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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **1732**

02/27/2019 Authored by Kresha

The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act

1.2 relating to children; reorganizing and clarifying sections relating to child

1.3 maltreatment and neglect; making technical changes; amending Minnesota Statutes

1.4 2018, sections 13.32, subdivision 3; 13.3805, subdivision 3; 13.43, subdivision

1.5 14; 13.46, subdivisions 3, 4; 13.82, subdivisions 8, 9, 17; 13.821; 13.84, subdivision

1.6 9; 13.871, subdivision 6; 13.88; 120B.22, subdivision 2; 122A.20, subdivision 2;

1.7 122A.40, subdivision 13; 122A.41, subdivision 6; 125A.0942, subdivision 4;

1.8 135A.15, subdivision 10; 144.225, subdivision 2b; 144.343, subdivision 4;

1.9 144.7065, subdivision 10; 144.7068; 144A.472, subdivision 1; 144A.479,

1.10 subdivision 6; 144A.4796, subdivisions 2, 6; 144H.16, subdivision 1; 144H.18,

1.11 subdivision 3; 145.902, subdivision 3; 145.952, subdivision 2; 146A.025; 148B.593;

1.12 148E.240, subdivision 7; 148F.13, subdivision 12; 148F.205, subdivision 1;

1.13 153B.70; 214.103, subdivision 8; 214.104; 243.166, subdivision 7; 245.8261,

1.14 subdivision 9; 245A.04, subdivision 5; 245A.06, subdivision 8; 245A.07,

1.15 subdivisions 3, 5; 245A.08, subdivision 2a; 245A.085; 245A.11, subdivision 7b;

1.16 245A.145, subdivision 1; 245A.40, subdivision 1; 245A.66, subdivision 3; 245C.05,

1.17 subdivision 6; 245C.15, subdivision 4; 245C.16, subdivision 1; 245C.17,

1.18 subdivision 3; 245C.21, subdivision 2; 245C.24, subdivision 4; 245C.25; 245C.27,

1.19 subdivisions 1, 2; 245C.28, subdivision 1; 245C.29, subdivision 1; 245C.31,

1.20 subdivision 1; 245C.32, subdivision 2; 245D.02, subdivision 11; 245D.06,

1.21 subdivisions 1, 6; 245D.09, subdivision 4; 245D.32, subdivision 5; 245F.04,

1.22 subdivision 1; 245F.15, subdivisions 3, 5; 245F.16, subdivisions 1, 2; 245F.18;

1.23 245G.03, subdivision 1; 245G.10, subdivision 3; 245G.11, subdivisions 3, 4;

1.24 245G.12; 245G.13, subdivisions 1, 2; 245H.11; 254A.09; 254B.04, subdivision

1.25 1; 256.01, subdivisions 12, 14b, 15; 256.045, subdivisions 3, 3b, 4; 256B.0621,

1.26 subdivision 4; 256B.0625, subdivision 33; 256B.0945, subdivision 1; 256B.0949,

1.27 subdivision 16; 256B.0951, subdivision 5; 256B.0954; 256B.097, subdivisions 4,

1.28 6; 256B.77, subdivision 17; 256B.85, subdivisions 10, 12a; 256E.21, subdivision

1.29 5; 256F.10, subdivisions 1, 4; 256L.07, subdivision 4; 256M.10, subdivision 2;

1.30 256M.40, subdivision 1; 256M.41, subdivisions 1, 3; 257.0764; 260.012; 260.761,

1.31 subdivision 2; 260B.171, subdivision 6; 260B.198, subdivision 1; 260C.007,

1.32 subdivisions 3, 5, 6, 13; 260C.139, subdivision 3; 260C.150, subdivision 3;

1.33 260C.171, subdivision 3; 260C.177; 260C.178, subdivision 1; 260C.201,

1.34 subdivision 6; 260C.209, subdivision 2; 260C.212, subdivision 12; 260C.221;

1.35 260C.503, subdivision 2; 260D.01; 260D.02, subdivisions 3, 5; 299C.093; 388.051,

1.36 subdivision 2; 518.165, subdivisions 2, 5; 524.5-118, subdivision 2; 595.02,

1.37 subdivisions 1, 2; 609.26, subdivision 7; 609.3457, subdivision 2; 609.379,

1.38 subdivision 2; 609.507; 609.7495, subdivision 1; 611A.203, subdivision 4; 611A.90,

