SENATE STATE OF MINNESOTA EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1412

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DATE	D-PG	OFFICIAL STATUS
05/10/2011	1920	Introduction and first reading Referred to Health and Human Services
03/15/2012 03/19/2012	4504	Author added Nienow Comm report: To pass as amended Second reading

1.1	A bill for an act
1.2	relating to human services; creating an exception to the foster care licensing
1.3	moratorium; amending Minnesota Statutes 2010, section 245A.03, subdivision 7.
1.4	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 245A.03, subdivision 7, is amended to read:

- Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. Exceptions to the moratorium include:
 - (1) foster care settings that are required to be registered under chapter 144D;
- (2) foster care licenses replacing foster care licenses in existence on May 15, 2009, and determined to be needed by the commissioner under paragraph (b);
- (3) new foster care licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/MR, or regional treatment center;
- (4) new foster care licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital level care; or
- (5) new foster care licenses determined to be needed by the commissioner for the transition of people from personal care assistance to the home and community-based services.

Section 1.

S.F. No. 1412, as introduced - 87th Legislative Session (2011-2012) [11-3344]

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(b) The commissioner shall determine the need for newly licensed foster care homes
as defined under this subdivision. As part of the determination, the commissioner shall
consider the availability of foster care capacity in the area in which the licensee seeks to
operate, and the recommendation of the local county board. The determination by the
commissioner must be final. A determination of need is not required for a change in
ownership at the same address.

- (c) Residential settings that would otherwise be subject to the moratorium established in paragraph (a), that are in the process of receiving an adult or child foster care license as of July 1, 2009, shall be allowed to continue to complete the process of receiving an adult or child foster care license. For this paragraph, all of the following conditions must be met to be considered in the process of receiving an adult or child foster care license:
- (1) participants have made decisions to move into the residential setting, including documentation in each participant's care plan;
- (2) the provider has purchased housing or has made a financial investment in the property;
- (3) the lead agency has approved the plans, including costs for the residential setting for each individual;
- (4) the completion of the licensing process, including all necessary inspections, is the only remaining component prior to being able to provide services; and
- (5) the needs of the individuals cannot be met within the existing capacity in that county.
- To qualify for the process under this paragraph, the lead agency must submit documentation to the commissioner by August 1, 2009, that all of the above criteria are met.
- (d) The commissioner shall study the effects of the license moratorium under this subdivision and shall report back to the legislature by January 15, 2011. This study shall include, but is not limited to the following:
- (1) the overall capacity and utilization of foster care beds where the physical location is not the primary residence of the license holder prior to and after implementation of the moratorium;
- (2) the overall capacity and utilization of foster care beds where the physical location is the primary residence of the license holder prior to and after implementation of the moratorium; and
- (3) the number of licensed and occupied ICF/MR beds prior to and after implementation of the moratorium.

Section 1. 2

S.F. No. 1412, as introduced - 87th Legislative Session (2011-2012) [11-3344]

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(e) In addition to the moratorium exceptions under paragraph (a), the commissioner
shall issue up to three foster care licenses to a single not-for-profit agency that is
established to develop services for persons with severe autism to provide residential
services for persons up to age 25 with autism who are in need of continuous, 24 hour,
on-site supervision by a caregiver, if all licensing requirements are met. The license holder
may contract with other agencies for the provision of these services. This paragraph does
not change any eligibility requirements related to public funding for autism services.

Section 1. 3