrative capacity and experience in serving the target population for whom it  
375.2 will provide services and in ensuring quality of services under state and federal requirements;

375.3 (4) the legal authority to provide complete investigative and protective services under  
375.4 section ~~626.556, subdivision 10~~ 260E.20, and child welfare and foster care services under  
375.5 section 393.07, subdivisions 1 and 2, or a federally recognized Indian tribe;

375.6 (5) a financial management system that provides accurate documentation of services  
375.7 and costs under state and federal requirements; and

375.8 (6) the capacity to document and maintain individual case records under state and federal  
375.9 requirements.

375.10 Sec. 104. Minnesota Statutes 2018, section 256L.07, subdivision 4, is amended to read:

375.11 Subd. 4. **Families with children in need of chemical dependency treatment.** Premiums  
375.12 for families with children when a parent has been determined to be in need of chemical  
375.13 dependency treatment pursuant to an assessment conducted by the county under section  
375.14 ~~626.556, subdivision 10~~ 260E.20, subdivision 1, paragraph (g), or a case plan under section  
375.15 260C.201, subdivision 6, or 260C.212, who are eligible for MinnesotaCare under section  
375.16 256L.04, subdivision 1, may be paid by the county of residence of the person in need of  
375.17 treatment for one year from the date the family is determined to be eligible or if the family  
375.18 is currently enrolled in MinnesotaCare from the date the person is determined to be in need  
375.19 of chemical dependency treatment. Upon renewal, the family is responsible for any premiums  
375.20 owed under section 256L.15. If the family is not currently enrolled in MinnesotaCare, the  
375.21 local county human services agency shall determine whether the family appears to meet the  
375.22 eligibility requirements and shall assist the family in applying for the MinnesotaCare  
375.23 program.

375.24 Sec. 105. Minnesota Statutes 2018, section 256M.10, subdivision 2, is amended to read:

375.25 Subd. 2. **Vulnerable children and adults services.** (a) "Vulnerable children and adults  
375.26 services" means services provided or arranged for by county boards for vulnerable children  
375.27 under ~~chapter~~ chapters 260C and 260E, and ~~sections 626.556 and 626.5561~~, and adults  
375.28 under section 626.557 who experience dependency, abuse, or neglect, as well as services  
375.29 for family members to support those individuals. These services may be provided by  
375.30 professionals or nonprofessionals, including the person's natural supports in the community.  
375.31 For the purpose of this chapter, "vulnerable children" means children and adolescents.

376.1 (b) Vulnerable children and adults services do not include services under the public  
376.2 assistance programs known as the Minnesota family investment program, Minnesota  
376.3 supplemental aid, medical assistance, general assistance, MinnesotaCare, or community  
376.4 health services.

376.5 Sec. 106. Minnesota Statutes 2018, section 256M.40, subdivision 1, is amended to read:

376.6 Subdivision 1. **Formula.** The commissioner shall allocate state funds appropriated under  
376.7 this chapter to each county board on a calendar year basis in an amount determined according  
376.8 to the formula in paragraphs (a) to (e).

376.9 (a) For calendar years 2011 and 2012, the commissioner shall allocate available funds  
376.10 to each county in proportion to that county's share in calendar year 2010.

376.11 (b) For calendar year 2013 and each calendar year thereafter, the commissioner shall  
376.12 allocate available funds to each county as follows:

376.13 (1) 75 percent must be distributed on the basis of the county share in calendar year 2012;

376.14 (2) five percent must be distributed on the basis of the number of persons residing in  
376.15 the county as determined by the most recent data of the state demographer;

376.16 (3) ten percent must be distributed on the basis of the number of vulnerable children  
376.17 that are subjects of reports under ~~chapter chapters 260C and sections 626.556 and 626.5561~~  
376.18 and 260E, and in the county as determined by the most recent data of the commissioner;  
376.19 and

376.20 (4) ten percent must be distributed on the basis of the number of vulnerable adults that  
376.21 are subjects of reports under section 626.557 in the county as determined by the most recent  
376.22 data of the commissioner.

376.23 (c) The commissioner is precluded from changing the formula under this subdivision or  
376.24 recommending a change to the legislature without public review and input.

376.25 Sec. 107. Minnesota Statutes 2018, section 256M.41, subdivision 1, is amended to read:

376.26 Subdivision 1. **Formula for county staffing funds.** (a) The commissioner shall allocate  
376.27 state funds appropriated under this section to each county board on a calendar year basis in  
376.28 an amount determined according to the following formula:

376.29 (1) 50 percent must be distributed on the basis of the child population residing in the  
376.30 county as determined by the most recent data of the state demographer;



377.1 (2) 25 percent must be distributed on the basis of the number of screened-in reports of  
377.2 child maltreatment under ~~sections 626.556 and 626.5561~~ chapter 260E, and in the county  
377.3 as determined by the most recent data of the commissioner; and

377.4 (3) 25 percent must be distributed on the basis of the number of open child protection  
377.5 case management cases in the county as determined by the most recent data of the  
377.6 commissioner.

377.7 (b) Notwithstanding this subdivision, no county shall be awarded an allocation of less  
377.8 than \$75,000.

377.9 Sec. 108. Minnesota Statutes 2018, section 257.0764, is amended to read:

377.10 **257.0764 COMPLAINTS.**

377.11 An ombudsperson may receive a complaint from any source concerning an action of an  
377.12 agency, facility, or program. After completing a review, the ombudsperson shall inform the  
377.13 complainant, agency, facility, or program. Services to a child shall not be unfavorably altered  
377.14 as a result of an investigation or complaint. An agency, facility, or program shall not retaliate  
377.15 or take adverse action, as defined in section ~~626.556, subdivision 4a,~~ 260E.07, paragraph  
377.16 (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

377.17 Sec. 109. Minnesota Statutes 2018, section 260.012, is amended to read:

377.18 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**  
377.19 **REUNIFICATION; REASONABLE EFFORTS.**

377.20 (a) Once a child alleged to be in need of protection or services is under the court's  
377.21 jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate  
377.22 services, by the social services agency are made to prevent placement or to eliminate the  
377.23 need for removal and to reunite the child with the child's family at the earliest possible time,  
377.24 and the court must ensure that the responsible social services agency makes reasonable  
377.25 efforts to finalize an alternative permanent plan for the child as provided in paragraph (e).  
377.26 In determining reasonable efforts to be made with respect to a child and in making those  
377.27 reasonable efforts, the child's best interests, health, and safety must be of paramount concern.  
377.28 Reasonable efforts to prevent placement and for rehabilitation and reunification are always  
377.29 required except upon a determination by the court that a petition has been filed stating a  
377.30 prima facie case that:

377.31 (1) the parent has subjected a child to egregious harm as defined in section 260C.007,  
377.32 subdivision 14;

- 378.1 (2) the parental rights of the parent to another child have been terminated involuntarily;
- 378.2 (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph
- 378.3 (a), clause (2);
- 378.4 (4) the parent's custodial rights to another child have been involuntarily transferred to a
- 378.5 relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d),
- 378.6 clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction;
- 378.7 (5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~
- 378.8 260E.03, against the child or another child of the parent;
- 378.9 (6) the parent has committed an offense that requires registration as a predatory offender
- 378.10 under section 243.166, subdivision 1b, paragraph (a) or (b); or
- 378.11 (7) the provision of services or further services for the purpose of reunification is futile
- 378.12 and therefore unreasonable under the circumstances.
- 378.13 (b) When the court makes one of the prima facie determinations under paragraph (a),
- 378.14 either permanency pleadings under section 260C.505, or a termination of parental rights
- 378.15 petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under
- 378.16 sections 260C.503 to 260C.521 must be held within 30 days of this determination.
- 378.17 (c) In the case of an Indian child, in proceedings under sections 260B.178, 260C.178,
- 378.18 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, the juvenile court
- 378.19 must make findings and conclusions consistent with the Indian Child Welfare Act of 1978,
- 378.20 United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In
- 378.21 cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section
- 378.22 1901, the responsible social services agency must provide active efforts as required under
- 378.23 United States Code, title 25, section 1911(d).
- 378.24 (d) "Reasonable efforts to prevent placement" means:
- 378.25 (1) the agency has made reasonable efforts to prevent the placement of the child in foster
- 378.26 care by working with the family to develop and implement a safety plan; or
- 378.27 (2) given the particular circumstances of the child and family at the time of the child's
- 378.28 removal, there are no services or efforts available which could allow the child to safely
- 378.29 remain in the home.
- 378.30 (e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence
- 378.31 by the responsible social services agency to:
- 378.32 (1) reunify the child with the parent or guardian from whom the child was removed;

379.1 (2) assess a noncustodial parent's ability to provide day-to-day care for the child and,  
379.2 where appropriate, provide services necessary to enable the noncustodial parent to safely  
379.3 provide the care, as required by section 260C.219;

379.4 (3) conduct a relative search to identify and provide notice to adult relatives as required  
379.5 under section 260C.221;

379.6 (4) place siblings removed from their home in the same home for foster care or adoption,  
379.7 or transfer permanent legal and physical custody to a relative. Visitation between siblings  
379.8 who are not in the same foster care, adoption, or custodial placement or facility shall be  
379.9 consistent with section 260C.212, subdivision 2; and

379.10 (5) when the child cannot return to the parent or guardian from whom the child was  
379.11 removed, to plan for and finalize a safe and legally permanent alternative home for the child,  
379.12 and considers permanent alternative homes for the child inside or outside of the state,  
379.13 preferably through adoption or transfer of permanent legal and physical custody of the child.

379.14 (f) Reasonable efforts are made upon the exercise of due diligence by the responsible  
379.15 social services agency to use culturally appropriate and available services to meet the needs  
379.16 of the child and the child's family. Services may include those provided by the responsible  
379.17 social services agency and other culturally appropriate services available in the community.  
379.18 At each stage of the proceedings where the court is required to review the appropriateness  
379.19 of the responsible social services agency's reasonable efforts as described in paragraphs (a),  
379.20 (d), and (e), the social services agency has the burden of demonstrating that:

379.21 (1) it has made reasonable efforts to prevent placement of the child in foster care;

379.22 (2) it has made reasonable efforts to eliminate the need for removal of the child from  
379.23 the child's home and to reunify the child with the child's family at the earliest possible time;

379.24 (3) it has made reasonable efforts to finalize an alternative permanent home for the child,  
379.25 and considers permanent alternative homes for the child inside or outside of the state; or

379.26 (4) reasonable efforts to prevent placement and to reunify the child with the parent or  
379.27 guardian are not required. The agency may meet this burden by stating facts in a sworn  
379.28 petition filed under section 260C.141, by filing an affidavit summarizing the agency's  
379.29 reasonable efforts or facts the agency believes demonstrate there is no need for reasonable  
379.30 efforts to reunify the parent and child, or through testimony or a certified report required  
379.31 under juvenile court rules.

379.32 (g) Once the court determines that reasonable efforts for reunification are not required  
379.33 because the court has made one of the prima facie determinations under paragraph (a), the

380.1 court may only require reasonable efforts for reunification after a hearing according to  
380.2 section 260C.163, where the court finds there is not clear and convincing evidence of the  
380.3 facts upon which the court based its prima facie determination. In this case when there is  
380.4 clear and convincing evidence that the child is in need of protection or services, the court  
380.5 may find the child in need of protection or services and order any of the dispositions available  
380.6 under section 260C.201, subdivision 1. Reunification of a child with a parent is not required  
380.7 if the parent has been convicted of:

380.8 (1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185  
380.9 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

380.10 (2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the child;

380.11 (3) a violation of, or an attempt or conspiracy to commit a violation of, United States  
380.12 Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

380.13 (4) committing sexual abuse as defined in section ~~626.556, subdivision 2~~ 260E.03,  
380.14 against the child or another child of the parent; or

380.15 (5) an offense that requires registration as a predatory offender under section 243.166,  
380.16 subdivision 1b, paragraph (a) or (b).

380.17 (h) The juvenile court, in proceedings under sections 260B.178, 260C.178, 260C.201,  
380.18 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, shall make findings and  
380.19 conclusions as to the provision of reasonable efforts. When determining whether reasonable  
380.20 efforts have been made, the court shall consider whether services to the child and family  
380.21 were:

380.22 (1) relevant to the safety and protection of the child;

380.23 (2) adequate to meet the needs of the child and family;

380.24 (3) culturally appropriate;

380.25 (4) available and accessible;

380.26 (5) consistent and timely; and

380.27 (6) realistic under the circumstances.

380.28 In the alternative, the court may determine that provision of services or further services  
380.29 for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances  
380.30 or that reasonable efforts are not required as provided in paragraph (a).

381.1 (i) This section does not prevent out-of-home placement for treatment of a child with a  
381.2 mental disability when it is determined to be medically necessary as a result of the child's  
381.3 diagnostic assessment or individual treatment plan indicates that appropriate and necessary  
381.4 treatment cannot be effectively provided outside of a residential or inpatient treatment  
381.5 program and the level or intensity of supervision and treatment cannot be effectively and  
381.6 safely provided in the child's home or community and it is determined that a residential  
381.7 treatment setting is the least restrictive setting that is appropriate to the needs of the child.

381.8 (j) If continuation of reasonable efforts to prevent placement or reunify the child with  
381.9 the parent or guardian from whom the child was removed is determined by the court to be  
381.10 inconsistent with the permanent plan for the child or upon the court making one of the prima  
381.11 facie determinations under paragraph (a), reasonable efforts must be made to place the child  
381.12 in a timely manner in a safe and permanent home and to complete whatever steps are  
381.13 necessary to legally finalize the permanent placement of the child.

381.14 (k) Reasonable efforts to place a child for adoption or in another permanent placement  
381.15 may be made concurrently with reasonable efforts to prevent placement or to reunify the  
381.16 child with the parent or guardian from whom the child was removed. When the responsible  
381.17 social services agency decides to concurrently make reasonable efforts for both reunification  
381.18 and permanent placement away from the parent under paragraph (a), the agency shall disclose  
381.19 its decision and both plans for concurrent reasonable efforts to all parties and the court.  
381.20 When the agency discloses its decision to proceed on both plans for reunification and  
381.21 permanent placement away from the parent, the court's review of the agency's reasonable  
381.22 efforts shall include the agency's efforts under both plans.

381.23 Sec. 110. Minnesota Statutes 2018, section 260.761, subdivision 2, is amended to read:

381.24 Subd. 2. **Agency and court notice to tribes.** (a) When a local social services agency  
381.25 has information that a family assessment or investigation being conducted may involve an  
381.26 Indian child, the local social services agency shall notify the Indian child's tribe of the family  
381.27 assessment or investigation according to section ~~626.556, subdivision 10, paragraph (a),~~  
381.28 ~~clause (5)~~ 260E.18. Initial notice shall be provided by telephone and by e-mail or facsimile.  
381.29 The local social services agency shall request that the tribe or a designated tribal  
381.30 representative participate in evaluating the family circumstances, identifying family and  
381.31 tribal community resources, and developing case plans.

381.32 (b) When a local social services agency has information that a child receiving services  
381.33 may be an Indian child, the local social services agency shall notify the tribe by telephone  
381.34 and by e-mail or facsimile of the child's full name and date of birth, the full names and dates

382.1 of birth of the child's biological parents, and, if known, the full names and dates of birth of  
382.2 the child's grandparents and of the child's Indian custodian. This notification must be provided  
382.3 so the tribe can determine if the child is enrolled in the tribe or eligible for membership,  
382.4 and must be provided within seven days. If information regarding the child's grandparents  
382.5 or Indian custodian is not available within the seven-day period, the local social services  
382.6 agency shall continue to request this information and shall notify the tribe when it is received.  
382.7 Notice shall be provided to all tribes to which the child may have any tribal lineage. If the  
382.8 identity or location of the child's parent or Indian custodian and tribe cannot be determined,  
382.9 the local social services agency shall provide the notice required in this paragraph to the  
382.10 United States secretary of the interior.

382.11 (c) In accordance with sections 260C.151 and 260C.152, when a court has reason to  
382.12 believe that a child placed in emergency protective care is an Indian child, the court  
382.13 administrator or a designee shall, as soon as possible and before a hearing takes place, notify  
382.14 the tribal social services agency by telephone and by e-mail or facsimile of the date, time,  
382.15 and location of the emergency protective case hearing. The court shall make efforts to allow  
382.16 appearances by telephone for tribal representatives, parents, and Indian custodians.

382.17 (d) A local social services agency must provide the notices required under this subdivision  
382.18 at the earliest possible time to facilitate involvement of the Indian child's tribe. Nothing in  
382.19 this subdivision is intended to hinder the ability of the local social services agency and the  
382.20 court to respond to an emergency situation. Lack of participation by a tribe shall not prevent  
382.21 the tribe from intervening in services and proceedings at a later date. A tribe may participate  
382.22 at any time. At any stage of the local social services agency's involvement with an Indian  
382.23 child, the agency shall provide full cooperation to the tribal social services agency, including  
382.24 disclosure of all data concerning the Indian child. Nothing in this subdivision relieves the  
382.25 local social services agency of satisfying the notice requirements in the Indian Child Welfare  
382.26 Act.

382.27 Sec. 111. Minnesota Statutes 2018, section 260B.171, subdivision 6, is amended to read:

382.28 Subd. 6. **Attorney access to records.** An attorney representing a child, parent, or guardian  
382.29 ad litem in a proceeding under this chapter shall be given access to records, local social  
382.30 services agency files, and reports which form the basis of any recommendation made to the  
382.31 court. An attorney does not have access under this subdivision to the identity of a person  
382.32 who made a report under ~~section 626.556~~ chapter 260E. The court may issue protective  
382.33 orders to prohibit an attorney from sharing a specified record or portion of a record with a  
382.34 client other than a guardian ad litem.

383.1 Sec. 112. Minnesota Statutes 2019 Supplement, section 260B.198, subdivision 1, is  
383.2 amended to read:

383.3 Subdivision 1. **Court order, findings, remedies, treatment.** (a) If the court finds that  
383.4 the child is delinquent, it shall enter an order making any of the following dispositions of  
383.5 the case which are deemed necessary to the rehabilitation of the child:

383.6 (1) counsel the child or the parents, guardian, or custodian;

383.7 (2) place the child under the supervision of a probation officer or other suitable person  
383.8 in the child's own home under conditions prescribed by the court including reasonable rules  
383.9 for the child's conduct and the conduct of the child's parents, guardian, or custodian, designed  
383.10 for the physical, mental, and moral well-being and behavior of the child, or with the consent  
383.11 of the commissioner of corrections, in a group foster care facility which is under the  
383.12 management and supervision of said commissioner;

383.13 (3) if the court determines that the child is a danger to self or others, subject to the  
383.14 supervision of the court, transfer legal custody of the child to one of the following:

383.15 (i) a child-placing agency;

383.16 (ii) the local social services agency;

383.17 (iii) a reputable individual of good moral character. No person may receive custody of  
383.18 two or more unrelated children unless licensed as a residential facility pursuant to sections  
383.19 245A.01 to 245A.16;

383.20 (iv) a county home school, if the county maintains a home school or enters into an  
383.21 agreement with a county home school; or

383.22 (v) a county probation officer for placement in a group foster home established under  
383.23 the direction of the juvenile court and licensed pursuant to section 241.021;

383.24 (4) transfer legal custody by commitment to the commissioner of corrections;

383.25 (5) if the child is found to have violated a state or local law or ordinance which has  
383.26 resulted in damage to the person or property of another, the court may order the child to  
383.27 make reasonable restitution for such damage;

383.28 (6) require the child to pay a fine of up to \$1,000. The court shall order payment of the  
383.29 fine in accordance with a time payment schedule which shall not impose an undue financial  
383.30 hardship on the child;

383.31 (7) if the child is in need of special treatment and care for reasons of physical or mental  
383.32 health, the court may order the child's parent, guardian, or custodian to provide it. If the

384.1 parent, guardian, or custodian fails to provide this treatment or care, the court may order it  
384.2 provided;

384.3 (8) if the court believes that it is in the best interests of the child and of public safety  
384.4 that the driver's license of the child be canceled until the child's 18th birthday, the court  
384.5 may recommend to the commissioner of public safety the cancellation of the child's license  
384.6 for any period up to the child's 18th birthday, and the commissioner is hereby authorized  
384.7 to cancel such license without a hearing. At any time before the termination of the period  
384.8 of cancellation, the court may, for good cause, recommend to the commissioner of public  
384.9 safety that the child be authorized to apply for a new license, and the commissioner may so  
384.10 authorize;

384.11 (9) if the court believes that it is in the best interest of the child and of public safety that  
384.12 the child is enrolled in school, the court may require the child to remain enrolled in a public  
384.13 school until the child reaches the age of 18 or completes all requirements needed to graduate  
384.14 from high school. Any child enrolled in a public school under this clause is subject to the  
384.15 provisions of the Pupil Fair Dismissal Act in chapter 127;

384.16 (10) if the child is petitioned and found by the court to have committed a controlled  
384.17 substance offense under sections 152.021 to 152.027, the court shall determine whether the  
384.18 child unlawfully possessed or sold the controlled substance while driving a motor vehicle.  
384.19 If so, the court shall notify the commissioner of public safety of its determination and order  
384.20 the commissioner to revoke the child's driver's license for the applicable time period specified  
384.21 in section 152.0271. If the child does not have a driver's license or if the child's driver's  
384.22 license is suspended or revoked at the time of the delinquency finding, the commissioner  
384.23 shall, upon the child's application for driver's license issuance or reinstatement, delay the  
384.24 issuance or reinstatement of the child's driver's license for the applicable time period specified  
384.25 in section 152.0271. Upon receipt of the court's order, the commissioner is authorized to  
384.26 take the licensing action without a hearing;

384.27 (11) if the child is petitioned and found by the court to have committed or attempted to  
384.28 commit an act in violation of section 609.342; 609.343; 609.344; 609.345; 609.3451;  
384.29 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a delinquency  
384.30 petition based on one or more of those sections, the court shall order an independent  
384.31 professional assessment of the child's need for sex offender treatment. An assessor providing  
384.32 an assessment for the court must be experienced in the evaluation and treatment of juvenile  
384.33 sex offenders. If the assessment indicates that the child is in need of and amenable to sex  
384.34 offender treatment, the court shall include in its disposition order a requirement that the  
384.35 child undergo treatment. Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, or



385.1 260B.171, ~~or 626.556~~, or chapter 260E, the assessor has access to the following private or  
385.2 confidential data on the child if access is relevant and necessary for the assessment:

385.3 (i) medical data under section 13.384;

385.4 (ii) corrections and detention data under section 13.85;

385.5 (iii) health records under sections 144.291 to 144.298;

385.6 (iv) juvenile court records under section 260B.171; and

385.7 (v) local welfare agency records under ~~section 626.556~~ chapter 260E.