2.1 subdivision 1; 626.557, subdivision 9d; proposing coding for new law in Minnesota
2.2 Statutes, chapter 260A; repealing Minnesota Statutes 2018, sections 626.556,
2.3 subdivisions 1, 2, 3, 3a, 3b, 3c, 3d, 3e, 3f, 4, 4a, 5, 6, 6a, 7, 7a, 8, 9, 10, 10a, 10b,
2.4 10c, 10d, 10e, 10f, 10g, 10h, 10i, 10j, 10k, 10l, 10m, 10n, 11, 11a, 11b, 11c, 11d,
2.5 12, 14, 15, 16; 626.5561; 626.5562; 626.558; 626.559, subdivisions 1, 1a, 1b, 2,
2.6 3, 5; 626.5591; 626.561.

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

2.8 **ARTICLE 1**

2.9 **REORGANIZATION**

2.10 Section 1. **[260A.11] POLICY.**

2.11 (a) The legislature hereby declares that the public policy of this state is to protect children
2.12 whose health or welfare may be jeopardized through maltreatment. While it is recognized
2.13 that most parents want to keep their children safe, sometimes circumstances or conditions
2.14 interfere with their ability to do so. When this occurs, the health and safety of the children
2.15 must be of paramount concern. Intervention and prevention efforts must address immediate
2.16 concerns for child safety and the ongoing risk of maltreatment and should engage the
2.17 protective capacities of families. In furtherance of this public policy, it is the intent of the
2.18 legislature under this chapter to:

2.19 (1) protect children and promote child safety;

2.20 (2) strengthen the family;

2.21 (3) make the home, school, and community safe for children by promoting responsible
2.22 child care in all settings; and

2.23 (4) provide, when necessary, a safe temporary or permanent home environment for
2.24 maltreated children.

2.25 (b) In addition, it is the policy of this state to:

2.26 (1) require the reporting of maltreatment of children in the home, school, and community
2.27 settings;

2.28 (2) provide for the voluntary reporting of maltreatment of children;

2.29 (3) require an investigation when the report alleges sexual abuse or substantial child
2.30 endangerment;

2.31 (4) provide a family assessment, if appropriate, when the report does not allege sexual
2.32 abuse or substantial child endangerment; and

3.1 (5) provide protective, family support, and family preservation services when needed
3.2 in appropriate cases.

3.3 **Sec. 2. [260A.12] MULTIDISCIPLINARY CHILD PROTECTION TEAM.**

3.4 Subdivision 1. **Establishment of team.** A county shall establish a multidisciplinary
3.5 child protection team that may include, but not be limited to, the director of the local welfare
3.6 agency or designees, the county attorney or designees, the county sheriff or designees,
3.7 representatives of health and education, representatives of mental health or other appropriate
3.8 human service or community-based agencies, and parent groups. As used in this section, a
3.9 "community-based agency" may include, but is not limited to, schools, social service
3.10 agencies, family service and mental health collaboratives, children's advocacy centers, early
3.11 childhood and family education programs, Head Start, or other agencies serving children
3.12 and families. A member of the team must be designated as the lead person of the team
3.13 responsible for the planning process to develop standards for the team's activities with
3.14 battered women's and domestic abuse programs and services.

3.15 Subd. 2. **Duties of team.** A multidisciplinary child protection team may provide public
3.16 and professional education, develop resources for prevention, intervention, and treatment,
3.17 and provide case consultation to the local welfare agency or other interested community-based
3.18 agencies. The community-based agencies may request case consultation from the
3.19 multidisciplinary child protection team regarding a child or family for whom the
3.20 community-based agency is providing services. As used in this section, "case consultation"
3.21 means a case review process in which recommendations are made concerning services to
3.22 be provided to the identified children and family. Case consultation may be performed by
3.23 a committee or subcommittee of members representing human services, including mental
3.24 health and chemical dependency; law enforcement, including probation and parole; the
3.25 county attorney; a children's advocacy center; health care; education; community-based
3.26 agencies and other necessary agencies; and persons directly involved in an individual case
3.27 as designated by other members performing case consultation.