385.8 Data disclosed under this clause may be used only for purposes of the assessment and  
385.9 may not be further disclosed to any other person, except as authorized by law; or

385.10 (12) if the child is found delinquent due to the commission of an offense that would be  
385.11 a felony if committed by an adult, the court shall make a specific finding on the record  
385.12 regarding the juvenile's mental health and chemical dependency treatment needs.

385.13 (b) Any order for a disposition authorized under this section shall contain written findings  
385.14 of fact to support the disposition ordered and shall also set forth in writing the following  
385.15 information:

385.16 (1) why the best interests of the child are served by the disposition ordered; and

385.17 (2) what alternative dispositions were considered by the court and why such dispositions  
385.18 were not appropriate in the instant case. Clause (1) does not apply to a disposition under  
385.19 subdivision 1a.

385.20 Sec. 113. Minnesota Statutes 2018, section 260C.007, subdivision 3, is amended to read:

385.21 Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child  
385.22 and parent or guardian, or, when reunification is not required, the child alone, that is  
385.23 developed according to the requirements of section 245.4871, subdivision 19 or 21; 245.492,  
385.24 subdivision 16; 256B.092; 260C.212, subdivision 1; or ~~626.556, subdivision 10~~ 260E.26.

385.25 Sec. 114. Minnesota Statutes 2018, section 260C.007, subdivision 5, is amended to read:

385.26 Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim that  
385.27 constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322,  
385.28 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or that is physical  
385.29 or sexual abuse as defined in section ~~626.556, subdivision 2~~ 260E.03, or an act committed

386.1 in another state that involves a minor victim and would constitute a violation of one of these  
386.2 sections if committed in this state.

386.3 Sec. 115. Minnesota Statutes 2018, section 260C.007, subdivision 6, is amended to read:

386.4 Subd. 6. **Child in need of protection or services.** "Child in need of protection or  
386.5 services" means a child who is in need of protection or services because the child:

386.6 (1) is abandoned or without parent, guardian, or custodian;

386.7 (2)(i) has been a victim of physical or sexual abuse as defined in section ~~626.556,~~  
386.8 ~~subdivision 2~~ 260E.03, subdivision 18 or 20, (ii) resides with or has resided with a victim  
386.9 of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision  
386.10 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined  
386.11 in subdivision 13 or child abuse as defined in subdivision 5 or 13, or (iv) is a victim of  
386.12 emotional maltreatment as defined in subdivision 15;

386.13 (3) is without necessary food, clothing, shelter, education, or other required care for the  
386.14 child's physical or mental health or morals because the child's parent, guardian, or custodian  
386.15 is unable or unwilling to provide that care;

386.16 (4) is without the special care made necessary by a physical, mental, or emotional  
386.17 condition because the child's parent, guardian, or custodian is unable or unwilling to provide  
386.18 that care;

386.19 (5) is medically neglected, which includes, but is not limited to, the withholding of  
386.20 medically indicated treatment from an infant with a disability with a life-threatening  
386.21 condition. The term "withholding of medically indicated treatment" means the failure to  
386.22 respond to the infant's life-threatening conditions by providing treatment, including  
386.23 appropriate nutrition, hydration, and medication which, in the treating physician's or advanced  
386.24 practice registered nurse's reasonable medical judgment, will be most likely to be effective  
386.25 in ameliorating or correcting all conditions, except that the term does not include the failure  
386.26 to provide treatment other than appropriate nutrition, hydration, or medication to an infant  
386.27 when, in the treating physician's or advanced practice registered nurse's reasonable medical  
386.28 judgment:

386.29 (i) the infant is chronically and irreversibly comatose;

386.30 (ii) the provision of the treatment would merely prolong dying, not be effective in  
386.31 ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be  
386.32 futile in terms of the survival of the infant; or

387.1 (iii) the provision of the treatment would be virtually futile in terms of the survival of  
387.2 the infant and the treatment itself under the circumstances would be inhumane;

387.3 (6) is one whose parent, guardian, or other custodian for good cause desires to be relieved  
387.4 of the child's care and custody, including a child who entered foster care under a voluntary  
387.5 placement agreement between the parent and the responsible social services agency under  
387.6 section 260C.227;

387.7 (7) has been placed for adoption or care in violation of law;

387.8 (8) is without proper parental care because of the emotional, mental, or physical disability,  
387.9 or state of immaturity of the child's parent, guardian, or other custodian;

387.10 (9) is one whose behavior, condition, or environment is such as to be injurious or  
387.11 dangerous to the child or others. An injurious or dangerous environment may include, but  
387.12 is not limited to, the exposure of a child to criminal activity in the child's home;

387.13 (10) is experiencing growth delays, which may be referred to as failure to thrive, that  
387.14 have been diagnosed by a physician and are due to parental neglect;

387.15 (11) is a sexually exploited youth;

387.16 (12) has committed a delinquent act or a juvenile petty offense before becoming ten  
387.17 years old;

387.18 (13) is a runaway;

387.19 (14) is a habitual truant;

387.20 (15) has been found incompetent to proceed or has been found not guilty by reason of  
387.21 mental illness or mental deficiency in connection with a delinquency proceeding, a  
387.22 certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a  
387.23 proceeding involving a juvenile petty offense; or

387.24 (16) has a parent whose parental rights to one or more other children were involuntarily  
387.25 terminated or whose custodial rights to another child have been involuntarily transferred to  
387.26 a relative and there is a case plan prepared by the responsible social services agency  
387.27 documenting a compelling reason why filing the termination of parental rights petition under  
387.28 section 260C.503, subdivision 2, is not in the best interests of the child.

387.29 Sec. 116. Minnesota Statutes 2018, section 260C.007, subdivision 13, is amended to read:

387.30 Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

388.1 (1) any physical injury to a minor family or household member inflicted by an adult  
388.2 family or household member other than by accidental means;

388.3 (2) subjection of a minor family or household member by an adult family or household  
388.4 member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342,  
388.5 609.343, 609.344, 609.345, or 617.246; or

388.6 (3) physical or sexual abuse as defined in section ~~626.556, subdivision 2~~ 260E.03,  
388.7 subdivision 18 or 20.

388.8 Sec. 117. Minnesota Statutes 2019 Supplement, section 260C.139, subdivision 3, is  
388.9 amended to read:

388.10 Subd. 3. **Status of child.** For purposes of proceedings under this chapter and adoption  
388.11 proceedings, a newborn left at a safe place, pursuant to subdivision 4 and section 145.902,  
388.12 is considered an abandoned child under section ~~626.556, subdivision 2, paragraph (o), clause~~  
388.13 ~~(2)~~ 260E.03, subdivision 22, clause (2). The child is abandoned under sections 260C.007,  
388.14 subdivision 6, clause (1), and 260C.301, subdivision 1, paragraph (b), clause (1).

388.15 Sec. 118. Minnesota Statutes 2018, section 260C.150, subdivision 3, is amended to read:

388.16 Subd. 3. **Identifying parents of child; diligent efforts; data.** (a) The responsible social  
388.17 services agency shall make diligent efforts to identify and locate both parents of any child  
388.18 who is the subject of proceedings under this chapter. Diligent efforts include:

388.19 (1) asking the custodial or known parent to identify any nonresident parent of the child  
388.20 and provide information that can be used to verify the nonresident parent's identity including  
388.21 the dates and locations of marriages and divorces; dates and locations of any legal  
388.22 proceedings regarding paternity; date and place of the child's birth; nonresident parent's full  
388.23 legal name; nonresident parent's date of birth, or if the nonresident parent's date of birth is  
388.24 unknown, an approximate age; the nonresident parent's Social Security number; the  
388.25 nonresident parent's whereabouts including last known whereabouts; and the whereabouts  
388.26 of relatives of the nonresident parent. For purposes of this subdivision, "nonresident parent"  
388.27 means a parent who does not reside in the same household as the child or did not reside in  
388.28 the same household as the child at the time the child was removed when the child is in foster  
388.29 care;

388.30 (2) obtaining information that will identify and locate the nonresident parent from the  
388.31 county and state of Minnesota child support enforcement information system;

389.1 (3) requesting a search of the Minnesota Fathers' Adoption Registry 30 days after the  
389.2 child's birth; and

389.3 (4) using any other reasonable means to identify and locate the nonresident parent.

389.4 (b) The agency may disclose data which is otherwise private under section 13.46 or  
389.5 ~~626.556~~ or chapter 260E in order to carry out its duties under this subdivision.

389.6 (c) Upon the filing of a petition alleging the child to be in need of protection or services,  
389.7 the responsible social services agency may contact a putative father who registered with  
389.8 the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth. The  
389.9 social service agency may consider a putative father for the day-to-day care of the child  
389.10 under section 260C.219 if the putative father cooperates with genetic testing and there is a  
389.11 positive test result under section 257.62, subdivision 5. Nothing in this paragraph:

389.12 (1) relieves a putative father who registered with the Minnesota Fathers' Adoption  
389.13 Registry more than 30 days after the child's birth of the duty to cooperate with paternity  
389.14 establishment proceedings under section 260C.219;

389.15 (2) gives a putative father who registered with the Minnesota Fathers' Adoption Registry  
389.16 more than 30 days after the child's birth the right to notice under section 260C.151 unless  
389.17 the putative father is entitled to notice under sections 259.24 and 259.49, subdivision 1,  
389.18 paragraph (a) or (b), clauses (1) to (7); or

389.19 (3) establishes a right to assert an interest in the child in a termination of parental rights  
389.20 proceeding contrary to section 259.52, subdivision 6, unless the putative father is entitled  
389.21 to notice under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1)  
389.22 to (7).

389.23 Sec. 119. Minnesota Statutes 2018, section 260C.171, subdivision 3, is amended to read:

389.24 Subd. 3. **Attorney access to records.** An attorney representing a child, parent, or guardian  
389.25 ad litem in a proceeding under this chapter shall be given access to records, responsible  
389.26 social services agency files, and reports which form the basis of any recommendation made  
389.27 to the court. An attorney does not have access under this subdivision to the identity of a  
389.28 person who made a report under ~~section 626.556~~ chapter 260E. The court may issue  
389.29 protective orders to prohibit an attorney from sharing a specified record or portion of a  
389.30 record with a client other than a guardian ad litem.

390.1 Sec. 120. Minnesota Statutes 2018, section 260C.177, is amended to read:

390.2 **260C.177 PARENTAL AND LAW ENFORCEMENT NOTIFICATION.**

390.3 An emergency shelter and its agents, employees, and volunteers must comply with court  
390.4 orders, ~~section 626.556~~, this chapter, chapter 260E, and all other applicable laws. In any  
390.5 event, unless other legal requirements require earlier or different notification or actions, an  
390.6 emergency shelter must attempt to notify a runaway's parent or legal guardian of the  
390.7 runaway's location and status within 72 hours. The notification must include a description  
390.8 of the runaway's physical and emotional condition and the circumstances surrounding the  
390.9 runaway's admission to the emergency shelter, unless there are compelling reasons not to  
390.10 provide the parent or legal guardian with this information. Compelling reasons may include  
390.11 circumstances in which the runaway is or has been exposed to domestic violence or a victim  
390.12 of abuse, neglect, or abandonment.

390.13 Sec. 121. Minnesota Statutes 2019 Supplement, section 260C.178, subdivision 1, is  
390.14 amended to read:

390.15 Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody  
390.16 under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a  
390.17 hearing within 72 hours of the time the child was taken into custody, excluding Saturdays,  
390.18 Sundays, and holidays, to determine whether the child should continue in custody.

390.19 (b) Unless there is reason to believe that the child would endanger self or others or not  
390.20 return for a court hearing, or that the child's health or welfare would be immediately  
390.21 endangered, the child shall be released to the custody of a parent, guardian, custodian, or  
390.22 other suitable person, subject to reasonable conditions of release including, but not limited  
390.23 to, a requirement that the child undergo a chemical use assessment as provided in section  
390.24 260C.157, subdivision 1.

390.25 (c) If the court determines there is reason to believe that the child would endanger self  
390.26 or others or not return for a court hearing, or that the child's health or welfare would be  
390.27 immediately endangered if returned to the care of the parent or guardian who has custody  
390.28 and from whom the child was removed, the court shall order the child into foster care as  
390.29 defined in section 260C.007, subdivision 18, under the legal responsibility of the responsible  
390.30 social services agency or responsible probation or corrections agency for the purposes of  
390.31 protective care as that term is used in the juvenile court rules or into the home of a  
390.32 noncustodial parent and order the noncustodial parent to comply with any conditions the  
390.33 court determines to be appropriate to the safety and care of the child, including cooperating  
390.34 with paternity establishment proceedings in the case of a man who has not been adjudicated

391.1 the child's father. The court shall not give the responsible social services legal custody and  
391.2 order a trial home visit at any time prior to adjudication and disposition under section  
391.3 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the  
391.4 care of the parent or guardian who has custody and from whom the child was removed and  
391.5 order the parent or guardian to comply with any conditions the court determines to be  
391.6 appropriate to meet the safety, health, and welfare of the child.

391.7 (d) In determining whether the child's health or welfare would be immediately  
391.8 endangered, the court shall consider whether the child would reside with a perpetrator of  
391.9 domestic child abuse.

391.10 (e) The court, before determining whether a child should be placed in or continue in  
391.11 foster care under the protective care of the responsible agency, shall also make a  
391.12 determination, consistent with section 260.012 as to whether reasonable efforts were made  
391.13 to prevent placement or whether reasonable efforts to prevent placement are not required.  
391.14 In the case of an Indian child, the court shall determine whether active efforts, according  
391.15 to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25,  
391.16 section 1912(d), were made to prevent placement. The court shall enter a finding that the  
391.17 responsible social services agency has made reasonable efforts to prevent placement when  
391.18 the agency establishes either:

391.19 (1) that it has actually provided services or made efforts in an attempt to prevent the  
391.20 child's removal but that such services or efforts have not proven sufficient to permit the  
391.21 child to safely remain in the home; or

391.22 (2) that there are no services or other efforts that could be made at the time of the hearing  
391.23 that could safely permit the child to remain home or to return home. When reasonable efforts  
391.24 to prevent placement are required and there are services or other efforts that could be ordered  
391.25 which would permit the child to safely return home, the court shall order the child returned  
391.26 to the care of the parent or guardian and the services or efforts put in place to ensure the  
391.27 child's safety. When the court makes a prima facie determination that one of the  
391.28 circumstances under paragraph (g) exists, the court shall determine that reasonable efforts  
391.29 to prevent placement and to return the child to the care of the parent or guardian are not  
391.30 required.

391.31 If the court finds the social services agency's preventive or reunification efforts have  
391.32 not been reasonable but further preventive or reunification efforts could not permit the child  
391.33 to safely remain at home, the court may nevertheless authorize or continue the removal of  
391.34 the child.

392.1 (f) The court may not order or continue the foster care placement of the child unless the  
392.2 court makes explicit, individualized findings that continued custody of the child by the  
392.3 parent or guardian would be contrary to the welfare of the child and that placement is in the  
392.4 best interest of the child.

392.5 (g) At the emergency removal hearing, or at any time during the course of the proceeding,  
392.6 and upon notice and request of the county attorney, the court shall determine whether a  
392.7 petition has been filed stating a prima facie case that:

392.8 (1) the parent has subjected a child to egregious harm as defined in section 260C.007,  
392.9 subdivision 14;

392.10 (2) the parental rights of the parent to another child have been involuntarily terminated;

392.11 (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph  
392.12 (a), clause (2);

392.13 (4) the parents' custodial rights to another child have been involuntarily transferred to a  
392.14 relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e),  
392.15 clause (1); section 260C.515, subdivision 4; or a similar law of another jurisdiction;

392.16 (5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~  
392.17 260E.03, against the child or another child of the parent;

392.18 (6) the parent has committed an offense that requires registration as a predatory offender  
392.19 under section 243.166, subdivision 1b, paragraph (a) or (b); or

392.20 (7) the provision of services or further services for the purpose of reunification is futile  
392.21 and therefore unreasonable.

392.22 (h) When a petition to terminate parental rights is required under section 260C.301,  
392.23 subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to  
392.24 proceed with a termination of parental rights petition, and has instead filed a petition to  
392.25 transfer permanent legal and physical custody to a relative under section 260C.507, the  
392.26 court shall schedule a permanency hearing within 30 days of the filing of the petition.

392.27 (i) If the county attorney has filed a petition under section 260C.307, the court shall  
392.28 schedule a trial under section 260C.163 within 90 days of the filing of the petition except  
392.29 when the county attorney determines that the criminal case shall proceed to trial first under  
392.30 section 260C.503, subdivision 2, paragraph (c).

392.31 (j) If the court determines the child should be ordered into foster care and the child's  
392.32 parent refuses to give information to the responsible social services agency regarding the



393.1 child's father or relatives of the child, the court may order the parent to disclose the names,  
393.2 addresses, telephone numbers, and other identifying information to the responsible social  
393.3 services agency for the purpose of complying with sections 260C.151, 260C.212, 260C.215,  
393.4 and 260C.221.

393.5 (k) If a child ordered into foster care has siblings, whether full, half, or step, who are  
393.6 also ordered into foster care, the court shall inquire of the responsible social services agency  
393.7 of the efforts to place the children together as required by section 260C.212, subdivision 2,  
393.8 paragraph (d), if placement together is in each child's best interests, unless a child is in  
393.9 placement for treatment or a child is placed with a previously noncustodial parent who is  
393.10 not a parent to all siblings. If the children are not placed together at the time of the hearing,  
393.11 the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place  
393.12 the siblings together, as required under section 260.012. If any sibling is not placed with  
393.13 another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing  
393.14 contact among the siblings as required under section 260C.212, subdivision 1, unless it is  
393.15 contrary to the safety or well-being of any of the siblings to do so.

393.16 (l) When the court has ordered the child into foster care or into the home of a noncustodial  
393.17 parent, the court may order a chemical dependency evaluation, mental health evaluation,  
393.18 medical examination, and parenting assessment for the parent as necessary to support the  
393.19 development of a plan for reunification required under subdivision 7 and section 260C.212,  
393.20 subdivision 1, or the child protective services plan under section ~~626.556, subdivision 10~~  
393.21 260E.26, and Minnesota Rules, part 9560.0228.

393.22 Sec. 122. Minnesota Statutes 2019 Supplement, section 260C.201, subdivision 6, is  
393.23 amended to read:

393.24 Subd. 6. **Case plan.** (a) For each disposition ordered where the child is placed away  
393.25 from a parent or guardian, the court shall order the responsible social services agency to  
393.26 prepare a written out-of-home placement plan according to the requirements of section  
393.27 260C.212, subdivision 1. When a foster child is colocated with a parent in a licensed  
393.28 residential family-based substance use disorder treatment program under section 260C.190,  
393.29 the case plan must specify the recommendation for the colocation before the child is colocated  
393.30 with the parent.

393.31 (b) In cases where the child is not placed out of the home or is ordered into the home of  
393.32 a noncustodial parent, the responsible social services agency shall prepare a plan for delivery  
393.33 of social services to the child and custodial parent under section ~~626.556, subdivision 10~~  
393.34 260E.26, or any other case plan required to meet the needs of the child. The plan shall be

394.1 designed to safely maintain the child in the home or to reunite the child with the custodial  
394.2 parent.

394.3 (c) The court may approve the case plan as presented or modify it after hearing from  
394.4 the parties. Once the plan is approved, the court shall order all parties to comply with it. A  
394.5 copy of the approved case plan shall be attached to the court's order and incorporated into  
394.6 it by reference.

394.7 (d) A party has a right to request a court review of the reasonableness of the case plan  
394.8 upon a showing of a substantial change of circumstances.

394.9 Sec. 123. Minnesota Statutes 2018, section 260C.209, subdivision 2, is amended to read:

394.10 Subd. 2. **General procedures.** (a) When accessing information under subdivision 1, the  
394.11 agency shall require the individual being assessed to provide sufficient information to ensure  
394.12 an accurate assessment under this section, including:

394.13 (1) the individual's first, middle, and last name and all other names by which the  
394.14 individual has been known;

394.15 (2) home address, zip code, city, county, and state of residence for the past five years;

394.16 (3) sex;

394.17 (4) date of birth; and

394.18 (5) driver's license number or state identification number.

394.19 (b) When notified by the responsible social services agency that it is accessing information  
394.20 under subdivision 1, the Bureau of Criminal Apprehension, commissioners of health and  
394.21 human services, law enforcement, and county agencies must provide the responsible social  
394.22 services agency or county attorney with the following information on the individual being  
394.23 assessed: criminal history data, local law enforcement data about the household, reports  
394.24 about the maltreatment of adults substantiated under section 626.557, and reports of  
394.25 maltreatment of minors substantiated under ~~section 626.556~~ chapter 260E.

394.26 Sec. 124. Minnesota Statutes 2018, section 260C.212, subdivision 12, is amended to read:

394.27 Subd. 12. **Fair hearing review.** Any person whose claim for foster care payment pursuant  
394.28 to the placement of a child resulting from a child protection assessment under ~~section 626.556~~  
394.29 chapter 260E is denied or not acted upon with reasonable promptness may appeal the decision  
394.30 under section 256.045, subdivision 3.

395.1 Sec. 125. Minnesota Statutes 2018, section 260C.221, is amended to read:

395.2 **260C.221 RELATIVE SEARCH.**

395.3 (a) The responsible social services agency shall exercise due diligence to identify and  
395.4 notify adult relatives prior to placement or within 30 days after the child's removal from the  
395.5 parent. The county agency shall consider placement with a relative under this section without  
395.6 delay and whenever the child must move from or be returned to foster care. The relative  
395.7 search required by this section shall be comprehensive in scope. After a finding that the  
395.8 agency has made reasonable efforts to conduct the relative search under this paragraph, the  
395.9 agency has the continuing responsibility to appropriately involve relatives, who have  
395.10 responded to the notice required under this paragraph, in planning for the child and to  
395.11 continue to consider relatives according to the requirements of section 260C.212, subdivision  
395.12 2. At any time during the course of juvenile protection proceedings, the court may order  
395.13 the agency to reopen its search for relatives when it is in the child's best interest to do so.

395.14 (b) The relative search required by this section shall include both maternal and paternal  
395.15 adult relatives of the child; all adult grandparents; all legal parents, guardians, or custodians  
395.16 of the child's siblings; and any other adult relatives suggested by the child's parents, subject  
395.17 to the exceptions due to family violence in paragraph (c). The search shall also include  
395.18 getting information from the child in an age-appropriate manner about who the child  
395.19 considers to be family members and important friends with whom the child has resided or  
395.20 had significant contact. The relative search required under this section must fulfill the  
395.21 agency's duties under the Indian Child Welfare Act regarding active efforts to prevent the  
395.22 breakup of the Indian family under United States Code, title 25, section 1912(d), and to  
395.23 meet placement preferences under United States Code, title 25, section 1915. The relatives  
395.24 must be notified:

395.25 (1) of the need for a foster home for the child, the option to become a placement resource  
395.26 for the child, and the possibility of the need for a permanent placement for the child;

395.27 (2) of their responsibility to keep the responsible social services agency and the court  
395.28 informed of their current address in order to receive notice in the event that a permanent  
395.29 placement is sought for the child and to receive notice of the permanency progress review  
395.30 hearing under section 260C.204. A relative who fails to provide a current address to the  
395.31 responsible social services agency and the court forfeits the right to receive notice of the  
395.32 possibility of permanent placement and of the permanency progress review hearing under  
395.33 section 260C.204. A decision by a relative not to be identified as a potential permanent  
395.34 placement resource or participate in planning for the child at the beginning of the case shall

396.1 not affect whether the relative is considered for placement of the child with that relative  
396.2 later;

396.3 (3) that the relative may participate in the care and planning for the child, including that  
396.4 the opportunity for such participation may be lost by failing to respond to the notice sent  
396.5 under this subdivision. "Participate in the care and planning" includes, but is not limited to,  
396.6 participation in case planning for the parent and child, identifying the strengths and needs  
396.7 of the parent and child, supervising visits, providing respite and vacation visits for the child,  
396.8 providing transportation to appointments, suggesting other relatives who might be able to  
396.9 help support the case plan, and to the extent possible, helping to maintain the child's familiar  
396.10 and regular activities and contact with friends and relatives;

396.11 (4) of the family foster care licensing requirements, including how to complete an  
396.12 application and how to request a variance from licensing standards that do not present a  
396.13 safety or health risk to the child in the home under section 245A.04 and supports that are  
396.14 available for relatives and children who reside in a family foster home; and

396.15 (5) of the relatives' right to ask to be notified of any court proceedings regarding the  
396.16 child, to attend the hearings, and of a relative's right or opportunity to be heard by the court  
396.17 as required under section 260C.152, subdivision 5.

396.18 (c) A responsible social services agency may disclose private data, as defined in ~~sections~~  
396.19 section 13.02 and 626.556 chapter 260E, to relatives of the child for the purpose of locating  
396.20 and assessing a suitable placement and may use any reasonable means of identifying and  
396.21 locating relatives including the Internet or other electronic means of conducting a search.  
396.22 The agency shall disclose data that is necessary to facilitate possible placement with relatives  
396.23 and to ensure that the relative is informed of the needs of the child so the relative can  
396.24 participate in planning for the child and be supportive of services to the child and family.  
396.25 If the child's parent refuses to give the responsible social services agency information  
396.26 sufficient to identify the maternal and paternal relatives of the child, the agency shall ask  
396.27 the juvenile court to order the parent to provide the necessary information. If a parent makes  
396.28 an explicit request that a specific relative not be contacted or considered for placement due  
396.29 to safety reasons including past family or domestic violence, the agency shall bring the  
396.30 parent's request to the attention of the court to determine whether the parent's request is  
396.31 consistent with the best interests of the child and the agency shall not contact the specific  
396.32 relative when the juvenile court finds that contacting the specific relative would endanger  
396.33 the parent, guardian, child, sibling, or any family member.

397.1 (d) At a regularly scheduled hearing not later than three months after the child's placement  
397.2 in foster care and as required in section 260C.202, the agency shall report to the court:

397.3 (1) its efforts to identify maternal and paternal relatives of the child and to engage the  
397.4 relatives in providing support for the child and family, and document that the relatives have  
397.5 been provided the notice required under paragraph (a); and

397.6 (2) its decision regarding placing the child with a relative as required under section  
397.7 260C.212, subdivision 2, and to ask relatives to visit or maintain contact with the child in  
397.8 order to support family connections for the child, when placement with a relative is not  
397.9 possible or appropriate.

397.10 (e) Notwithstanding chapter 13, the agency shall disclose data about particular relatives  
397.11 identified, searched for, and contacted for the purposes of the court's review of the agency's  
397.12 due diligence.

397.13 (f) When the court is satisfied that the agency has exercised due diligence to identify  
397.14 relatives and provide the notice required in paragraph (a), the court may find that reasonable  
397.15 efforts have been made to conduct a relative search to identify and provide notice to adult  
397.16 relatives as required under section 260.012, paragraph (e), clause (3). If the court is not  
397.17 satisfied that the agency has exercised due diligence to identify relatives and provide the  
397.18 notice required in paragraph (a), the court may order the agency to continue its search and  
397.19 notice efforts and to report back to the court.

397.20 (g) When the placing agency determines that permanent placement proceedings are  
397.21 necessary because there is a likelihood that the child will not return to a parent's care, the  
397.22 agency must send the notice provided in paragraph (h), may ask the court to modify the  
397.23 duty of the agency to send the notice required in paragraph (h), or may ask the court to  
397.24 completely relieve the agency of the requirements of paragraph (h). The relative notification  
397.25 requirements of paragraph (h) do not apply when the child is placed with an appropriate  
397.26 relative or a foster home that has committed to adopting the child or taking permanent legal  
397.27 and physical custody of the child and the agency approves of that foster home for permanent  
397.28 placement of the child. The actions ordered by the court under this section must be consistent  
397.29 with the best interests, safety, permanency, and welfare of the child.

397.30 (h) Unless required under the Indian Child Welfare Act or relieved of this duty by the  
397.31 court under paragraph (f), when the agency determines that it is necessary to prepare for  
397.32 permanent placement determination proceedings, or in anticipation of filing a termination  
397.33 of parental rights petition, the agency shall send notice to the relatives, any adult with whom  
397.34 the child is currently residing, any adult with whom the child has resided for one year or

398.1 longer in the past, and any adults who have maintained a relationship or exercised visitation  
398.2 with the child as identified in the agency case plan. The notice must state that a permanent  
398.3 home is sought for the child and that the individuals receiving the notice may indicate to  
398.4 the agency their interest in providing a permanent home. The notice must state that within  
398.5 30 days of receipt of the notice an individual receiving the notice must indicate to the agency  
398.6 the individual's interest in providing a permanent home for the child or that the individual  
398.7 may lose the opportunity to be considered for a permanent placement.

398.8 Sec. 126. Minnesota Statutes 2018, section 260C.503, subdivision 2, is amended to read:

398.9 Subd. 2. **Termination of parental rights.** (a) The responsible social services agency  
398.10 must ask the county attorney to immediately file a termination of parental rights petition  
398.11 when:

398.12 (1) the child has been subjected to egregious harm as defined in section 260C.007,  
398.13 subdivision 14;

398.14 (2) the child is determined to be the sibling of a child who was subjected to egregious  
398.15 harm;

398.16 (3) the child is an abandoned infant as defined in section 260C.301, subdivision 2,  
398.17 paragraph (a), clause (2);

398.18 (4) the child's parent has lost parental rights to another child through an order involuntarily  
398.19 terminating the parent's rights;

398.20 (5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~  
398.21 260E.03, against the child or another child of the parent;

398.22 (6) the parent has committed an offense that requires registration as a predatory offender  
398.23 under section 243.166, subdivision 1b, paragraph (a) or (b); or

398.24 (7) another child of the parent is the subject of an order involuntarily transferring  
398.25 permanent legal and physical custody of the child to a relative under this chapter or a similar  
398.26 law of another jurisdiction;

398.27 The county attorney shall file a termination of parental rights petition unless the conditions  
398.28 of paragraph (d) are met.

398.29 (b) When the termination of parental rights petition is filed under this subdivision, the  
398.30 responsible social services agency shall identify, recruit, and approve an adoptive family  
398.31 for the child. If a termination of parental rights petition has been filed by another party, the  
398.32 responsible social services agency shall be joined as a party to the petition.

399.1 (c) If criminal charges have been filed against a parent arising out of the conduct alleged  
399.2 to constitute egregious harm, the county attorney shall determine which matter should  
399.3 proceed to trial first, consistent with the best interests of the child and subject to the  
399.4 defendant's right to a speedy trial.

399.5 (d) The requirement of paragraph (a) does not apply if the responsible social services  
399.6 agency and the county attorney determine and file with the court:

399.7 (1) a petition for transfer of permanent legal and physical custody to a relative under  
399.8 sections 260C.505 and 260C.515, subdivision 3, including a determination that adoption is  
399.9 not in the child's best interests and that transfer of permanent legal and physical custody is  
399.10 in the child's best interests; or

399.11 (2) a petition under section 260C.141 alleging the child, and where appropriate, the  
399.12 child's siblings, to be in need of protection or services accompanied by a case plan prepared  
399.13 by the responsible social services agency documenting a compelling reason why filing a  
399.14 termination of parental rights petition would not be in the best interests of the child.

399.15 Sec. 127. Minnesota Statutes 2018, section 260D.01, is amended to read:

399.16 **260D.01 CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

399.17 (a) Sections 260D.01 to 260D.10, may be cited as the "child in voluntary foster care for  
399.18 treatment" provisions of the Juvenile Court Act.

399.19 (b) The juvenile court has original and exclusive jurisdiction over a child in voluntary  
399.20 foster care for treatment upon the filing of a report or petition required under this chapter.  
399.21 All obligations of the agency to a child and family in foster care contained in chapter 260C  
399.22 not inconsistent with this chapter are also obligations of the agency with regard to a child  
399.23 in foster care for treatment under this chapter.

399.24 (c) This chapter shall be construed consistently with the mission of the children's mental  
399.25 health service system as set out in section 245.487, subdivision 3, and the duties of an agency  
399.26 under sections 256B.092 and 260C.157 and Minnesota Rules, parts 9525.0004 to 9525.0016,  
399.27 to meet the needs of a child with a developmental disability or related condition. This  
399.28 chapter:

399.29 (1) establishes voluntary foster care through a voluntary foster care agreement as the  
399.30 means for an agency and a parent to provide needed treatment when the child must be in  
399.31 foster care to receive necessary treatment for an emotional disturbance or developmental  
399.32 disability or related condition;

400.1 (2) establishes court review requirements for a child in voluntary foster care for treatment  
400.2 due to emotional disturbance or developmental disability or a related condition;

400.3 (3) establishes the ongoing responsibility of the parent as legal custodian to visit the  
400.4 child, to plan together with the agency for the child's treatment needs, to be available and  
400.5 accessible to the agency to make treatment decisions, and to obtain necessary medical,  
400.6 dental, and other care for the child; and

400.7 (4) applies to voluntary foster care when the child's parent and the agency agree that the  
400.8 child's treatment needs require foster care either:

400.9 (i) due to a level of care determination by the agency's screening team informed by the  
400.10 diagnostic and functional assessment under section 245.4885; or

400.11 (ii) due to a determination regarding the level of services needed by the responsible  
400.12 social services' screening team under section 256B.092, and Minnesota Rules, parts  
400.13 9525.0004 to 9525.0016.

400.14 (d) This chapter does not apply when there is a current determination under ~~section~~  
400.15 ~~626.556~~ chapter 260E that the child requires child protective services or when the child is  
400.16 in foster care for any reason other than treatment for the child's emotional disturbance or  
400.17 developmental disability or related condition. When there is a determination under ~~section~~  
400.18 ~~626.556~~ chapter 260E that the child requires child protective services based on an assessment  
400.19 that there are safety and risk issues for the child that have not been mitigated through the  
400.20 parent's engagement in services or otherwise, or when the child is in foster care for any  
400.21 reason other than the child's emotional disturbance or developmental disability or related  
400.22 condition, the provisions of chapter 260C apply.

400.23 (e) The paramount consideration in all proceedings concerning a child in voluntary foster  
400.24 care for treatment is the safety, health, and the best interests of the child. The purpose of  
400.25 this chapter is:

400.26 (1) to ensure a child with a disability is provided the services necessary to treat or  
400.27 ameliorate the symptoms of the child's disability;

400.28 (2) to preserve and strengthen the child's family ties whenever possible and in the child's  
400.29 best interests, approving the child's placement away from the child's parents only when the  
400.30 child's need for care or treatment requires it and the child cannot be maintained in the home  
400.31 of the parent; and

400.32 (3) to ensure the child's parent retains legal custody of the child and associated  
400.33 decision-making authority unless the child's parent willfully fails or is unable to make



401.1 decisions that meet the child's safety, health, and best interests. The court may not find that  
401.2 the parent willfully fails or is unable to make decisions that meet the child's needs solely  
401.3 because the parent disagrees with the agency's choice of foster care facility, unless the  
401.4 agency files a petition under chapter 260C, and establishes by clear and convincing evidence  
401.5 that the child is in need of protection or services.

401.6 (f) The legal parent-child relationship shall be supported under this chapter by maintaining  
401.7 the parent's legal authority and responsibility for ongoing planning for the child and by the  
401.8 agency's assisting the parent, where necessary, to exercise the parent's ongoing right and  
401.9 obligation to visit or to have reasonable contact with the child. Ongoing planning means:

401.10 (1) actively participating in the planning and provision of educational services, medical,  
401.11 and dental care for the child;

401.12 (2) actively planning and participating with the agency and the foster care facility for  
401.13 the child's treatment needs; and

401.14 (3) planning to meet the child's need for safety, stability, and permanency, and the child's  
401.15 need to stay connected to the child's family and community.

401.16 (g) The provisions of section 260.012 to ensure placement prevention, family  
401.17 reunification, and all active and reasonable effort requirements of that section apply. This  
401.18 chapter shall be construed consistently with the requirements of the Indian Child Welfare  
401.19 Act of 1978, United States Code, title 25, section 1901, et al., and the provisions of the  
401.20 Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

401.21 Sec. 128. Minnesota Statutes 2018, section 260D.02, subdivision 3, is amended to read:

401.22 Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child  
401.23 and parent, or when reunification is not required, the child alone, that is developed according  
401.24 to the requirements of sections 245.4871, subdivision 19 or 21; 245.492, subdivision 16;  
401.25 256B.092; and 260C.212, subdivision 1; ~~626.556, subdivision 10;~~ and Minnesota Rules,  
401.26 parts 9525.0004 to 9525.0016.

401.27 Sec. 129. Minnesota Statutes 2018, section 260D.02, subdivision 5, is amended to read:

401.28 Subd. 5. **Child in voluntary foster care for treatment.** "Child in voluntary foster care  
401.29 for treatment" means a child who is emotionally disturbed or developmentally disabled or  
401.30 has a related condition and is in foster care under a voluntary foster care agreement between  
401.31 the child's parent and the agency due to concurrence between the agency and the parent  
401.32 when it is determined that foster care is medically necessary:

402.1 (1) due to a determination by the agency's screening team based on its review of the  
402.2 diagnostic and functional assessment under section 245.4885; or

402.3 (2) due to a determination by the agency's screening team under section 256B.092 and  
402.4 Minnesota Rules, parts 9525.0004 to 9525.0016.

402.5 A child is not in voluntary foster care for treatment under this chapter when there is a  
402.6 current determination under ~~section 626.556~~ chapter 260E that the child requires child  
402.7 protective services or when the child is in foster care for any reason other than the child's  
402.8 emotional or developmental disability or related condition.

402.9 Sec. 130. Minnesota Statutes 2019 Supplement, section 299C.093, is amended to read:

402.10 **299C.093 DATABASE OF REGISTERED PREDATORY OFFENDERS.**

402.11 The superintendent of the Bureau of Criminal Apprehension shall maintain a  
402.12 computerized data system relating to individuals required to register as predatory offenders  
402.13 under section 243.166. To the degree feasible, the system must include the data required to  
402.14 be provided under section 243.166, subdivisions 4, 4a, and 4b, and indicate the time period  
402.15 that the person is required to register. The superintendent shall maintain this data in a manner  
402.16 that ensures that it is readily available to law enforcement agencies. This data is private data  
402.17 on individuals under section 13.02, subdivision 12, but may be used for law enforcement  
402.18 and corrections purposes. Law enforcement or a corrections agent may disclose the status  
402.19 of an individual as a predatory offender to a child protection worker with a local welfare  
402.20 agency for purposes of doing a family assessment under ~~section 626.556~~ chapter 260E. A  
402.21 corrections agent may also disclose the status of an individual as a predatory offender to  
402.22 comply with section 244.057. The commissioner of human services has access to the data  
402.23 for state-operated services, as defined in section 246.014, for the purposes described in  
402.24 section 246.13, subdivision 2, paragraph (b), and for purposes of conducting background  
402.25 studies under chapter 245C.