3.28 Subd. 3. **Sexually exploited youth outreach program.** A multidisciplinary child
3.29 protection team may assist the local welfare agency, local law enforcement agency, or an
3.30 appropriate private organization in developing a program of outreach services for sexually
3.31 exploited youth, including homeless, runaway, and truant youth who are at risk of sexual
3.32 exploitation. For the purposes of this subdivision, at least one representative of a youth
3.33 intervention program or, where this type of program is unavailable, one representative of a
3.34 nonprofit agency serving youth in crisis shall be appointed to and serve on the

4.1 multidisciplinary child protection team in addition to the standing members of the team.
4.2 These services may include counseling, medical care, short-term shelter, alternative living
4.3 arrangements, and drop-in centers. A juvenile's receipt of intervention services under this
4.4 subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

4.5 Subd. 4. **Information sharing.** (a) The local welfare agency may make available to the
4.6 case consultation committee or subcommittee all records collected and maintained by the
4.7 agency under this chapter and in connection with case consultation. A case consultation
4.8 committee or subcommittee member may share information acquired in the member's
4.9 professional capacity with the committee or subcommittee to assist in case consultation.

4.10 (b) Case consultation committee or subcommittee members must annually sign a data
4.11 sharing agreement, approved by the commissioner of human services, assuring compliance
4.12 with chapter 13. Not public data, as defined in section 13.02, subdivision 8a, may be shared
4.13 with members appointed to the committee or subcommittee in connection with an individual
4.14 case when the members have signed the data sharing agreement.

4.15 (c) All data acquired by the case consultation committee or subcommittee in exercising
4.16 case consultation duties are confidential as defined in section 13.02, subdivision 3, and shall
4.17 not be disclosed except to the extent necessary to perform case consultation, and shall not
4.18 be subject to subpoena or discovery.

4.19 (d) No members of a case consultation committee or subcommittee meeting shall disclose
4.20 what transpired at a case consultation meeting, except to the extent necessary to carry out
4.21 the case consultation plan. The proceedings and records of the case consultation meeting
4.22 are not subject to discovery, and may not be introduced into evidence in any civil or criminal
4.23 action against a professional or local welfare agency arising out of the matter or matters
4.24 which are the subject of consideration of the case consultation meeting. Information,
4.25 documents, or records otherwise available from original sources are not immune from
4.26 discovery or use in any civil or criminal action merely because they were presented during
4.27 a case consultation meeting. Any person who presented information before the consultation
4.28 committee or subcommittee or who is a member shall not be prevented from testifying as
4.29 to matters within the person's knowledge. However, in a civil or criminal proceeding a
4.30 person shall not be questioned about the person's presentation of information before the
4.31 case consultation committee or subcommittee or about opinions formed as a result of the
4.32 case consultation meetings.

4.33 (e) A person who violates this subdivision is subject to the civil remedies and penalties
4.34 provided under chapter 13.

5.1 Subd. 5. **Children's advocacy center; definition.** (a) For purposes of this section,
5.2 "children's advocacy center" means an organization using a multidisciplinary team approach
5.3 whose primary purpose is to provide children who have been the victims of abuse and their
5.4 nonoffending family members with:

5.5 (1) support and advocacy;

5.6 (2) specialized medical evaluation;

5.7 (3) trauma-focused mental health services; and

5.8 (4) forensic interviews.

5.9 (b) Children's advocacy centers provide multidisciplinary case review and the tracking
5.10 and monitoring of case progress.

5.11 **Sec. 3. [260A.20] DEFINITIONS.**

5.12 Subdivision 1. **Scope.** As used in this chapter, the following terms have the meanings
5.13 given them unless the specific content indicates otherwise.

5.14 Subd. 2. **Accidental.** "Accidental" means a sudden, not reasonably foreseeable, and
5.15 unexpected occurrence or event that:

5.16 (1) is not likely to occur and could not have been prevented by exercise of due care; and

5.17 (2) if occurring while a child is receiving services from a facility, happens when the
5.18 facility and the employee or person providing services in the facility are in compliance with
5.19 the laws and rules relevant to the occurrence or event.

5.20 Subd. 3. **Child fatality.** "Child fatality" means the death of a child from maltreatment.

5.21 Subd. 4. **Commissioner.** "Commissioner" means the commissioner of human services
5.22 unless otherwise indicated in this chapter.

5.23 Subd. 5. **Egregious harm.** "Egregious harm" means harm under section 260C.007,
5.24 subdivision 14, or a similar law of another jurisdiction.

5.25 Subd. 6. **Facility.** "Facility" means:

5.26 (1) a licensed or unlicensed day care facility, certified license-exempt child care center,
5.27 residential facility, agency, hospital, sanitarium, or other facility or institution required to
5.28 be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter
5.29 144H, 245D, or 245H;

6.1 (2) a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E;
6.2 or

6.3 (3) a nonlicensed personal care provider organization as defined in section 256B.0625,
6.4 subdivision 19a.