402.26 Sec. 131. Minnesota Statutes 2018, section 388.051, subdivision 2, is amended to read:

402.27 Subd. 2. **Special provisions.** (a) In Anoka, Carver, Dakota, Hennepin, Scott, and  
402.28 Washington Counties, only the county attorney shall prosecute gross misdemeanor violations  
402.29 of sections 289A.63, subdivisions 1, 2, 4, and 6; 297B.10; 609.255, subdivision 3; 609.377;  
402.30 609.378; 609.41; and 617.247.

402.31 (b) In Ramsey County, only the county attorney shall prosecute gross misdemeanor  
402.32 violations of sections 609.255, subdivision 3; 609.377; and 609.378.

403.1 (c) The county attorney shall prosecute failure to report physical or sexual child abuse  
403.2 or neglect as provided under section ~~626.556, subdivision 6,~~ 260E.08, paragraphs (a), (b),  
403.3 and (c), violations of fifth-degree criminal sexual conduct under section 609.3451, and  
403.4 environmental law violations under sections 115.071, 299F.098, and 609.671.

403.5 (d) Except in Hennepin and Ramsey Counties, only the county attorney shall prosecute  
403.6 gross misdemeanor violations of section 152.025.

403.7 Sec. 132. Minnesota Statutes 2018, section 518.165, subdivision 2, is amended to read:

403.8 Subd. 2. **Required appointment of guardian ad litem.** In all proceedings for child  
403.9 custody or for marriage dissolution or legal separation in which custody or parenting time  
403.10 with a minor child is an issue, if the court has reason to believe that the minor child is a  
403.11 victim of domestic child abuse or neglect, as those terms are defined in ~~sections~~ section  
403.12 260C.007 and ~~626.556~~ chapter 260E, respectively, the court shall appoint a guardian ad  
403.13 litem. The guardian ad litem shall represent the interests of the child and advise the court  
403.14 with respect to custody and parenting time. If the child is represented by a guardian ad litem  
403.15 in any other pending proceeding, the court may appoint that guardian to represent the child  
403.16 in the custody or parenting time proceeding. No guardian ad litem need be appointed if the  
403.17 alleged domestic child abuse or neglect is before the court on a juvenile dependency and  
403.18 neglect petition. Nothing in this subdivision requires the court to appoint a guardian ad litem  
403.19 in any proceeding for child custody, marriage dissolution, or legal separation in which an  
403.20 allegation of domestic child abuse or neglect has not been made.

403.21 Sec. 133. Minnesota Statutes 2018, section 518.165, subdivision 5, is amended to read:

403.22 Subd. 5. **Procedure, criminal history, and maltreatment records background**  
403.23 **study.** (a) When the court requests a background study under subdivision 4, paragraph (a),  
403.24 the request shall be submitted to the Department of Human Services through the department's  
403.25 electronic online background study system.

403.26 (b) When the court requests a search of the National Criminal Records Repository, the  
403.27 court must provide a set of classifiable fingerprints of the subject of the study on a fingerprint  
403.28 card provided by the commissioner of human services.

403.29 (c) The commissioner of human services shall provide the court with criminal history  
403.30 data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department  
403.31 of Public Safety, other criminal history data held by the commissioner of human services,  
403.32 and data regarding substantiated maltreatment of a minor under ~~section 626.556~~ chapter  
403.33 260E, and substantiated maltreatment of a vulnerable adult under section 626.557, within

404.1 15 working days of receipt of a request. If the subject of the study has been determined by  
404.2 the Department of Human Services or the Department of Health to be the perpetrator of  
404.3 substantiated maltreatment of a minor or vulnerable adult in a licensed facility, the response  
404.4 must include a copy of the public portion of the investigation memorandum under section  
404.5 ~~626.556, subdivision 10f~~ 260E.30, or the public portion of the investigation memorandum  
404.6 under section 626.557, subdivision 12b. When the background study shows that the subject  
404.7 has been determined by a county adult protection or child protection agency to have been  
404.8 responsible for maltreatment, the court shall be informed of the county, the date of the  
404.9 finding, and the nature of the maltreatment that was substantiated. The commissioner shall  
404.10 provide the court with information from the National Criminal Records Repository within  
404.11 three working days of the commissioner's receipt of the data. When the commissioner finds  
404.12 no criminal history or substantiated maltreatment on a background study subject, the  
404.13 commissioner shall make these results available to the court electronically through the  
404.14 secure online background study system.

404.15 (d) Notwithstanding section ~~626.556, subdivision 10f~~, 260E.30 or 626.557, subdivision  
404.16 12b, if the commissioner or county lead agency or lead investigative agency has information  
404.17 that a person on whom a background study was previously done under this section has been  
404.18 determined to be a perpetrator of maltreatment of a minor or vulnerable adult, the  
404.19 commissioner or the county may provide this information to the court that requested the  
404.20 background study.

404.21 Sec. 134. Minnesota Statutes 2018, section 524.5-118, subdivision 2, is amended to read:

404.22 Subd. 2. **Procedure; criminal history and maltreatment records background**  
404.23 **check.** (a) The court shall request the commissioner of human services to complete a  
404.24 background study under section 245C.32. The request must be accompanied by the applicable  
404.25 fee and the signed consent of the subject of the study authorizing the release of the data  
404.26 obtained to the court. If the court is requesting a search of the National Criminal Records  
404.27 Repository, the request must be accompanied by a set of classifiable fingerprints of the  
404.28 subject of the study. The fingerprints must be recorded on a fingerprint card provided by  
404.29 the commissioner of human services.

404.30 (b) The commissioner of human services shall provide the court with criminal history  
404.31 data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department  
404.32 of Public Safety, other criminal history data held by the commissioner of human services,  
404.33 and data regarding substantiated maltreatment of vulnerable adults under section 626.557  
404.34 and substantiated maltreatment of minors under section ~~626.556~~ chapter 260E within 15

405.1 working days of receipt of a request. If the subject of the study has been the perpetrator of  
405.2 substantiated maltreatment of a vulnerable adult or minor, the response must include a copy  
405.3 of the public portion of the investigation memorandum under section 626.557, subdivision  
405.4 12b, or the public portion of the investigation memorandum under section ~~626.556,~~  
405.5 ~~subdivision 10f~~ 260E.30. If the court did not request a search of the National Criminal  
405.6 Records Repository and information from the Bureau of Criminal Apprehension indicates  
405.7 that the subject is a multistate offender or that multistate offender status is undetermined,  
405.8 the response must include this information. The commissioner shall provide the court with  
405.9 information from the National Criminal Records Repository within three working days of  
405.10 the commissioner's receipt of the data.

405.11 (c) Notwithstanding section 260E.30 or 626.557, subdivision 12b, ~~or 626.556, subdivision~~  
405.12 ~~10f~~, if the commissioner of human services or a county lead agency or lead investigative  
405.13 agency has information that a person on whom a background study was previously done  
405.14 under this section has been determined to be a perpetrator of maltreatment of a vulnerable  
405.15 adult or minor, the commissioner or the county may provide this information to the court  
405.16 that requested the background study. The commissioner may also provide the court with  
405.17 additional criminal history or substantiated maltreatment information that becomes available  
405.18 after the background study is done.

405.19 Sec. 135. Minnesota Statutes 2018, section 595.02, subdivision 1, is amended to read:

405.20 Subdivision 1. **Competency of witnesses.** Every person of sufficient understanding,  
405.21 including a party, may testify in any action or proceeding, civil or criminal, in court or  
405.22 before any person who has authority to receive evidence, except as provided in this  
405.23 subdivision:

405.24 (a) A husband cannot be examined for or against his wife without her consent, nor a  
405.25 wife for or against her husband without his consent, nor can either, during the marriage or  
405.26 afterwards, without the consent of the other, be examined as to any communication made  
405.27 by one to the other during the marriage. This exception does not apply to a civil action or  
405.28 proceeding by one against the other, nor to a criminal action or proceeding for a crime  
405.29 committed by one against the other or against a child of either or against a child under the  
405.30 care of either spouse, nor to a criminal action or proceeding in which one is charged with  
405.31 homicide or an attempt to commit homicide and the date of the marriage of the defendant  
405.32 is subsequent to the date of the offense, nor to an action or proceeding for nonsupport,  
405.33 neglect, dependency, or termination of parental rights.

406.1 (b) An attorney cannot, without the consent of the attorney's client, be examined as to  
406.2 any communication made by the client to the attorney or the attorney's advice given thereon  
406.3 in the course of professional duty; nor can any employee of the attorney be examined as to  
406.4 the communication or advice, without the client's consent.

406.5 (c) A member of the clergy or other minister of any religion shall not, without the consent  
406.6 of the party making the confession, be allowed to disclose a confession made to the member  
406.7 of the clergy or other minister in a professional character, in the course of discipline enjoined  
406.8 by the rules or practice of the religious body to which the member of the clergy or other  
406.9 minister belongs; nor shall a member of the clergy or other minister of any religion be  
406.10 examined as to any communication made to the member of the clergy or other minister by  
406.11 any person seeking religious or spiritual advice, aid, or comfort or advice given thereon in  
406.12 the course of the member of the clergy's or other minister's professional character, without  
406.13 the consent of the person.

406.14 (d) A licensed physician or surgeon, dentist, or chiropractor shall not, without the consent  
406.15 of the patient, be allowed to disclose any information or any opinion based thereon which  
406.16 the professional acquired in attending the patient in a professional capacity, and which was  
406.17 necessary to enable the professional to act in that capacity; after the decease of the patient,  
406.18 in an action to recover insurance benefits, where the insurance has been in existence two  
406.19 years or more, the beneficiaries shall be deemed to be the personal representatives of the  
406.20 deceased person for the purpose of waiving this privilege, and no oral or written waiver of  
406.21 the privilege shall have any binding force or effect except when made upon the trial or  
406.22 examination where the evidence is offered or received.

406.23 (e) A public officer shall not be allowed to disclose communications made to the officer  
406.24 in official confidence when the public interest would suffer by the disclosure.

406.25 (f) Persons of unsound mind and persons intoxicated at the time of their production for  
406.26 examination are not competent witnesses if they lack capacity to remember or to relate  
406.27 truthfully facts respecting which they are examined.

406.28 (g) A registered nurse, psychologist, consulting psychologist, or licensed social worker  
406.29 engaged in a psychological or social assessment or treatment of an individual at the  
406.30 individual's request shall not, without the consent of the professional's client, be allowed to  
406.31 disclose any information or opinion based thereon which the professional has acquired in  
406.32 attending the client in a professional capacity, and which was necessary to enable the  
406.33 professional to act in that capacity. Nothing in this clause exempts licensed social workers

407.1 from compliance with the provisions of ~~sections 626.556 and~~ section 626.557 and chapter  
407.2 260E.

407.3 (h) An interpreter for a person disabled in communication shall not, without the consent  
407.4 of the person, be allowed to disclose any communication if the communication would, if  
407.5 the interpreter were not present, be privileged. For purposes of this section, a "person disabled  
407.6 in communication" means a person who, because of a hearing, speech or other communication  
407.7 disorder, or because of the inability to speak or comprehend the English language, is unable  
407.8 to understand the proceedings in which the person is required to participate. The presence  
407.9 of an interpreter as an aid to communication does not destroy an otherwise existing privilege.

407.10 (i) Licensed chemical dependency counselors shall not disclose information or an opinion  
407.11 based on the information which they acquire from persons consulting them in their  
407.12 professional capacities, and which was necessary to enable them to act in that capacity,  
407.13 except that they may do so:

407.14 (1) when informed consent has been obtained in writing, except in those circumstances  
407.15 in which not to do so would violate the law or would result in clear and imminent danger  
407.16 to the client or others;

407.17 (2) when the communications reveal the contemplation or ongoing commission of a  
407.18 crime; or

407.19 (3) when the consulting person waives the privilege by bringing suit or filing charges  
407.20 against the licensed professional whom that person consulted.

407.21 (j) A parent or the parent's minor child may not be examined as to any communication  
407.22 made in confidence by the minor to the minor's parent. A communication is confidential if  
407.23 made out of the presence of persons not members of the child's immediate family living in  
407.24 the same household. This exception may be waived by express consent to disclosure by a  
407.25 parent entitled to claim the privilege or by the child who made the communication or by  
407.26 failure of the child or parent to object when the contents of a communication are demanded.  
407.27 This exception does not apply to a civil action or proceeding by one spouse against the other  
407.28 or by a parent or child against the other, nor to a proceeding to commit either the child or  
407.29 parent to whom the communication was made or to place the person or property or either  
407.30 under the control of another because of an alleged mental or physical condition, nor to a  
407.31 criminal action or proceeding in which the parent is charged with a crime committed against  
407.32 the person or property of the communicating child, the parent's spouse, or a child of either  
407.33 the parent or the parent's spouse, or in which a child is charged with a crime or act of  
407.34 delinquency committed against the person or property of a parent or a child of a parent, nor

408.1 to an action or proceeding for termination of parental rights, nor any other action or  
408.2 proceeding on a petition alleging child abuse, child neglect, abandonment or nonsupport  
408.3 by a parent.

408.4 (k) Sexual assault counselors may not be allowed to disclose any opinion or information  
408.5 received from or about the victim without the consent of the victim. However, a counselor  
408.6 may be compelled to identify or disclose information in investigations or proceedings related  
408.7 to neglect or termination of parental rights if the court determines good cause exists. In  
408.8 determining whether to compel disclosure, the court shall weigh the public interest and need  
408.9 for disclosure against the effect on the victim, the treatment relationship, and the treatment  
408.10 services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from  
408.11 compliance with the provisions of ~~sections 626.556 and~~ section 626.557 and chapter 260E.

408.12 "Sexual assault counselor" for the purpose of this section means a person who has  
408.13 undergone at least 40 hours of crisis counseling training and works under the direction of  
408.14 a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or  
408.15 assistance to victims of sexual assault.

408.16 (l) A domestic abuse advocate may not be compelled to disclose any opinion or  
408.17 information received from or about the victim without the consent of the victim unless  
408.18 ordered by the court. In determining whether to compel disclosure, the court shall weigh  
408.19 the public interest and need for disclosure against the effect on the victim, the relationship  
408.20 between the victim and domestic abuse advocate, and the services if disclosure occurs.  
408.21 Nothing in this paragraph exempts domestic abuse advocates from compliance with the  
408.22 provisions of ~~sections 626.556 and~~ section 626.557 and chapter 260E.

408.23 For the purposes of this section, "domestic abuse advocate" means an employee or  
408.24 supervised volunteer from a community-based battered women's shelter and domestic abuse  
408.25 program eligible to receive grants under section 611A.32; that provides information,  
408.26 advocacy, crisis intervention, emergency shelter, or support to victims of domestic abuse  
408.27 and who is not employed by or under the direct supervision of a law enforcement agency,  
408.28 a prosecutor's office, or by a city, county, or state agency.

408.29 (m) A person cannot be examined as to any communication or document, including  
408.30 work notes, made or used in the course of or because of mediation pursuant to an agreement  
408.31 to mediate or a collaborative law process pursuant to an agreement to participate in  
408.32 collaborative law. This does not apply to the parties in the dispute in an application to a  
408.33 court by a party to have a mediated settlement agreement or a stipulated agreement resulting  
408.34 from the collaborative law process set aside or reformed. A communication or document



409.1 otherwise not privileged does not become privileged because of this paragraph. This  
409.2 paragraph is not intended to limit the privilege accorded to communication during mediation  
409.3 or collaborative law by the common law.

409.4 (n) A child under ten years of age is a competent witness unless the court finds that the  
409.5 child lacks the capacity to remember or to relate truthfully facts respecting which the child  
409.6 is examined. A child describing any act or event may use language appropriate for a child  
409.7 of that age.

409.8 (o) A communication assistant for a telecommunications relay system for persons who  
409.9 have communication disabilities shall not, without the consent of the person making the  
409.10 communication, be allowed to disclose communications made to the communication assistant  
409.11 for the purpose of relaying.

409.12 Sec. 136. Minnesota Statutes 2018, section 595.02, subdivision 2, is amended to read:

409.13 Subd. 2. **Exceptions.** (a) The exception provided by paragraphs (d) and (g) of subdivision  
409.14 1 shall not apply to any testimony, records, or other evidence relating to the abuse or neglect  
409.15 of a minor in any proceeding under chapter 260 or any proceeding under section 245A.08,  
409.16 to revoke a day care or foster care license, arising out of the neglect or physical or sexual  
409.17 abuse of a minor, as defined in section ~~626.556, subdivision 2~~ 260E.03.

409.18 (b) The exception provided by paragraphs (d) and (g) of subdivision 1 shall not apply  
409.19 to criminal proceedings arising out of the neglect or physical or sexual abuse of a minor,  
409.20 as defined in section ~~626.556, subdivision 2~~ 260E.03, if the court finds that:

409.21 (1) there is a reasonable likelihood that the records in question will disclose material  
409.22 information or evidence of substantial value in connection with the investigation or  
409.23 prosecution; and

409.24 (2) there is no other practicable way of obtaining the information or evidence. This  
409.25 clause shall not be construed to prohibit disclosure of the patient record when it supports  
409.26 the otherwise uncorroborated statements of any material fact by a minor alleged to have  
409.27 been abused or neglected by the patient; and

409.28 (3) the actual or potential injury to the patient-health professional relationship in the  
409.29 treatment program affected, and the actual or potential harm to the ability of the program  
409.30 to attract and retain patients, is outweighed by the public interest in authorizing the disclosure  
409.31 sought.

409.32 No records may be disclosed under this paragraph other than the records of the specific  
409.33 patient suspected of the neglect or abuse of a minor. Disclosure and dissemination of any

410.1 information from a patient record shall be limited under the terms of the order to assure that  
410.2 no information will be disclosed unnecessarily and that dissemination will be no wider than  
410.3 necessary for purposes of the investigation or prosecution.

410.4 Sec. 137. Minnesota Statutes 2018, section 609.26, subdivision 7, is amended to read:

410.5 Subd. 7. **Reporting of deprivation of parental rights.** Any violation of this section  
410.6 shall be reported pursuant to section ~~626.556, subdivision 3a~~ 260E.11, subdivision 2.

410.7 Sec. 138. Minnesota Statutes 2018, section 609.3457, subdivision 2, is amended to read:

410.8 Subd. 2. **Access to data.** Notwithstanding sections 13.384, 13.85, 144.291 to 144.298,  
410.9 260B.171, 260C.171, or 626.556, the assessor has access to the following private or  
410.10 confidential data on the person if access is relevant and necessary for the assessment:

410.11 (1) medical data under section 13.384;

410.12 (2) corrections and detention data under section 13.85;

410.13 (3) health records under sections 144.291 to 144.298;

410.14 (4) juvenile court records under sections 260B.171 and 260C.171; and

410.15 (5) local welfare agency records under ~~section 626.556~~ chapter 260E.

410.16 Data disclosed under this section may be used only for purposes of the assessment and  
410.17 may not be further disclosed to any other person, except as authorized by law.

410.18 Sec. 139. Minnesota Statutes 2018, section 609.379, subdivision 2, is amended to read:

410.19 Subd. 2. **Applicability.** This section applies to sections 260B.425, 260C.425, 609.255,  
410.20 609.376, and 609.378, ~~and 626.556~~ and chapter 260E.

410.21 Sec. 140. Minnesota Statutes 2018, section 609.507, is amended to read:

410.22 **609.507 FALSELY REPORTING CHILD ABUSE.**

410.23 A person is guilty of a misdemeanor who:

410.24 (1) informs another person that a person has committed sexual abuse, physical abuse,  
410.25 or neglect of a child, as defined in section ~~626.556, subdivision 2~~ 260E.03;

410.26 (2) knows that the allegation is false or is without reason to believe that the alleged  
410.27 abuser committed the abuse or neglect; and

410.28 (3) has the intent that the information influence a child custody hearing.

411.1 Sec. 141. Minnesota Statutes 2018, section 609.7495, subdivision 1, is amended to read:

411.2 Subdivision 1. **Definitions.** For the purposes of this section, the following terms have  
411.3 the meanings given them.

411.4 (a) "Facility" means any of the following:

411.5 (1) a hospital or other health institution licensed under sections 144.50 to 144.56;

411.6 (2) a medical facility as defined in section 144.561;

411.7 (3) an agency, clinic, or office operated under the direction of or under contract with the  
411.8 commissioner of health or a community health board, as defined in section 145A.02;

411.9 (4) a facility providing counseling regarding options for medical services or recovery  
411.10 from an addiction;

411.11 (5) a facility providing emergency shelter services for battered women, as defined in  
411.12 section 611A.31, subdivision 3, or a facility providing transitional housing for battered  
411.13 women and their children;

411.14 (6) a facility as defined in section ~~626.556, subdivision 2, paragraph (e)~~ 260E.03,  
411.15 subdivision 6;

411.16 (7) a facility as defined in section 626.5572, subdivision 6, where the services described  
411.17 in that paragraph are provided;

411.18 (8) a place to or from which ambulance service, as defined in section 144E.001, is  
411.19 provided or sought to be provided; and

411.20 (9) a hospice provider licensed under section 144A.753.

411.21 (b) "Aggrieved party" means a person whose access to or egress from a facility is  
411.22 obstructed in violation of subdivision 2, or the facility.

411.23 Sec. 142. Minnesota Statutes 2018, section 611A.203, subdivision 4, is amended to read:

411.24 Subd. 4. **Duties; access to data.** (a) The domestic fatality review team shall collect,  
411.25 review, and analyze death certificates and death data, including investigative reports, medical  
411.26 and counseling records, victim service records, employment records, child abuse reports,  
411.27 or other information concerning domestic violence deaths, survivor interviews and surveys,  
411.28 and other information deemed by the team as necessary and appropriate concerning the  
411.29 causes and manner of domestic violence deaths.

411.30 (b) The review team has access to the following not public data, as defined in section  
411.31 13.02, subdivision 8a, relating to a case being reviewed by the team: inactive law enforcement

412.1 investigative data under section 13.82; autopsy records and coroner or medical examiner  
412.2 investigative data under section 13.83; hospital, public health, or other medical records of  
412.3 the victim under section 13.384; records under section 13.46, created by social service  
412.4 agencies that provided services to the victim, the alleged perpetrator, or another victim who  
412.5 experienced or was threatened with domestic abuse by the perpetrator; and child maltreatment  
412.6 records under ~~section 626.556~~ chapter 260E, relating to the victim or a family or household  
412.7 member of the victim. Access to medical records under this paragraph also includes records  
412.8 governed by sections 144.291 to 144.298. The review team has access to corrections and  
412.9 detention data as provided in section 13.85.

412.10 (c) As part of any review, the domestic fatality review team may compel the production  
412.11 of other records by applying to the district court for a subpoena, which will be effective  
412.12 throughout the state according to the Rules of Civil Procedure.

412.13 Sec. 143. Minnesota Statutes 2018, section 611A.90, subdivision 1, is amended to read:

412.14 Subdivision 1. **Definition.** For purposes of this section, "physical abuse" and "sexual  
412.15 abuse" have the meanings given in section ~~626.556, subdivision 2~~ 260E.03, except that  
412.16 abuse is not limited to acts by a person responsible for the child's care or in a significant  
412.17 relationship with the child or position of authority.

412.18 Sec. 144. Minnesota Statutes 2018, section 626.557, subdivision 9d, is amended to read:

412.19 Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under  
412.20 paragraph (e), any individual or facility which a lead investigative agency determines has  
412.21 maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf  
412.22 of the vulnerable adult, regardless of the lead investigative agency's determination, who  
412.23 contests the lead investigative agency's final disposition of an allegation of maltreatment,  
412.24 may request the lead investigative agency to reconsider its final disposition. The request  
412.25 for reconsideration must be submitted in writing to the lead investigative agency within 15  
412.26 calendar days after receipt of notice of final disposition or, if the request is made by an  
412.27 interested person who is not entitled to notice, within 15 days after receipt of the notice by  
412.28 the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the  
412.29 request for reconsideration must be postmarked and sent to the lead investigative agency  
412.30 within 15 calendar days of the individual's or facility's receipt of the final disposition. If the  
412.31 request for reconsideration is made by personal service, it must be received by the lead  
412.32 investigative agency within 15 calendar days of the individual's or facility's receipt of the  
412.33 final disposition. An individual who was determined to have maltreated a vulnerable adult

413.1 under this section and who was disqualified on the basis of serious or recurring maltreatment  
413.2 under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment  
413.3 determination and the disqualification. The request for reconsideration of the maltreatment  
413.4 determination and the disqualification must be submitted in writing within 30 calendar days  
413.5 of the individual's receipt of the notice of disqualification under sections 245C.16 and  
413.6 245C.17. If mailed, the request for reconsideration of the maltreatment determination and  
413.7 the disqualification must be postmarked and sent to the lead investigative agency within 30  
413.8 calendar days of the individual's receipt of the notice of disqualification. If the request for  
413.9 reconsideration is made by personal service, it must be received by the lead investigative  
413.10 agency within 30 calendar days after the individual's receipt of the notice of disqualification.

413.11 (b) Except as provided under paragraphs (e) and (f), if the lead investigative agency  
413.12 denies the request or fails to act upon the request within 15 working days after receiving  
413.13 the request for reconsideration, the person or facility entitled to a fair hearing under section  
413.14 256.045, may submit to the commissioner of human services a written request for a hearing  
413.15 under that statute. The vulnerable adult, or an interested person acting on behalf of the  
413.16 vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel  
413.17 under section 256.021 if the lead investigative agency denies the request or fails to act upon  
413.18 the request, or if the vulnerable adult or interested person contests a reconsidered disposition.  
413.19 The lead investigative agency shall notify persons who request reconsideration of their  
413.20 rights under this paragraph. The request must be submitted in writing to the review panel  
413.21 and a copy sent to the lead investigative agency within 30 calendar days of receipt of notice  
413.22 of a denial of a request for reconsideration or of a reconsidered disposition. The request  
413.23 must specifically identify the aspects of the lead investigative agency determination with  
413.24 which the person is dissatisfied.

413.25 (c) If, as a result of a reconsideration or review, the lead investigative agency changes  
413.26 the final disposition, it shall notify the parties specified in subdivision 9c, paragraph (f).

413.27 (d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable  
413.28 adult" means a person designated in writing by the vulnerable adult to act on behalf of the  
413.29 vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy  
413.30 or health care agent appointed under chapter 145B or 145C, or an individual who is related  
413.31 to the vulnerable adult, as defined in section 245A.02, subdivision 13.

413.32 (e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis  
413.33 of a determination of maltreatment, which was serious or recurring, and the individual has  
413.34 requested reconsideration of the maltreatment determination under paragraph (a) and  
413.35 reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration

414.1 of the maltreatment determination and requested reconsideration of the disqualification  
414.2 shall be consolidated into a single reconsideration. If reconsideration of the maltreatment  
414.3 determination is denied and the individual remains disqualified following a reconsideration  
414.4 decision, the individual may request a fair hearing under section 256.045. If an individual  
414.5 requests a fair hearing on the maltreatment determination and the disqualification, the scope  
414.6 of the fair hearing shall include both the maltreatment determination and the disqualification.

414.7 (f) If a maltreatment determination or a disqualification based on serious or recurring  
414.8 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing  
414.9 sanction under section 245A.07, the license holder has the right to a contested case hearing  
414.10 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for  
414.11 under section 245A.08, the scope of the contested case hearing must include the maltreatment  
414.12 determination, disqualification, and licensing sanction or denial of a license. In such cases,  
414.13 a fair hearing must not be conducted under section 256.045. Except for family child care  
414.14 and child foster care, reconsideration of a maltreatment determination under this subdivision,  
414.15 and reconsideration of a disqualification under section 245C.22, must not be conducted  
414.16 when:

414.17 (1) a denial of a license under section 245A.05, or a licensing sanction under section  
414.18 245A.07, is based on a determination that the license holder is responsible for maltreatment  
414.19 or the disqualification of a license holder based on serious or recurring maltreatment;

414.20 (2) the denial of a license or licensing sanction is issued at the same time as the  
414.21 maltreatment determination or disqualification; and

414.22 (3) the license holder appeals the maltreatment determination or disqualification, and  
414.23 denial of a license or licensing sanction.

414.24 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment  
414.25 determination or disqualification, but does not appeal the denial of a license or a licensing  
414.26 sanction, reconsideration of the maltreatment determination shall be conducted under sections  
414.27 ~~626.556, subdivision 10i~~, 260E.33 and 626.557, subdivision 9d, and reconsideration of the  
414.28 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall  
414.29 also be conducted as provided under sections 245C.27, ~~626.556, subdivision 10i~~ 260E.33,  
414.30 and 626.557, subdivision 9d.

414.31 If the disqualified subject is an individual other than the license holder and upon whom  
414.32 a background study must be conducted under chapter 245C, the hearings of all parties may  
414.33 be consolidated into a single contested case hearing upon consent of all parties and the  
414.34 administrative law judge.

415.1 (g) Until August 1, 2002, an individual or facility that was determined by the  
415.2 commissioner of human services or the commissioner of health to be responsible for neglect  
415.3 under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001,  
415.4 that believes that the finding of neglect does not meet an amended definition of neglect may  
415.5 request a reconsideration of the determination of neglect. The commissioner of human  
415.6 services or the commissioner of health shall mail a notice to the last known address of  
415.7 individuals who are eligible to seek this reconsideration. The request for reconsideration  
415.8 must state how the established findings no longer meet the elements of the definition of  
415.9 neglect. The commissioner shall review the request for reconsideration and make a  
415.10 determination within 15 calendar days. The commissioner's decision on this reconsideration  
415.11 is the final agency action.

415.12 (1) For purposes of compliance with the data destruction schedule under subdivision  
415.13 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a  
415.14 result of a reconsideration under this paragraph, the date of the original finding of a  
415.15 substantiated maltreatment must be used to calculate the destruction date.

415.16 (2) For purposes of any background studies under chapter 245C, when a determination  
415.17 of substantiated maltreatment has been changed as a result of a reconsideration under this  
415.18 paragraph, any prior disqualification of the individual under chapter 245C that was based  
415.19 on this determination of maltreatment shall be rescinded, and for future background studies  
415.20 under chapter 245C the commissioner must not use the previous determination of  
415.21 substantiated maltreatment as a basis for disqualification or as a basis for referring the  
415.22 individual's maltreatment history to a health-related licensing board under section 245C.31.

**245F.02 DEFINITIONS.**

Subd. 20. **Qualified medical professional.** "Qualified medical professional" means an individual licensed in Minnesota as a doctor of osteopathic medicine or physician, or an individual licensed in Minnesota as an advanced practice registered nurse by the Board of Nursing and certified to practice as a clinical nurse specialist or nurse practitioner by a national nurse organization acceptable to the board.

**253B.02 DEFINITIONS.**

Subd. 6. **Emergency treatment.** "Emergency treatment" means the treatment of a patient pursuant to section 253B.05 which is necessary to protect the patient or others from immediate harm.

Subd. 12a. **Mental illness.** "Mental illness" has the meaning given in section 245.462, subdivision 20.

**253B.05 EMERGENCY ADMISSION.**

Subdivision 1. **Emergency hold.** (a) Any person may be admitted or held for emergency care and treatment in a treatment facility, except to a facility operated by the Minnesota sex offender program, with the consent of the head of the treatment facility upon a written statement by an examiner that:

- (1) the examiner has examined the person not more than 15 days prior to admission;
- (2) the examiner is of the opinion, for stated reasons, that the person is mentally ill, developmentally disabled, or chemically dependent, and is in danger of causing injury to self or others if not immediately detained; and
- (3) an order of the court cannot be obtained in time to prevent the anticipated injury.

(b) If the proposed patient has been brought to the treatment facility by another person, the examiner shall make a good faith effort to obtain a statement of information that is available from that person, which must be taken into consideration in deciding whether to place the proposed patient on an emergency hold. The statement of information must include, to the extent available, direct observations of the proposed patient's behaviors, reliable knowledge of recent and past behavior, and information regarding psychiatric history, past treatment, and current mental health providers. The examiner shall also inquire into the existence of health care directives under chapter 145, and advance psychiatric directives under section 253B.03, subdivision 6d.

(c) The examiner's statement shall be: (1) sufficient authority for a peace or health officer to transport a patient to a treatment facility, (2) stated in behavioral terms and not in conclusory language, and (3) of sufficient specificity to provide an adequate record for review. If danger to specific individuals is a basis for the emergency hold, the statement must identify those individuals, to the extent practicable. A copy of the examiner's statement shall be personally served on the person immediately upon admission and a copy shall be maintained by the treatment facility.

(d) A patient must not be allowed or required to consent to nor participate in a clinical drug trial during an emergency admission or hold under this subdivision or subdivision 2. A consent given during a period of an emergency admission or hold is void and unenforceable. This paragraph does not prohibit a patient from continuing participation in a clinical drug trial if the patient was participating in the drug trial at the time of the emergency admission or hold.

Subd. 2. **Peace or health officer authority.** (a) A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior, or upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or developmentally disabled and in danger of injuring self or others if not immediately detained. A peace or health officer or a person working under such officer's supervision, may take a person who is believed to be chemically dependent or is intoxicated in public into custody and transport the person to a treatment facility. If the person is intoxicated in public or is believed to be chemically dependent and is not in danger of causing self-harm or harm to any person or property, the peace or health officer may transport the person home. The peace or health officer shall make written application for admission of the person to the treatment facility. The application shall contain the peace or health officer's statement specifying the reasons for and circumstances under which the person was taken into custody. If danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable. A copy of the statement shall be made available to the person



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taken into custody. The peace or health officer who makes the application shall provide the officer's name, the agency that employs the officer, and the telephone number or other contact information for purposes of receiving notice under subdivision 3, paragraph (d).

(b) As far as is practicable, a peace officer who provides transportation for a person placed in a facility under this subdivision may not be in uniform and may not use a vehicle visibly marked as a law enforcement vehicle.

(c) A person may be admitted to a treatment facility for emergency care and treatment under this subdivision with the consent of the head of the facility under the following circumstances: (1) a written statement shall only be made by the following individuals who are knowledgeable, trained, and practicing in the diagnosis and treatment of mental illness or developmental disability; the medical officer, or the officer's designee on duty at the facility, including a licensed physician, a licensed physician assistant, or an advanced practice registered nurse who after preliminary examination has determined that the person has symptoms of mental illness or developmental disability and appears to be in danger of harming self or others if not immediately detained; or (2) a written statement is made by the institution program director or the director's designee on duty at the facility after preliminary examination that the person has symptoms of chemical dependency and appears to be in danger of harming self or others if not immediately detained or is intoxicated in public.

Subd. 2b. **Notice.** Every person held pursuant to this section must be informed in writing at the time of admission of the right to leave after 72 hours, to a medical examination within 48 hours, and to request a change to voluntary status. The treatment facility shall, upon request, assist the person in exercising the rights granted in this subdivision.

Subd. 3. **Duration of hold.** (a) Any person held pursuant to this section may be held up to 72 hours, exclusive of Saturdays, Sundays, and legal holidays after admission. If a petition for the commitment of the person is filed in the district court in the county of financial responsibility or of the county in which the treatment facility is located, the court may issue a judicial hold order pursuant to section 253B.07, subdivision 2b.

(b) During the 72-hour hold period, a court may not release a person held under this section unless the court has received a written petition for release and held a summary hearing regarding the release. The petition must include the name of the person being held, the basis for and location of the hold, and a statement as to why the hold is improper. The petition also must include copies of any written documentation under subdivision 1 or 2 in support of the hold, unless the person holding the petitioner refuses to supply the documentation. The hearing must be held as soon as practicable and may be conducted by means of a telephone conference call or similar method by which the participants are able to simultaneously hear each other. If the court decides to release the person, the court shall direct the release and shall issue written findings supporting the decision. The release may not be delayed pending the written order. Before deciding to release the person, the court shall make every reasonable effort to provide notice of the proposed release to:

- (1) any specific individuals identified in a statement under subdivision 1 or 2 or individuals identified in the record who might be endangered if the person was not held;
- (2) the examiner whose written statement was a basis for a hold under subdivision 1; and
- (3) the peace or health officer who applied for a hold under subdivision 2.

(c) If a person is intoxicated in public and held under this section for detoxification, a treatment facility may release the person without providing notice under paragraph (d) as soon as the treatment facility determines the person is no longer a danger to themselves or others. Notice must be provided to the peace officer or health officer who transported the person, or the appropriate law enforcement agency, if the officer or agency requests notification.

(d) Notwithstanding section 144.293, subdivisions 2 and 4, if a treatment facility releases or discharges a person during the 72-hour hold period or if the person leaves the facility without the consent of the treating health care provider, the head of the treatment facility shall immediately notify the agency which employs the peace or health officer who transported the person to the treatment facility under this section. This paragraph does not apply to the extent that the notice would violate federal law governing the confidentiality of alcohol and drug abuse patient records under Code of Federal Regulations, title 42, part 2.

(e) A person held under a 72-hour emergency hold must be released by the facility within 72 hours unless a court order to hold the person is obtained. A consecutive emergency hold order under this section may not be issued.

Subd. 4. **Change of status.** Any person admitted pursuant to this section shall be changed to voluntary status provided by section 253B.04 upon the person's request in writing and with the consent of the head of the treatment facility.

**253B.064 COURT-ORDERED EARLY INTERVENTION; PRELIMINARY PROCEDURES.**

Subdivision 1. **General.** (a) An interested person may apply to the designated agency for early intervention of a proposed patient in the county of financial responsibility or the county where the patient is present. If the designated agency determines that early intervention may be appropriate, a prepetition screening report must be prepared pursuant to section 253B.07, subdivision 1. The county attorney may file a petition for early intervention following the procedures of section 253B.07, subdivision 2.

(b) The proposed patient is entitled to representation by counsel, pursuant to section 253B.07, subdivision 2c. The proposed patient shall be examined by an examiner, and has the right to a second independent examiner, pursuant to section 253B.07, subdivisions 3 and 5.

Subd. 2. **Prehearing examination; failure to appear.** If a proposed patient fails to appear for the examination, the court may:

(1) reschedule the examination; or

(2) deem the failure to appear as a waiver of the proposed patient's right to an examination and consider the failure to appear when deciding the merits of the petition for early intervention.

Subd. 3. **County option.** Nothing in sections 253B.064 to 253B.066 requires a county to use early intervention procedures.

**253B.065 COURT-ORDERED EARLY INTERVENTION; HEARING PROCEDURES.**

Subdivision 1. **Time for early intervention hearing.** The hearing on the petition for early intervention shall be held within 14 days from the date of the filing of the petition. For good cause shown, the court may extend the time of hearing up to an additional 30 days. When any proposed patient has not had a hearing on a petition filed for early intervention within the allowed time, the proceedings shall be dismissed.

Subd. 2. **Notice of hearing.** The proposed patient, the patient's counsel, the petitioner, the county attorney, and any other persons as the court directs shall be given at least five days' notice that a hearing will be held and at least two days' notice of the time and date of the hearing, except that any person may waive notice. Notice to the proposed patient may be waived by patient's counsel.

Subd. 3. **Failure to appear.** If a proposed patient fails to appear at the hearing, the court may reschedule the hearing within five days and direct a health officer, peace officer, or other person to take the proposed patient to an appropriate treatment facility designated by the court and transport the person to the hearing.

Subd. 4. **Procedures.** The hearing must be conducted pursuant to section 253B.08, subdivisions 3 to 8.

Subd. 5. **Early intervention criteria.** (a) A court shall order early intervention treatment of a proposed patient who meets the criteria under paragraph (b) or (c). The early intervention treatment must be less intrusive than long-term inpatient commitment and must be the least restrictive treatment program available that can meet the patient's treatment needs.

(b) The court shall order early intervention treatment if the court finds all of the elements of the following factors by clear and convincing evidence:

(1) the proposed patient is mentally ill;

(2) the proposed patient refuses to accept appropriate mental health treatment; and

(3) the proposed patient's mental illness is manifested by instances of grossly disturbed behavior or faulty perceptions and either:

(i) the grossly disturbed behavior or faulty perceptions significantly interfere with the proposed patient's ability to care for self and the proposed patient, when competent, would have chosen substantially similar treatment under the same circumstances; or

(ii) due to the mental illness, the proposed patient received court-ordered inpatient treatment under section 253B.09 at least two times in the previous three years; the patient is exhibiting

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symptoms or behavior substantially similar to those that precipitated one or more of the court-ordered treatments; and the patient is reasonably expected to physically or mentally deteriorate to the point of meeting the criteria for commitment under section 253B.09 unless treated.

For purposes of this paragraph, a proposed patient who was released under section 253B.095 and whose release was not revoked is not considered to have received court-ordered inpatient treatment under section 253B.09.

(c) The court may order early intervention treatment if the court finds by clear and convincing evidence that a pregnant woman is a chemically dependent person. A chemically dependent person for purposes of this section is a woman who has during pregnancy engaged in excessive use, for a nonmedical purpose, of controlled substances or their derivatives, alcohol, or inhalants that will pose a substantial risk of damage to the brain or physical development of the fetus.