6.5 Subd. 7. **Family assessment.** "Family assessment" means a comprehensive assessment
6.6 of child safety, risk of subsequent maltreatment, and family strengths and needs that is
6.7 applied to a maltreatment report that does not allege sexual abuse or substantial child
6.8 endangerment. Family assessment does not include a determination as to whether
6.9 maltreatment occurred but does determine the need for services to address the safety of
6.10 family members and the risk of subsequent maltreatment.

6.11 Subd. 8. **Findings and information.** "Findings and information" means a written
6.12 summary described in section 260A.87, subdivision 7, paragraph (b), of actions taken or
6.13 services rendered by a local welfare agency following receipt of a report.

6.14 Subd. 9. **Immediately.** "Immediately" means as soon as possible but in no event longer
6.15 than 24 hours.

6.16 Subd. 10. **Interested person acting on behalf of the child.** "Interested person acting
6.17 on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian
6.18 ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person
6.19 has been determined to be the offender who committed the maltreatment.

6.20 Subd. 11. **Investigation.** "Investigation" means fact gathering conducted during:

6.21 (1) a family investigation related to the current safety of a child and the risk of subsequent
6.22 maltreatment that determines whether maltreatment occurred and whether child protective
6.23 services are needed; or

6.24 (2) a facility investigation related to duties under section 260A.50.

6.25 Subd. 12. **Maltreatment.** "Maltreatment" means any of the following acts or omissions:

6.26 (1) egregious harm under subdivision 6;

6.27 (2) neglect under subdivision 16;

6.28 (3) physical abuse under subdivision 18; and

6.29 (4) sexual abuse under subdivision 21.

6.30 Subd. 13. **Mental injury.** "Mental injury" means an injury to the psychological capacity
6.31 or emotional stability of a child as evidenced by an observable or substantial impairment

7.1 in the child's ability to function within a normal range of performance and behavior with
7.2 due regard to the child's culture.

7.3 Subd. 14. **Near fatality.** "Near fatality" means a case in which a physician, advanced
7.4 practice registered nurse, or physician assistant determines that a child is in serious or critical
7.5 condition as the result of sickness or injury caused by maltreatment.

7.6 Subd. 15. **Neglect.** (a) "Neglect" means the commission or omission of any of the acts
7.7 specified under clauses (1) to (8), other than by accidental means:

7.8 (1) failure by a person responsible for a child's care to supply a child with necessary
7.9 food, clothing, shelter, health, medical, or other care required for the child's physical or
7.10 mental health when reasonably able to do so;

7.11 (2) failure to protect a child from conditions or actions that seriously endanger the child's
7.12 physical or mental health when reasonably able to do so, including a growth delay, which
7.13 may be referred to as a failure to thrive, that has been diagnosed by a physician and is due
7.14 to parental neglect;

7.15 (3) failure to provide for necessary supervision or child care arrangements appropriate
7.16 for a child after considering factors as the child's age, mental ability, physical condition,
7.17 length of absence, or environment, when the child is unable to care for the child's own basic
7.18 needs or safety, or the basic needs or safety of another child in their care;

7.19 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
7.20 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
7.21 child with sympathomimetic medications, consistent with section 125A.091, subdivision
7.22 5;

7.23 (5) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision
7.24 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in
7.25 the child at birth, results of a toxicology test performed on the mother at delivery or the
7.26 child at birth, medical effects or developmental delays during the child's first year of life
7.27 that medically indicate prenatal exposure to a controlled substance, or the presence of a
7.28 fetal alcohol spectrum disorder;

7.29 (6) medical neglect, as defined in section 260C.007, subdivision 6, clause (5);

7.30 (7) chronic and severe use of alcohol or a controlled substance by a person responsible
7.31 for the child's care that adversely affects the child's basic needs and safety; or

7.32 (8) emotional harm from a pattern of behavior that contributes to impaired emotional
7.33 functioning of the child, which may be demonstrated by a substantial and observable effect

8.1 in the child's behavior, emotional response, or cognition that is not within the normal range
8.2 for the child's age and stage of development, with due regard to the child's culture.

8.3 (b) Nothing in this chapter shall be construed to mean that a child is neglected solely
8.4 because the child's parent, guardian, or other person responsible for the child's care in good
8.5 faith selects and depends upon spiritual means or prayer for treatment or care of disease or
8.6 remedial care of the child in lieu of medical care.

8.7 (c) This chapter does not impose upon persons not otherwise legally responsible for
8.8 providing a child with necessary food, clothing, shelter, education, or medical care a duty
8.9 to provide that care.