(d) For purposes of paragraphs (b) and (c), none of the following constitute a refusal to accept appropriate mental health treatment:

(1) a willingness to take medication but a reasonable disagreement about type or dosage;

(2) a good faith effort to follow a reasonable alternative treatment plan, including treatment as specified in a valid advance directive under chapter 145C or section 253B.03, subdivision 6d;

(3) an inability to obtain access to appropriate treatment because of inadequate health care coverage or an insurer's refusal or delay in providing coverage for the treatment; or

(4) an inability to obtain access to needed mental health services because the provider will only accept patients who are under a court order or because the provider gives persons under a court order a priority over voluntary patients in obtaining treatment and services.

**253B.066 COURT-ORDERED EARLY INTERVENTION; DECISION; TREATMENT ALTERNATIVES; DURATION.**

Subdivision 1. **Treatment alternatives.** If the court orders early intervention under section 253B.065, subdivision 5, the court may include in its order a variety of treatment alternatives including, but not limited to, day treatment, medication compliance monitoring, assertive community treatment, crisis assessment and stabilization, partial hospitalization, and short-term hospitalization not to exceed 21 days.

If the court orders short-term hospitalization and the proposed patient will not go voluntarily, the court may direct a health officer, peace officer, or other person to take the person into custody and transport the person to the hospital.

Subd. 2. **Findings.** The court shall find the facts specifically and separately state its conclusions of law in its order. Where early intervention is ordered, the findings of fact and conclusions of law shall specifically state the proposed patient's conduct which is a basis for determining that each of the requisites for early intervention is met.

The court shall also determine the nature and extent of the property of the patient and of the persons who are liable for the patient's care.

Subd. 3. **Duration.** The order for early intervention shall not exceed 90 days.

**253B.09 DECISION; STANDARD OF PROOF; DURATION.**

Subd. 3. **Financial determination.** The court shall determine the nature and extent of the property of the patient and of the persons who are liable for the patient's care. If the patient is committed to a regional treatment center, the court shall send a copy of the commitment order to the commissioner.

**253B.12 TREATMENT REPORT; REVIEW; HEARING.**

Subd. 2. **Basis for discharge.** If no written report is filed within the required time or if the written statement describes the patient as not in need of further institutional care and treatment, the proceedings shall be terminated by the committing court, and the patient shall be discharged from the treatment facility.

**253B.15 PROVISIONAL DISCHARGE; PARTIAL INSTITUTIONALIZATION.**

Subd. 11. **Partial institutionalization.** The head of a treatment facility may place any committed person on a status of partial institutionalization. The status shall allow the patient to be absent from

the facility for certain fixed periods of time. The head of the facility may terminate the status at any time.

**253B.20 DISCHARGE; ADMINISTRATIVE PROCEDURE.**

Subd. 7. **Services.** A committed person may at any time after discharge, provisional discharge or partial treatment, apply to the head of the treatment facility within whose district the committed person resides for treatment. The head of the treatment facility, on determining that the applicant requires service, may provide needed services related to mental illness, developmental disability, or chemical dependency to the applicant. The services shall be provided in regional centers under terms and conditions established by the commissioner.

**626.556 REPORTING OF MALTREATMENT OF MINORS.**

Subdivision 1. **Public policy.** (a) The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through physical abuse, neglect, or sexual abuse. While it is recognized that most parents want to keep their children safe, sometimes circumstances or conditions interfere with their ability to do so. When this occurs, the health and safety of the children must be of paramount concern. Intervention and prevention efforts must address immediate concerns for child safety and the ongoing risk of abuse or neglect and should engage the protective capacities of families. In furtherance of this public policy, it is the intent of the legislature under this section to:

- (1) protect children and promote child safety;
- (2) strengthen the family;
- (3) make the home, school, and community safe for children by promoting responsible child care in all settings; and
- (4) provide, when necessary, a safe temporary or permanent home environment for physically or sexually abused or neglected children.

(b) In addition, it is the policy of this state to:

- (1) require the reporting of neglect or physical or sexual abuse of children in the home, school, and community settings;
- (2) provide for the voluntary reporting of abuse or neglect of children;
- (3) require an investigation when the report alleges sexual abuse or substantial child endangerment;
- (4) provide a family assessment, if appropriate, when the report does not allege sexual abuse or substantial child endangerment; and
- (5) provide protective, family support, and family preservation services when needed in appropriate cases.

Subd. 2. **Definitions.** As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:

- (1) is not likely to occur and could not have been prevented by exercise of due care; and
- (2) if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

(b) "Commissioner" means the commissioner of human services.

(c) "Facility" means:

- (1) a licensed or unlicensed day care facility, certified license-exempt child care center, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 144H, 245D, or 245H;
- (2) a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or
- (3) a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a.

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(d) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege sexual abuse or substantial child endangerment. Family assessment does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

(e) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve sexual abuse or substantial child endangerment, and for reports of maltreatment in facilities required to be licensed or certified under chapter 245A, 245D, or 245H; under sections 144.50 to 144.58 and 241.021; in a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E; or in a nonlicensed personal care provider association as defined in section 256B.0625, subdivision 19a.

(f) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(g) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance, or the presence of a fetal alcohol spectrum disorder;

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(h) "Nonmaltreatment mistake" means:

(1) at the time of the incident, the individual was performing duties identified in the center's child care program plan required under Minnesota Rules, part 9503.0045;

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(2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years;

(3) the individual has not been determined to have committed a similar nonmaltreatment mistake under this paragraph for at least four years;

(4) any injury to a child resulting from the incident, if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and

(5) except for the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident.

This definition only applies to child care centers licensed under Minnesota Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated maltreatment by the individual, the commissioner of human services shall determine that a nonmaltreatment mistake was made by the individual.

(i) "Operator" means an operator or agency as defined in section 245A.02.

(j) "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(k) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 125A.0942 or 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following:

(1) throwing, kicking, burning, biting, or cutting a child;

(2) striking a child with a closed fist;

(3) shaking a child under age three;

(4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) striking a child who is at least age one but under age four on the face or head, which results in an injury;

(9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

(10) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or

(11) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

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(m) "Report" means any communication received by the local welfare agency, police department, county sheriff, or agency responsible for child protection pursuant to this section that describes neglect or physical or sexual abuse of a child and contains sufficient content to identify the child and any person believed to be responsible for the neglect or abuse, if known.

(n) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a current or recent position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), 609.3451 (criminal sexual conduct in the fifth degree), or 609.352 (solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

(o) "Substantial child endangerment" means a person responsible for a child's care, by act or omission, commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm as defined in section 260C.007, subdivision 14;
- (2) abandonment under section 260C.301, subdivision 2;
- (3) neglect as defined in paragraph (g), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
- (5) manslaughter in the first or second degree under section 609.20 or 609.205;
- (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (7) solicitation, inducement, and promotion of prostitution under section 609.322;
- (8) criminal sexual conduct under sections 609.342 to 609.3451;
- (9) solicitation of children to engage in sexual conduct under section 609.352;
- (10) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
- (11) use of a minor in sexual performance under section 617.246; or
- (12) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.503, subdivision 2.

(p) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (j), clause (1), who has:

- (1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;
- (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph (b), clause (4), or a similar law of another jurisdiction;
- (3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or
- (4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction.

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A child is the subject of a report of threatened injury when the responsible social services agency receives birth match data under paragraph (q) from the Department of Human Services.

(q) Upon receiving data under section 144.225, subdivision 2b, contained in a birth record or recognition of parentage identifying a child who is subject to threatened injury under paragraph (p), the Department of Human Services shall send the data to the responsible social services agency. The data is known as "birth match" data. Unless the responsible social services agency has already begun an investigation or assessment of the report due to the birth of the child or execution of the recognition of parentage and the parent's previous history with child protection, the agency shall accept the birth match data as a report under this section. The agency may use either a family assessment or investigation to determine whether the child is safe. All of the provisions of this section apply. If the child is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is determined not to be safe, the agency and the county attorney shall take appropriate action as required under section 260C.503, subdivision 2.

(r) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

**Subd. 3. Persons mandated to report; persons voluntarily reporting.** (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department if the person is:

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, correctional supervision, probation and correctional services, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing or certifying the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 144H, 245D, or 245H; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of education. Section 13.03, subdivision 4, applies to data received by the commissioner of education from a licensing entity.

(d) Notification requirements under subdivision 10 apply to all reports received under this section.

(e) For purposes of this section, "immediately" means as soon as possible but in no event longer than 24 hours.

**Subd. 3a. Report of deprivation of parental rights or kidnapping.** A person mandated to report under subdivision 3, who knows or has reason to know of a violation of section 609.25 or 609.26, shall report the information to the local police department or the county sheriff. Receipt by a local welfare agency of a report or notification of a report of a violation of section 609.25 or 609.26 shall not be construed to invoke the duties of subdivision 10, 10a, or 10b.

**Subd. 3b. Agency responsible for assessing or investigating reports of maltreatment.** The Department of Education is the agency responsible for assessing or investigating allegations of child maltreatment in schools as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E. The Department of Education's responsibility to assess and investigate includes allegations



of maltreatment involving students 18 to 21 years of age, including students receiving special education services, up to and until graduation and the issuance of a secondary or high school diploma.

**Subd. 3c. Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.** (a) The local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, legally nonlicensed child care, and reports involving children served by an unlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.

(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in juvenile correctional facilities listed under section 241.021 located in the local welfare agency's county and in facilities licensed or certified under chapters 245A, 245D, and 245H, except for child foster care and family child care.

(c) The Department of Health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58 and 144A.43 to 144A.482 or chapter 144H.

**Subd. 3d. Authority to interview.** The agency responsible for assessing or investigating reports of child maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing safety and risk to the child, and formulating a plan.

**Subd. 3e. Agency responsible for assessing or investigating reports of sexual abuse.** The local welfare agency is the agency responsible for investigating allegations of sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual functioning within the family unit as a person responsible for the child's care, or a person with a significant relationship to the child if that person resides in the child's household. The local welfare agency is also responsible for investigating when a child is identified as a victim of sex trafficking.

**Subd. 3f. Law enforcement agency responsible for investigating maltreatment.** The local law enforcement agency has responsibility for investigating any report of child maltreatment if a violation of a criminal statute is alleged. Law enforcement and the responsible agency must coordinate their investigations or assessments as required under subdivision 10.

**Subd. 4. Immunity from liability.** (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;

(2) any person with responsibility for performing duties under this section or supervisor employed by a local welfare agency, the commissioner of an agency responsible for operating or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed or certified under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B or 245H; or a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a, complying with subdivision 10d; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency, the Department of Education, or a local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626.5561.

(b) A person who is a supervisor or person with responsibility for performing duties under this section employed by a local welfare agency, the commissioner of human services, or the commissioner of education complying with subdivisions 10 and 11 or section 626.5561 or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j).

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

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(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Subd. 4a. **Retaliation prohibited.** (a) An employer of any person required to make reports under subdivision 3 shall not retaliate against the person for reporting in good faith abuse or neglect pursuant to this section, or against a child with respect to whom a report is made, because of the report.

(b) The employer of any person required to report under subdivision 3 who retaliates against the person because of a report of abuse or neglect is liable to that person for actual damages and, in addition, a penalty up to \$10,000.

(c) There shall be a rebuttable presumption that any adverse action within 90 days of a report is retaliatory. For purposes of this paragraph, the term "adverse action" refers to action taken by an employer of a person required to report under subdivision 3 which is involved in a report against the person making the report or the child with respect to whom the report was made because of the report, and includes, but is not limited to:

- (1) discharge, suspension, termination, or transfer from the facility, institution, school, or agency;
- (2) discharge from or termination of employment;
- (3) demotion or reduction in remuneration for services; or
- (4) restriction or prohibition of access to the facility, institution, school, agency, or persons affiliated with it.

Subd. 5. **Malicious and reckless reports.** Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees.

Subd. 6. **Failure to report.** (a) A person mandated by this section to report who knows or has reason to believe that a child is neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor.

(b) A person mandated by this section to report who knows or has reason to believe that two or more children not related to the perpetrator have been physically or sexually abused, as defined in subdivision 2, by the same perpetrator within the preceding ten years, and fails to report is guilty of a gross misdemeanor.

(c) A parent, guardian, or caretaker who knows or reasonably should know that the child's health is in serious danger and who fails to report as required by subdivision 2, paragraph (g), is guilty of a gross misdemeanor if the child suffers substantial or great bodily harm because of the lack of medical care. If the child dies because of the lack of medical care, the person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both. The provision in section 609.378, subdivision 1, paragraph (a), clause (1), providing that a parent, guardian, or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report under this subdivision.

Subd. 6a. **Failure to notify.** If a local welfare agency receives a report under subdivision 3, paragraph (a) or (b), and fails to notify the local police department or county sheriff as required by subdivision 10, the person within the agency who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees. If a local police department or a county sheriff receives a report under subdivision 3, paragraph (a) or (b), and fails to notify the local welfare agency as required by subdivision 10, the person within the police department or county sheriff's office who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees.

Subd. 7. **Report; information provided to parent; reporter.** (a) An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency.

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(b) The local welfare agency shall determine if the report is to be screened in or out as soon as possible but in no event longer than 24 hours after the report is received. When determining whether a report will be screened in or out, the agency receiving the report must consider, when relevant, all previous history, including reports that were screened out. The agency may communicate with treating professionals and individuals specified under subdivision 10, paragraph (i), clause (3), item (iii).

(c) Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. The local welfare agency or agency responsible for assessing or investigating the report shall accept a report made under subdivision 3 notwithstanding refusal by a reporter to provide the reporter's name or address as long as the report is otherwise sufficient under this paragraph. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

(d) When requested, the agency responsible for assessing or investigating a report shall inform the reporter within ten days after the report was made, either orally or in writing, whether the report was accepted or not. If the responsible agency determines the report does not constitute a report under this section, the agency shall advise the reporter the report was screened out. Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) Reports that are screened out must be maintained in accordance with subdivision 11c, paragraph (a).

(f) A local welfare agency or agency responsible for investigating or assessing a report may use a screened-out report for making an offer of social services to the subjects of the screened-out report. A local welfare agency or agency responsible for evaluating a report alleging maltreatment of a child shall consider prior reports, including screened-out reports, to determine whether an investigation or family assessment must be conducted.

(g) Notwithstanding paragraph (a), the commissioner of education must inform the parent, guardian, or legal custodian of the child who is the subject of a report of alleged maltreatment in a school facility within ten days of receiving the report, either orally or in writing, whether the commissioner is assessing or investigating the report of alleged maltreatment.

(h) Regardless of whether a report is made under this subdivision, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform the parent, legal guardian, or custodian of the child that an incident has occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

(i) A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

**Subd. 7a. Guidance for screening reports.** (a) Child protection staff, supervisors, and others involved in child protection screening shall follow the guidance provided in the child maltreatment screening guidelines issued by the commissioner of human services and, when notified by the commissioner, shall immediately implement updated procedures and protocols.

(b) Any modifications to the screening guidelines must be preapproved by the commissioner of human services and must not be less protective of children than is mandated by statute. The county agency must consult with the county attorney before proposing modifications to the commissioner. The guidelines may provide additional protections for children but must not limit reports that are screened in or provide additional limits on consideration of reports that were screened out in making screening determinations.

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Subd. 8. **Evidence not privileged.** No evidence relating to the neglect or abuse of a child or to any prior incidents of neglect or abuse involving any of the same persons accused of neglect or abuse shall be excluded in any proceeding arising out of the alleged neglect or physical or sexual abuse on the grounds of privilege set forth in section 595.02, subdivision 1, paragraph (a), (d), or (g).

Subd. 9. **Mandatory reporting to medical examiner or coroner.** When a person required to report under the provisions of subdivision 3 knows or has reason to believe a child has died as a result of neglect or physical or sexual abuse, the person shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department, or county sheriff. Medical examiners or coroners shall notify the local welfare agency or police department or county sheriff in instances in which they believe that the child has died as a result of neglect or physical or sexual abuse. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local welfare agency. If the child was receiving services or treatment for mental illness, developmentally disabled, chemical dependency, or emotional disturbance from an agency, facility, or program as defined in section 245.91, the medical examiner or coroner shall also notify and report findings to the ombudsman established under sections 245.91 to 245.97.

Subd. 10. **Duties of local welfare agency and local law enforcement agency upon receipt of report; mandatory notification between police or sheriff and agency.** (a) The police department or the county sheriff shall immediately notify the local welfare agency or agency responsible for child protection reports under this section orally and in writing when a report is received. The local welfare agency or agency responsible for child protection reports shall immediately notify the local police department or the county sheriff orally and in writing when a report is received. The county sheriff and the head of every local welfare agency, agency responsible for child protection reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph are carried out. When the alleged maltreatment occurred on tribal land, the local welfare agency or agency responsible for child protection reports and the local police department or the county sheriff shall immediately notify the tribe's social services agency and tribal law enforcement orally and in writing when a report is received. When a police department or county sheriff determines that a child has been the subject of physical abuse, sexual abuse, or neglect by a person licensed by the Professional Educator Licensing and Standards Board or the Board of School Administrators, the department or sheriff shall, in addition to its other duties under this section, immediately inform the licensing board.

(b) Upon receipt of a report, the local welfare agency shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child maltreatment. The local welfare agency:

(1) shall conduct an investigation on reports involving sexual abuse or substantial child endangerment;

(2) shall begin an immediate investigation if, at any time when it is using a family assessment response, it determines that there is reason to believe that sexual abuse or substantial child endangerment or a serious threat to the child's safety exists;

(3) may conduct a family assessment for reports that do not allege sexual abuse or substantial child endangerment. In determining that a family assessment is appropriate, the local welfare agency may consider issues of child safety, parental cooperation, and the need for an immediate response;

(4) may conduct a family assessment on a report that was initially screened and assigned for an investigation. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and notify the local law enforcement agency if the local law enforcement agency is conducting a joint investigation; and

(5) shall provide immediate notice, according to section 260.761, subdivision 2, to an Indian child's tribe when the agency has reason to believe the family assessment or investigation may involve an Indian child. For purposes of this clause, "immediate notice" means notice provided within 24 hours.

If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, or sexual abuse by a person with a significant relationship to the child when that person resides in the child's household or by a sibling, the local welfare agency shall immediately conduct a family assessment or investigation as identified in clauses (1) to (4). In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic

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violence and offer services for purposes of preventing future child maltreatment, safeguarding and enhancing the welfare of the abused or neglected minor, and supporting and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation or assessment. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the family assessment or investigation indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615.

(c) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of education shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

(d) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(e) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

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Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(f) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(g) Before making an order under paragraph (f), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(h) The commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(i) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent child maltreatment, and family strengths and needs and share not public information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for investigating the report may make a determination of no maltreatment early in an investigation, and close the case and retain immunity, if the collected information shows no basis for a full investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age; prior reports of maltreatment, including any maltreatment reports that were screened out and not accepted for assessment or investigation; information relating to developmental functioning; credibility of the child's statement; and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

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(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

(4) information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (c), the commissioner of education shall collect investigative reports and data that are relevant to a report of maltreatment and are from local law enforcement and the school facility.

(j) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact with the child and primary caregiver shall occur immediately if sexual abuse or substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(k) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(l) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (c), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (j) and (k), and subdivision 3d, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the assessment or investigation provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (j) and (k), and subdivision 3d.

Subd. 10a. **Law enforcement agency responsibility for investigation; welfare agency reliance on law enforcement fact-finding; welfare agency offer of services.** (a) If the report alleges neglect, physical abuse, or sexual abuse by a person who is not a parent, guardian, sibling, person responsible for the child's care functioning within the family unit, or a person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.

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(b) The local agency may rely on the fact-finding efforts of the law enforcement investigation conducted under this subdivision to make a determination whether or not threatened injury or other maltreatment has occurred under subdivision 2 if an alleged offender has minor children or lives with minors.

(c) If a child is the victim of an alleged crime under paragraph (a), the law enforcement agency shall immediately notify the local welfare agency, which shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

Subd. 10b. **Duties of commissioner; neglect or abuse in facility.** (a) This section applies to the commissioners of human services, health, and education. The commissioner of the agency responsible for assessing or investigating the report shall immediately assess or investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in that facility, or has been so neglected or abused, or been the victim of maltreatment in a facility by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner of the agency responsible for assessing or investigating the report shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner of the agency responsible for assessing or investigating the report or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j). In conducting assessments or investigations under this subdivision, the commissioner of education shall obtain access to reports and investigative data that are relevant to a report of maltreatment and are in the possession of a school facility as defined in subdivision 2, paragraph (c), notwithstanding the classification of the data as educational or personnel data under chapter 13. This includes, but is not limited to, school investigative reports, information concerning the conduct of school personnel alleged to have committed maltreatment of students, information about witnesses, and any protective or corrective action taken by the school facility regarding the school personnel alleged to have committed maltreatment.

(d) The commissioner may request assistance from the local social services agency.

Subd. 10c. **Duties of local social service agency upon receipt of report of medical neglect.** If the report alleges medical neglect as defined in section 260C.007, subdivision 6, clause (5), the local welfare agency shall, in addition to its other duties under this section, immediately consult with designated hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration, and medication are being provided; and shall immediately secure an independent medical review of the infant's medical charts and records and, if necessary, seek a court order for an independent medical examination of the infant. If the review or examination leads to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by initiating legal proceedings under section 260C.141 and by filing an expedited motion to prevent the withholding of medically indicated treatment.



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Subd. 10d. **Notification of neglect or abuse in facility.** (a) When a report is received that alleges neglect, physical abuse, sexual abuse, or maltreatment of a child while in the care of a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed or certified according to sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 144H, 245D, or 245H, or a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, sexually abused, or the victim of maltreatment of a child in the facility: the name of the facility; the fact that a report alleging neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has been received; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; that the agency is conducting an assessment or investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the number of children allegedly neglected, physically abused, sexually abused, or victims of maltreatment of a child in the facility; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner of the agency responsible for assessing or investigating the report or local welfare agency has completed its investigation, every parent, guardian, or legal custodian previously notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the investigator's name; a summary of the investigation findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. If maltreatment is determined to exist, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility who had contact with the individual responsible for the maltreatment. When the facility is the responsible party for maltreatment, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child who received services in the population of the facility where the maltreatment occurred. This notification must be provided to the parent, guardian, or legal custodian of each child receiving services from the time the maltreatment occurred until either the individual responsible for maltreatment is no longer in contact with a child or children in the facility or the conclusion of the investigation. In the case of maltreatment within a school facility, as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E, the commissioner of education need not provide notification to parents, guardians, or legal custodians of each child in the facility, but shall, within ten days after the investigation is completed, provide written notification to the parent, guardian, or legal custodian of any student alleged to have been maltreated. The commissioner of education may notify the parent, guardian, or legal custodian of any student involved as a witness to alleged maltreatment.

Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family assessment or the investigation within 45 days of the receipt of a report. The conclusion of the assessment or investigation may be extended to permit the completion of a criminal investigation or the receipt of expert information requested within 45 days of the receipt of the report.

(b) After conducting a family assessment, the local welfare agency shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment.

(c) After conducting an investigation, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed.

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No determination of maltreatment shall be made when the alleged perpetrator is a child under the age of ten.

(d) If the commissioner of education conducts an assessment or investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases, the commissioner shall inform the school board or employer that a report was received, the subject of the report, the date of the initial report, the category of maltreatment alleged as defined in paragraph (f), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

(e) When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in paragraph (i). Determinations under this subdivision must be made based on a preponderance of the evidence and are private data on individuals or nonpublic data as maintained by the commissioner of education.

(f) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions:

- (1) physical abuse as defined in subdivision 2, paragraph (k);
- (2) neglect as defined in subdivision 2, paragraph (g);
- (3) sexual abuse as defined in subdivision 2, paragraph (n);
- (4) mental injury as defined in subdivision 2, paragraph (f); or
- (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (c).

(g) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(h) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(i) When determining whether the facility or individual is the responsible party, or whether both the facility and the individual are responsible for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

The evaluation of the facility's responsibility under clause (2) must not be based on the completeness of the risk assessment or risk reduction plan required under section 245A.66, but must be based on the facility's compliance with the regulatory standards for policies and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota Rules.

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(j) Notwithstanding paragraph (i), when maltreatment is determined to have been committed by an individual who is also the facility license or certification holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing or certification actions under section 245A.06, 245A.07, 245H.06, or 245H.07 apply.

Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion of a family assessment, the local welfare agency shall notify the parent or guardian of the child of the need for services to address child safety concerns or significant risk of subsequent child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed. Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for investigating the report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and, if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. When the investigation involves a child foster care setting that is monitored by a private licensing agency under section 245A.16, the local welfare agency responsible for investigating the report shall notify the private licensing agency of the determination and shall provide a summary of the specific reasons for the determination. The notice to the private licensing agency must include identifying private data, but not the identity of the reporter of maltreatment. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section. The notice must also state that a finding of maltreatment may result in denial of a license or certification application or background study disqualification under chapter 245C related to employment or services that are licensed or certified by the Department of Human Services under chapter 245A or 245H, the Department of Health under chapter 144 or 144A, the Department of Corrections under section 241.021, and from providing services related to an unlicensed personal care provider organization under chapter 256B.

Subd. 10g. **Interstate data exchange.** All reports and records created, collected, or maintained under this section by a local social service agency or law enforcement agency may be disclosed to a local social service or other child welfare agency of another state when the agency certifies that:

(1) the reports and records are necessary in order to conduct an investigation of actions that would qualify as sexual abuse, physical abuse, or neglect under this section; and

(2) the reports and records will be used only for purposes of a child protection assessment or investigation and will not be further disclosed to any other person or agency.

The local social service agency or law enforcement agency in this state shall keep a record of all records or reports disclosed pursuant to this subdivision and of any agency to which the records or reports are disclosed. If in any case records or reports are disclosed before a determination is made under subdivision 10e, or a disposition of any criminal proceedings is reached, the local social service agency or law enforcement agency in this state shall forward the determination or disposition to any agency that has received any report or record under this subdivision.

Subd. 10h. **Child abuse data; release to family court services.** The responsible authority or its designee of a local welfare agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under this section to a court services agency if:

(1) the court services agency has an active case involving a common client or clients who are the subject of the data; and

(2) the data are necessary for the court services agency to effectively process the court services' case, including investigating or performing other duties relating to the case required by law.

The data disclosed under this subdivision may be used only for purposes of the active court services case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative reconsideration is not applicable in family assessments since no determination concerning maltreatment is made. For investigations, except as provided under paragraph (e), an individual or facility that the

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commissioner of human services, a local social service agency, or the commissioner of education determines has maltreated a child, an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the request for reconsideration must be postmarked and sent to the investigating agency within 15 calendar days of the individual's or facility's receipt of the final determination. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 15 calendar days after the individual's or facility's receipt of the final determination. Effective January 1, 2002, an individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the investigating agency within 30 calendar days of the individual's receipt of the maltreatment determination and notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services or the commissioner of education a written request for a hearing under that section. Section 256.045 also governs hearings requested to contest a final determination of the commissioner of education. The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The hearings specified under this section are the only administrative appeal of a decision issued under paragraph (a). Determinations under this section are not subject to accuracy and completeness challenges under section 13.04.

(c) If, as a result of a reconsideration or review, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) Except as provided under paragraph (f), if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration decision, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination and disqualification shall not be conducted under section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination as provided under this subdivision, and reconsideration of a disqualification as provided under section 245C.22, shall also not be conducted when:

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(1) a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) For purposes of this subdivision, "interested person acting on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been determined to be the perpetrator of the maltreatment.

(h) If a maltreatment determination is the basis for a correction order under section 245H.06 or decertification under section 245H.07, the certification holder has the right to request reconsideration under sections 245H.06 and 245H.07. If the certification holder appeals the maltreatment determination or disqualification, but does not appeal the correction order or decertification, reconsideration of the maltreatment determination shall be conducted under section 626.556, subdivision 10i, and reconsideration of the disqualification shall be conducted under section 245C.22.

**Subd. 10j. Release of data to mandated reporters.** (a) A local social services or child protection agency, or the agency responsible for assessing or investigating the report of maltreatment, shall provide relevant private data on individuals obtained under this section to a mandated reporter who made the report and who has an ongoing responsibility for the health, education, or welfare of a child affected by the data, unless the agency determines that providing the data would not be in the best interests of the child. The agency may provide the data to other mandated reporters with ongoing responsibility for the health, education, or welfare of the child. Mandated reporters with ongoing responsibility for the health, education, or welfare of a child affected by the data include the child's teachers or other appropriate school personnel, foster parents, health care providers, respite care workers, therapists, social workers, child care providers, residential care staff, crisis nursery staff, probation officers, and court services personnel. Under this section, a mandated reporter need not have made the report to be considered a person with ongoing responsibility for the health, education, or welfare of a child affected by the data. Data provided under this section must be limited to data pertinent to the individual's responsibility for caring for the child.

(b) A reporter who receives private data on individuals under this subdivision must treat the data according to that classification, regardless of whether the reporter is an employee of a government entity. The remedies and penalties under sections 13.08 and 13.09 apply if a reporter releases data in violation of this section or other law.

**Subd. 10k. Release of certain assessment or investigative records to other counties.** Records maintained under subdivision 11c, paragraph (a), may be shared with another local welfare agency that requests the information because it is conducting an assessment or investigation under this section of the subject of the records.

**Subd. 10l. Documentation.** When a case is closed that has been open for services, the local welfare agency shall document the outcome of the family assessment or investigation, including a description of services provided and the removal or reduction of risk to the child, if it existed.

**Subd. 10m. Provision of child protective services; consultation with county attorney.** (a) The local welfare agency shall create a written plan, in collaboration with the family whenever possible, within 30 days of the determination that child protective services are needed or upon joint agreement of the local welfare agency and the family that family support and preservation services are needed. Child protective services for a family are voluntary unless ordered by the court.

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(b) The local welfare agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, if:

- (1) the family does not accept or comply with a plan for child protective services;
- (2) voluntary child protective services may not provide sufficient protection for the child; or
- (3) the family is not cooperating with an investigation or assessment.

Subd. 10n. **Required referral to early intervention services.** A child under age three who is involved in a substantiated case of maltreatment shall be referred for screening under the Individuals with Disabilities Education Act, part C. Parents must be informed that the evaluation and acceptance of services are voluntary. The commissioner of human services shall monitor referral rates by county and annually report the information to the legislature beginning March 15, 2014. Refusal to have a child screened is not a basis for a child in need of protection or services petition under chapter 260C.

Subd. 11. **Records.** (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. All records concerning determinations of maltreatment by a facility are nonpublic data as maintained by the Department of Education, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data other than the reports. The local social services agency or agency responsible for assessing or investigating the report shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure.

(b) Upon request of the legislative auditor, data on individuals maintained under this section must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data in accordance with chapter 13.

(c) The commissioner of education must be provided with all requested data that are relevant to a report of maltreatment and are in possession of a school facility as defined in subdivision 2, paragraph (c), when the data is requested pursuant to an assessment or investigation of a maltreatment report of a student in a school. If the commissioner of education makes a determination of maltreatment involving an individual performing work within a school facility who is licensed by a board or other agency, the commissioner shall provide a copy of its offender maltreatment determination report to the licensing entity, with all student identifying information removed. The offender maltreatment determination report shall include but is not limited to the following sections: report of alleged maltreatment; legal standard; investigation; summary of findings; determination; corrective action by a school; reconsideration process; and a listing of records related to the investigation. Notwithstanding section 13.03, subdivision 4, data received by a licensing entity under this paragraph are governed by section 13.41 or other applicable law governing data of the

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receiving entity, except that this section applies to the classification of and access to data on the reporter of the maltreatment.

Subd. 11a. **Disclosure of information not required in certain cases.** When interviewing a minor under subdivision 10, an individual does not include the parent or guardian of the minor for purposes of section 13.04, subdivision 2, when the parent or guardian is the alleged perpetrator of the abuse or neglect.

Subd. 11b. **Data received from law enforcement.** Active law enforcement investigative data received by a local welfare agency or agency responsible for assessing or investigating the report under this section are confidential data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals.

Subd. 11c. **Welfare, court services agency, and school records maintained.** Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, agencies responsible for assessing or investigating the report, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority.

(a) For reports alleging child maltreatment that were not accepted for assessment or investigation, family assessment cases, and cases where an investigation results in no determination of maltreatment or the need for child protective services, the records must be maintained for a period of five years after the date the report was not accepted for assessment or investigation or of the final entry in the case record. Records of reports that were not accepted must contain sufficient information to identify the subjects of the report, the nature of the alleged maltreatment, and the reasons as to why the report was not accepted. Records under this paragraph may not be used for employment, background checks, or purposes other than to assist in future screening decisions and risk and safety assessments.

(b) All records relating to reports which, upon investigation, indicate either maltreatment or a need for child protective services shall be maintained for ten years after the date of the final entry in the case record.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency or agency responsible for assessing or investigating the report shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

Subd. 11d. **Disclosure in child fatality or near-fatality cases.** (a) The definitions in this paragraph apply to this section.

(1) "Child fatality" means the death of a child from child abuse or neglect.

(2) "Near fatality" means a case in which a physician, advanced practice registered nurse, or physician assistant determines that a child is in serious or critical condition as the result of sickness or injury caused by child abuse or neglect.

(3) "Findings and information" means a written summary described in paragraph (c) of actions taken or services rendered by a local social services agency following receipt of a report.

(b) Notwithstanding any other provision of law and subject to this subdivision, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

(1) a person is criminally charged with having caused the child fatality or near fatality;

(2) a county attorney certifies that a person would have been charged with having caused the child fatality or near fatality but for that person's death; or

(3) a child protection investigation resulted in a determination of child abuse or neglect.

(c) Findings and information disclosed under this subdivision consist of a written summary that includes any of the following information the agency is able to provide:

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- (1) the cause and circumstances regarding the child fatality or near fatality;
- (2) the age and gender of the child;
- (3) information on any previous reports of child abuse or neglect that are pertinent to the abuse or neglect that led to the child fatality or near fatality;
- (4) information on any previous investigations that are pertinent to the abuse or neglect that led to the child fatality or near fatality;
- (5) the results of any investigations described in clause (4);
- (6) actions of and services provided by the local social services agency on behalf of a child that are pertinent to the child abuse or neglect that led to the child fatality or near fatality; and
- (7) the results of any review of the state child mortality review panel, a local child mortality review panel, a local community child protection team, or any public agency.

(d) Nothing in this subdivision authorizes access to the private data in the custody of a local social services agency, or the disclosure to the public of the records or content of any psychiatric, psychological, or therapeutic evaluations, or the disclosure of information that would reveal the identities of persons who provided information related to abuse or neglect of the child.

(e) A person whose request is denied may apply to the appropriate court for an order compelling disclosure of all or part of the findings and information of the public agency. The application must set forth, with reasonable particularity, factors supporting the application. The court has jurisdiction to issue these orders. Actions under this section must be set down for immediate hearing, and subsequent proceedings in those actions must be given priority by the appellate courts.

(f) A public agency or its employees acting in good faith in disclosing or declining to disclose information under this section are immune from criminal or civil liability that might otherwise be incurred or imposed for that action.

**Subd. 12. Duties of facility operators.** Any operator, employee, or volunteer worker at any facility who intentionally neglects, physically abuses, or sexually abuses any child in the care of that facility may be charged with a violation of section 609.255, 609.377, or 609.378. Any operator of a facility who knowingly permits conditions to exist which result in neglect, physical abuse, sexual abuse, or maltreatment of a child in a facility while in the care of that facility may be charged with a violation of section 609.378. The facility operator shall inform all mandated reporters employed by or otherwise associated with the facility of the duties required of mandated reporters and shall inform all mandatory reporters of the prohibition against retaliation for reports made in good faith under this section.

**Subd. 14. Conflict of interest.** (a) A potential conflict of interest related to assisting in an assessment under this section resulting in a direct or shared financial interest with a child abuse and neglect treatment provider or resulting from a personal or family relationship with a party in the investigation must be considered by the local welfare agency in an effort to prevent unethical relationships.

- (b) A person who conducts an assessment under this section or section 626.5561 may not have:
- (1) any direct or shared financial interest or referral relationship resulting in a direct shared financial gain with a child abuse and neglect treatment provider; or
  - (2) a personal or family relationship with a party in the investigation.

If an independent assessor is not available, the person responsible for making the determination under this section may use the services of an assessor with a financial interest, referral, or personal or family relationship.

**Subd. 15. Auditing.** The commissioner of human services shall regularly audit for accuracy the data reported by counties on maltreatment of minors.

**Subd. 16. Commissioner's duty to provide oversight; quality assurance reviews; annual summary of reviews.** (a) The commissioner shall develop a plan to perform quality assurance reviews of local welfare agency screening practices and decisions. The commissioner shall provide oversight and guidance to counties to ensure consistent application of screening guidelines, thorough and appropriate screening decisions, and correct documentation and maintenance of reports. Quality assurance reviews must begin no later than September 30, 2015.



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(b) The commissioner shall produce an annual report of the summary results of the reviews. The report must only contain aggregate data and may not include any data that could be used to personally identify any subject whose data is included in the report. The report is public information and must be provided to the chairs and ranking minority members of the legislative committees having jurisdiction over child protection issues.

**626.5561 REPORTING OF PRENATAL EXPOSURE TO CONTROLLED SUBSTANCES.**

Subdivision 1. **Reports required.** (a) Except as provided in paragraph (b), a person mandated to report under section 626.556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.

(b) A health care professional or a social service professional who is mandated to report under section 626.556, subdivision 3, is exempt from reporting under paragraph (a) a woman's use or consumption of tetrahydrocannabinol or alcoholic beverages during pregnancy if the professional is providing the woman with prenatal care or other health care services.

(c) Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.

(d) An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the local welfare agency. Any report shall be of sufficient content to identify the pregnant woman, the nature and extent of the use, if known, and the name and address of the reporter. The local welfare agency shall accept a report made under paragraph (c) notwithstanding refusal by a voluntary reporter to provide the reporter's name or address as long as the report is otherwise sufficient.

(e) For purposes of this section, "prenatal care" means the comprehensive package of medical and psychological support provided throughout the pregnancy.

Subd. 2. **Local welfare agency.** Upon receipt of a report required under subdivision 1, the local welfare agency shall immediately conduct an appropriate assessment and offer services indicated under the circumstances. Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care. The local welfare agency may also take any appropriate action under chapter 253B, including seeking an emergency admission under section 253B.05. The local welfare agency shall seek an emergency admission under section 253B.05 if the pregnant woman refuses recommended voluntary services or fails recommended treatment.

Subd. 3. **Related provisions.** Reports under this section are governed by section 626.556, subdivisions 4, 4a, 5, 6, 8, and 11.

Subd. 4. **Controlled substances.** For purposes of this section and section 626.5562, "controlled substance" means a controlled substance listed in section 253B.02, subdivision 2.

Subd. 5. **Immunity.** (a) A person making a voluntary or mandated report under subdivision 1 or assisting in an assessment under subdivision 2 is immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith.

(b) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

**626.5562 TOXICOLOGY TESTS REQUIRED.**

Subdivision 1. **Test; report.** A physician shall administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within eight hours after delivery to determine whether there is evidence that she has ingested a controlled substance, if the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose. If the test results are positive, the physician shall report the results under section 626.5561. A negative test result does not eliminate the obligation to report under section 626.5561, if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

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Subd. 2. **Newborns.** A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy. If the test results are positive, the physician shall report the results as neglect under section 626.556. A negative test result does not eliminate the obligation to report under section 626.556 if other medical evidence of prenatal exposure to a controlled substance is present.

Subd. 3. **Report to Department of Health.** Physicians shall report to the Department of Health the results of tests performed under subdivisions 1 and 2. A report shall be made on the certificate of live birth medical supplement or the report of fetal death medical supplement filed on or after February 1, 1991. The reports are medical data under section 13.384.

Subd. 4. **Immunity from liability.** Any physician or other medical personnel administering a toxicology test to determine the presence of a controlled substance in a pregnant woman, in a woman within eight hours after delivery, or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test, if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice.

Subd. 5. **Reliability of tests.** A positive test result reported under this section must be obtained from a confirmatory test performed by a drug testing laboratory which meets the requirements of section 181.953, and must be performed according to the requirements for performance of confirmatory tests imposed by the licensing, accreditation, or certification program listed in section 181.953, subdivision 1, in which the laboratory participates.

**626.558 MULTIDISCIPLINARY CHILD PROTECTION TEAM.**

Subdivision 1. **Establishment of team.** A county shall establish a multidisciplinary child protection team that may include, but not be limited to, the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, representatives of health and education, representatives of mental health or other appropriate human service or community-based agencies, and parent groups. As used in this section, a "community-based agency" may include, but is not limited to, schools, social service agencies, family service and mental health collaboratives, children's advocacy centers, early childhood and family education programs, Head Start, or other agencies serving children and families. A member of the team must be designated as the lead person of the team responsible for the planning process to develop standards for its activities with battered women's and domestic abuse programs and services.

Subd. 2. **Duties of team.** A multidisciplinary child protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency or other interested community-based agencies. The community-based agencies may request case consultation from the multidisciplinary child protection team regarding a child or family for whom the community-based agency is providing services. As used in this section, "case consultation" means a case review process in which recommendations are made concerning services to be provided to the identified children and family. Case consultation may be performed by a committee or subcommittee of members representing human services, including mental health and chemical dependency; law enforcement, including probation and parole; the county attorney; a children's advocacy center; health care; education; community-based agencies and other necessary agencies; and persons directly involved in an individual case as designated by other members performing case consultation.

Subd. 2a. **Sexually exploited youth outreach program.** A multidisciplinary child protection team may assist the local welfare agency, local law enforcement agency, or an appropriate private organization in developing a program of outreach services for sexually exploited youth, including homeless, runaway, and truant youth who are at risk of sexual exploitation. For the purposes of this subdivision, at least one representative of a youth intervention program or, where this type of program is unavailable, one representative of a nonprofit agency serving youth in crisis, shall be appointed to and serve on the multidisciplinary child protection team in addition to the standing members of the team. These services may include counseling, medical care, short-term shelter, alternative living arrangements, and drop-in centers. A juvenile's receipt of intervention services under this subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

Subd. 3. **Information sharing.** (a) The local welfare agency may make available to the case consultation committee or subcommittee, all records collected and maintained by the agency under section 626.556 and in connection with case consultation. A case consultation committee or

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subcommittee member may share information acquired in the member's professional capacity with the committee or subcommittee to assist in case consultation.

(b) Case consultation committee or subcommittee members must annually sign a data sharing agreement, approved by the commissioner of human services, assuring compliance with chapter 13. Not public data, as defined by section 13.02, subdivision 8a, may be shared with members appointed to the committee or subcommittee in connection with an individual case when the members have signed the data sharing agreement.

(c) All data acquired by the case consultation committee or subcommittee in exercising case consultation duties, are confidential as defined in section 13.02, subdivision 3, and shall not be disclosed except to the extent necessary to perform case consultation, and shall not be subject to subpoena or discovery.

(d) No members of a case consultation committee or subcommittee meeting shall disclose what transpired at a case consultation meeting, except to the extent necessary to carry out the case consultation plan. The proceedings and records of the case consultation meeting are not subject to discovery, and may not be introduced into evidence in any civil or criminal action against a professional or local welfare agency arising out of the matter or matters which are the subject of consideration of the case consultation meeting. Information, documents, or records otherwise available from original sources are not immune from discovery or use in any civil or criminal action merely because they were presented during a case consultation meeting. Any person who presented information before the consultation committee or subcommittee or who is a member shall not be prevented from testifying as to matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information before the case consultation committee or subcommittee or about opinions formed as a result of the case consultation meetings.

A person who violates this subdivision is subject to the civil remedies and penalties provided under chapter 13.

Subd. 4. **Children's advocacy center; definition.** (a) For purposes of this section, "children's advocacy center" means an organization, using a multidisciplinary team approach, whose primary purpose is to provide children who have been the victims of abuse and their nonoffending family members with:

- (1) support and advocacy;
- (2) specialized medical evaluation;
- (3) trauma-focused mental health services; and
- (4) forensic interviews.

(b) Children's advocacy centers provide multidisciplinary case review and the tracking and monitoring of case progress.

**626.559 SPECIALIZED TRAINING AND EDUCATION REQUIRED.**

Subdivision 1. **Job classification; continuing education.** The commissioner of human services, for employees subject to the Minnesota Merit System, and directors of county personnel systems, for counties not subject to the Minnesota Merit System, shall establish a job classification consisting exclusively of persons with the specialized knowledge, skills, and experience required to satisfactorily perform child protection duties pursuant to section 626.556, subdivisions 10, 10a, and 10b.

All child protection workers or social services staff having responsibility for child protective duties under section 626.556 shall receive 15 hours of continuing education or in-service training each year relevant to providing child protective services. The local social service agency shall maintain a record of training completed by each employee having responsibility for performing child protective duties.

Subd. 1a. **Child protection worker foundation education.** Any individual who seeks employment as a child protection worker after the commissioner of human services has implemented the foundation training program developed under section 626.5591, subdivision 2, must complete competency-based foundation training during their first six months of employment as a child protection worker.

Subd. 1b. **Background studies.** (a) County employees hired on or after July 1, 2015, who have responsibility for child protection duties or current county employees who are assigned new child

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protection duties on or after July 1, 2015, are required to undergo a background study. A county may complete these background studies by either:

(1) use of the Department of Human Services NETStudy 2.0 system according to sections 245C.03 and 245C.10; or

(2) an alternative process defined by the county.

(b) County social services agencies and local welfare agencies must initiate background studies before an individual begins a position allowing direct contact with persons served by the agency.

Subd. 2. **Joint training.** The commissioners of human services and public safety shall cooperate in the development of a joint program for training child abuse services professionals in the appropriate techniques for child abuse assessment and investigation. The program shall include but need not be limited to the following areas:

(1) the public policy goals of the state as set forth in section 260C.001 and the role of the assessment or investigation in meeting these goals;

(2) the special duties of child protection workers and law enforcement officers under section 626.556;

(3) the appropriate methods for directing and managing affiliated professionals who may be utilized in providing protective services and strengthening family ties;

(4) the appropriate methods for interviewing alleged victims of child abuse and other minors in the course of performing an assessment or an investigation;

(5) the dynamics of child abuse and neglect within family systems and the appropriate methods for interviewing parents in the course of the assessment or investigation, including training in recognizing cases in which one of the parents is a victim of domestic abuse and in need of special legal or medical services;

(6) the legal, evidentiary considerations that may be relevant to the conduct of an assessment or an investigation;

(7) the circumstances under which it is appropriate to remove the alleged abuser or the alleged victim from the home;

(8) the protective social services that are available to protect alleged victims from further abuse, to prevent child abuse and domestic abuse, and to preserve the family unit, and training in the preparation of case plans to coordinate services for the alleged child abuse victim with services for any parents who are victims of domestic abuse;

(9) the methods by which child protection workers and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts; and

(10) appropriate methods for interviewing alleged victims of child abuse and conducting investigations in cases where the alleged victim is developmentally, physically, or mentally disabled.

Subd. 3. **Priority training.** The commissioners of human services and public safety shall provide the program courses described in subdivision 2 at convenient times and locations in the state. The commissioners shall give training priority in the program areas cited in subdivision 2 to persons currently performing assessments and investigations pursuant to section 626.556, subdivisions 10, 10a, and 10b.

Subd. 5. **Revenue.** The commissioner of human services shall add the following funds to the funds appropriated under section 626.5591, subdivision 2, to develop and support training:

(a) The commissioner of human services shall submit claims for federal reimbursement earned through the activities and services supported through Department of Human Services child protection or child welfare training funds. Federal revenue earned must be used to improve and expand training services by the department. The department expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds.

(b) Each year, the commissioner of human services shall withhold from funds distributed to each county under Minnesota Rules, parts 9550.0300 to 9550.0370, an amount equivalent to 1.5 percent of each county's annual title XX allocation under section 256M.50. The commissioner must use these funds to ensure decentralization of training.

(c) The federal revenue under this subdivision is available for these purposes until the funds are expended.

**626.5591 CHILD PROTECTION WORKERS; TRAINING; ADVISORY COMMITTEE.**

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given unless the specific context indicates otherwise:

(a) "Child protection agency" means an agency authorized to receive reports, conduct assessments and investigations, and make determinations pursuant to section 626.556, subdivision 10.

(b) "Child protection services" means the receipt and assessment of reports of child maltreatment and the provision of services to families and children when maltreatment has occurred or when there is risk of maltreatment. These services include: (1) the assessment of risk to a child alleged to have been abused or neglected; (2) interviews of any person alleged to have abused or neglected a child and the child or children involved in the report, and interviews with persons having facts or knowledge necessary to assess the level of risk to a child and the need for protective intervention; (3) the gathering of written or evidentiary materials; (4) the recording of case findings and determinations; and (5) other actions required by section 626.556, administrative rule, or agency policy.

(c) "Competency-based training" means a course of instruction that provides both information and skills practice, which is based upon clearly stated and measurable instructional objectives, and which requires demonstration of the achievement of a particular standard of skills and knowledge for satisfactory completion.

(d) "Foundation training" means training provided to a local child protection worker after the person has begun to perform child protection duties, but before the expiration of six months of employment as a child protection worker. This foundation training must occur during the performance of job duties and must include an evaluation of the employee's application of skills and knowledge.

(e) "Advanced training" means training provided to a local child protection worker after the person has performed an initial six months of employment as a child protection worker.

Subd. 2. **Training program; development.** The commissioner of human services shall develop a program of competency-based foundation and advanced training for child protection workers if funds are appropriated to the commissioner for this purpose.

**626.561 INTERVIEWS WITH CHILD ABUSE VICTIMS.**

Subdivision 1. **Policy.** It is the policy of this state to encourage adequate and accurate documentation of the number and content of interviews conducted with alleged child abuse victims during the course of a child abuse assessment, criminal investigation, or prosecution, and to discourage interviews that are unnecessary, duplicative, or otherwise not in the best interests of the child.

Subd. 2. **Definitions.** As used in this section:

(1) "child abuse" means physical or sexual abuse as defined in section 626.556, subdivision 2;

(2) "government employee" means an employee of a state or local agency, and any person acting as an agent of a state or local agency;

(3) "interview" means a statement of an alleged child abuse victim which is given or made to a government employee during the course of a child abuse assessment, criminal investigation, or prosecution; and

(4) "record" means an audio or videotape recording of an interview, or a written record of an interview.

Subd. 3. **Record required.** Whenever an interview is conducted, the interviewer must make a record of the interview. The record must contain the following information:

(1) the date, time, place, and duration of the interview;

(2) the identity of the persons present at the interview; and

(3) if the record is in writing, a summary of the information obtained during the interview.

The records shall be maintained by the interviewer in accordance with applicable provisions of section 626.556, subdivision 11 and chapter 13.

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Subd. 4. **Guidelines on tape recording of interviews.** Every county attorney's office shall be responsible for developing written guidelines on the tape recording of interviews by government employees who conduct child abuse assessments, criminal investigations, or prosecutions. The guidelines are public data as defined in section 13.02, subdivision 14.

*Laws 2005, First Special Session chapter 4, article 7, section 50*

**Sec. 50. CONSUMER-DIRECTED COMMUNITY SUPPORTS METHODOLOGY.**

(a) Effective upon federal approval, for persons using the home and community-based waiver for persons with developmental disabilities whose consumer-directed community supports budgets were reduced by the October 2004, state-set budget methodology, the commissioner of human services must allow exceptions to exceed the state-set budget formula up to the daily average cost during calendar year 2004 or for persons who graduated from school during 2004, the average daily cost during July through December 2004, less one-half of case management and home modifications over \$5,000 when the individual's county of financial responsibility determines that:

(1) necessary alternative services will cost the same or more than the person's current budget; and

(2) administrative expenses or provider rates will result in fewer hours of needed staffing for the person than under the consumer-directed community supports option. Any exceptions the county grants must be within the county's allowable aggregate amount for the home and community-based waiver for persons with developmental disabilities.

(b) This section expires on the date the commissioner of human services implements a new consumer-directed community supports budget methodology that is based on information about the services and supports intensity needs of persons using the option and that adequately accounts for the increased costs of adults who graduate from school and need services funded by the waiver during the day.

*Laws 2005, First Special Session chapter 4, article 7, section 51*

**Sec. 51. COSTS ASSOCIATED WITH PHYSICAL ACTIVITIES.**

Effective upon federal approval, the expenses allowed for adults under the consumer-directed community supports option shall include the costs at the lowest rate available considering daily, monthly, semi-annual, annual, or membership rates, including transportation, associated with physical exercise or other physical activities to maintain or improve the person's health and functioning.

*Laws 2012, chapter 247, article 4, section 47, as amended by Laws 2014, chapter 312, article 27, section 72; as amended by Laws 2015, chapter 71, article 7, section 58; as amended by Laws 2016, chapter 144, section 1; as amended by Laws 2017, First Special Session chapter 6, article 1, section 54*

Sec. 72. Laws 2012, chapter 247, article 4, section 47, is amended to read:

**Sec. 47. COMMISSIONER TO SEEK AMENDMENT FOR EXCEPTION TO CONSUMER-DIRECTED COMMUNITY SUPPORTS BUDGET METHODOLOGY.**

By July 1, 2014, if necessary, the commissioner shall request an amendment to the home and community-based services waivers authorized under Minnesota Statutes, sections 256B.092 and 256B.49, to establish an exception to the consumer-directed community supports budget methodology to provide up to 20 percent more funds for those participants who have their 21st birthday and graduate from high school between 2013 to 2015 and are authorized for more services under consumer-directed community supports prior to graduation than the amount they are eligible to receive under the current consumer-directed community supports budget methodology. The exception is limited to those who can demonstrate that they will have to leave consumer-directed community supports and use other waiver services because their need for day or employment supports cannot be met within the consumer-directed community supports budget limits. The commissioner shall consult with the stakeholder group authorized under Minnesota Statutes, section 256B.0657, subdivision 11, to implement this provision. The exception process shall be effective upon federal approval for persons eligible through June 30, 2017.

*Laws 2015, chapter 71, article 7, section 54, as amended by Laws 2017, First Special Session chapter 6, article 1, section 54*

**Sec. 54. CONSUMER-DIRECTED COMMUNITY SUPPORTS BUDGET METHODOLOGY EXCEPTION.**

(a) No later than September 30, 2015, if necessary, the commissioner of human services shall submit an amendment to the Centers for Medicare and Medicaid Services for the home and community-based services waivers authorized under Minnesota Statutes, sections 256B.092 and 256B.49, to establish an exception to the consumer-directed community supports budget methodology to provide up to 20 percent more funds for:

(1) consumer-directed community supports participants who have graduated from high school and have a coordinated service and support plan which identifies the need for more services under consumer-directed community supports, either prior to graduation or in order to increase the amount of time a person works or to improve their employment opportunities, than the amount they are eligible to receive under the current consumer-directed community supports budget methodology; and

(2) home and community-based waiver participants who are currently using licensed services for employment supports or services during the day which cost more annually than the person would spend under a consumer-directed community supports plan for individualized employment supports or services during the day.

(b) The exception under paragraph (a) is limited to those persons who can demonstrate either that they will have to leave consumer-directed community supports and use other waiver services because their need for day or employment supports cannot be met within the consumer-directed community supports budget limits or they will move to consumer-directed community supports and their services will cost less than services currently being used.

**EFFECTIVE DATE.** The exception under this section is effective October 1, 2015, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when this occurs.

***Laws 2017, First Special Session chapter 6, article 1, section 44, as amended by Laws 2019, First Special Session chapter 9, article 5, section 80***

Sec. 80. Laws 2017, First Special Session chapter 6, article 1, section 44, is amended to read:

**Sec. 44. EXPANSION OF CONSUMER-DIRECTED COMMUNITY SUPPORTS BUDGET METHODOLOGY EXCEPTION.**

(a) No later than September 30, 2017, if necessary, the commissioner of human services shall submit an amendment to the Centers for Medicare and Medicaid Services for the home and community-based services waivers authorized under Minnesota Statutes, sections 256B.092 and 256B.49, to expand the exception to the consumer-directed community supports budget methodology under Laws 2015, chapter 71, article 7, section 54, to provide up to 30 percent more funds for either:

(1) consumer-directed community supports participants who have a coordinated service and support plan which identifies the need for an increased amount of services or supports under consumer-directed community supports than the amount they are currently receiving under the consumer-directed community supports budget methodology:

(i) to increase the amount of time a person works or otherwise improves employment opportunities;

(ii) to plan a transition to, move to, or live in a setting described in Minnesota Statutes, section 256D.44, subdivision 5, paragraph (g), clause (1), item (iii); or

(iii) to develop and implement a positive behavior support plan; or

(2) home and community-based waiver participants who are currently using licensed providers for (i) employment supports or services during the day; or (ii) residential services, either of which cost more annually than the person would spend under a consumer-directed community supports plan for any or all of the supports needed to meet the goals identified in paragraph (a), clause (1), items (i), (ii), and (iii).

(b) The exception under paragraph (a), clause (1), is limited to those persons who can demonstrate that they will have to discontinue using consumer-directed community supports and accept other non-self-directed waiver services because their supports needed for the goals described in paragraph



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(a), clause (1), items (i), (ii), and (iii), cannot be met within the consumer-directed community supports budget limits.

(c) The exception under paragraph (a), clause (2), is limited to those persons who can demonstrate that, upon choosing to become a consumer-directed community supports participant, the total cost of services, including the exception, will be less than the cost of current waiver services.

*Laws 2017, First Special Session chapter 6, article 1, section 45, as amended by Laws 2019, First Special Session chapter 9, article 5, section 81*

Sec. 81. Laws 2017, First Special Session chapter 6, article 1, section 45, is amended to read:

**Sec. 45. CONSUMER-DIRECTED COMMUNITY SUPPORTS BUDGET  
METHODOLOGY.**

Subdivision 1. **Exception for persons leaving institutions and crisis residential settings.** (a) By September 30, 2017, the commissioner shall establish an institutional and crisis bed consumer-directed community supports budget exception process in the home and community-based services waivers under Minnesota Statutes, sections 256B.092 and 256B.49. This budget exception process shall be available for any individual who:

(1) is not offered available and appropriate services within 60 days since approval for discharge from the individual's current institutional setting; and

(2) requires services that are more expensive than appropriate services provided in a noninstitutional setting using the consumer-directed community supports option.

(b) Institutional settings for purposes of this exception include intermediate care facilities for persons with developmental disabilities; nursing facilities; acute care hospitals; Anoka Metro Regional Treatment Center; Minnesota Security Hospital; and crisis beds. The budget exception shall be limited to no more than the amount of appropriate services provided in a noninstitutional setting as determined by the lead agency managing the individual's home and community-based services waiver. The lead agency shall notify the Department of Human Services of the budget exception.

Subd. 2. **Shared services.** (a) Medical assistance payments for shared services under consumer-directed community supports are limited to this subdivision.

(b) For purposes of this subdivision, "shared services" means services provided at the same time by the same direct care worker for individuals who have entered into an agreement to share consumer-directed community support services.

(c) Shared services may include services in the personal assistance category as outlined in the consumer-directed community supports community support plan and shared services agreement, except:

(1) services for more than three individuals provided by one worker at one time;

(2) use of more than one worker for the shared services; and

(3) a child care program licensed under chapter 245A or operated by a local school district or private school.

(d) The individuals or, as needed, their representatives shall develop the plan for shared services when developing or amending the consumer-directed community supports plan, and must follow the consumer-directed community supports process for approval of the plan by the lead agency. The plan for shared services in an individual's consumer-directed community supports plan shall include the intention to utilize shared services based on individuals' needs and preferences.

(e) Individuals sharing services must use the same financial management services provider.

(f) Individuals whose consumer-directed community supports community support plans include the intention to utilize shared services must also jointly develop, with the support of their representatives as needed, a shared services agreement. This agreement must include:

(1) the names of the individuals receiving shared services;

(2) the individuals' representative, if identified in their consumer-directed community supports plans, and their duties;

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- (3) the names of the case managers;
  - (4) the financial management services provider;
  - (5) the shared services that must be provided;
  - (6) the schedule for shared services;
  - (7) the location where shared services must be provided;
  - (8) the training specific to each individual served;
  - (9) the training specific to providing shared services to the individuals identified in the agreement;
  - (10) instructions to follow all required documentation for time and services provided;
  - (11) a contingency plan for each of the individuals that accounts for service provision and billing in the absence of one of the individuals in a shared services setting due to illness or other circumstances;
  - (12) signatures of all parties involved in the shared services; and
  - (13) agreement by each of the individuals who are sharing services on the number of shared hours for services provided.
- (g) Any individual or any individual's representative may withdraw from participating in a shared services agreement at any time.
- (h) The lead agency for each individual must authorize the use of the shared services option based on the criteria that the shared service is appropriate to meet the needs, health, and safety of each individual for whom they provide case management or care coordination.
- (i) Nothing in this subdivision must be construed to reduce the total authorized consumer-directed community supports budget for an individual.
- (j) No later than September 30, 2019, the commissioner of human services shall:
- (1) submit an amendment to the Centers for Medicare and Medicaid Services for the home and community-based services waivers authorized under Minnesota Statutes, sections 256B.0913, 256B.0915, 256B.092, and 256B.49, to allow for a shared services option under consumer-directed community supports; and
  - (2) with stakeholder input, develop guidance for shared services in consumer-directed community-supports within the Community Based Services Manual. Guidance must include:
    - (i) recommendations for negotiating payment for one-to-two and one-to-three services; and
    - (ii) a template of the shared services agreement.

**EFFECTIVE DATE.** This section is effective October 1, 2019, or upon federal approval, whichever is later, except for subdivision 2, paragraph (j), which is effective the day following final enactment. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.