8.10 Subd. 16. **Person responsible for the child's care.** "Person responsible for the child's
8.11 care" means (1) an individual functioning within the family unit and having responsibilities
8.12 for the care of the child such as a parent, guardian, or other person having similar care
8.13 responsibilities, or (2) an individual functioning outside the family unit and having
8.14 responsibilities for the care of the child such as a teacher, school administrator, other school
8.15 employee or agent, or other lawful custodian of a child having either full-time or short-term
8.16 care responsibilities including, but not limited to, day care, babysitting whether paid or
8.17 unpaid, counseling, teaching, and coaching.

8.18 Subd. 17. **Physical abuse.** (a) "Physical abuse" means any physical injury, mental injury
8.19 under subdivision 14, or threatened injury under subdivision 24, inflicted by a person
8.20 responsible for the child's care on a child other than by accidental means, or any physical
8.21 or mental injury that cannot reasonably be explained by the child's history of injuries, or
8.22 any aversive or deprivation procedures, or regulated interventions, that have not been
8.23 authorized under section 125A.0942 or 245.825.

8.24 (b) Abuse does not include reasonable and moderate physical discipline of a child
8.25 administered by a parent or legal guardian that does not result in an injury. Abuse does not
8.26 include the use of reasonable force by a teacher, principal, or school employee as allowed
8.27 by section 121A.582.

8.28 (c) For the purposes of this subdivision, actions that are not reasonable and moderate
8.29 include, but are not limited to, any of the following:

8.30 (1) throwing, kicking, burning, biting, or cutting a child;

8.31 (2) striking a child with a closed fist;

8.32 (3) shaking a child under age three;

9.1 (4) striking or other actions that result in any nonaccidental injury to a child under 18
9.2 months of age;

9.3 (5) unreasonable interference with a child's breathing;

9.4 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

9.5 (7) striking a child under age one on the face or head;

9.6 (8) striking a child who is at least age one but under age four on the face or head, which
9.7 results in an injury;

9.8 (9) purposely giving a child:

9.9 (i) poison, alcohol, or dangerous, harmful, or controlled substances that were not
9.10 prescribed for the child by a practitioner in order to control or punish the child; or

9.11 (ii) other substances that substantially affect the child's behavior, motor coordination,
9.12 or judgment; that result in sickness or internal injury; or that subject the child to medical
9.13 procedures that would be unnecessary if the child were not exposed to the substances;

9.14 (10) unreasonable physical confinement or restraint not permitted under section 609.379,
9.15 including but not limited to tying, caging, or chaining; or

9.16 (11) in a school facility or school zone, an act by a person responsible for the child's
9.17 care that is a violation under section 121A.58.

9.18 Subd. 18. **Person in a position of authority.** "Person in a position of authority" means
9.19 an individual in a position of authority over a child and includes but is not limited to any
9.20 person who is a parent or acting in the place of a parent and charged with any of a parent's
9.21 rights, duties, or responsibilities to a child, or a person who is charged with any duty or
9.22 responsibility for the health, welfare, or supervision of a child, either independently or
9.23 through another, no matter how brief, at the time of the act. Person in a position of authority
9.24 includes a psychotherapist.

9.25 Subd. 19. **Report.** "Report" means any communication received by the local welfare
9.26 agency, police department, county sheriff, or agency responsible for child protection pursuant
9.27 to this section that describes maltreatment of a child and contains sufficient content to
9.28 identify the child and any person believed to be responsible for the maltreatment, if known.

9.29 Subd. 20. **Sexual abuse.** "Sexual abuse" means the subjection of a child by a person
9.30 responsible for the child's care, by a person who has a significant relationship to the child,
9.31 or by a person in a position of authority, to any act that constitutes a violation of section
9.32 609.342 (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), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act involving a child that 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 that 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).

Subd. 21. **Significant relationship.** "Significant relationship" means a situation in which the alleged offender is:

(1) the child's parent, stepparent, or guardian;

(2) any of the following persons related to the child by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or

(3) an adult who jointly resides intermittently or regularly in the same dwelling as the child and who is not the child's spouse.

Subd. 22. **Substantial child endangerment.** "Substantial child endangerment" means that 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 under subdivision 5;

(2) abandonment under section 260C.301, subdivision 2;

(3) neglect under subdivision 15 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;

11.1 (9) solicitation of children to engage in sexual conduct under section 609.352;

11.2 (10) malicious punishment or neglect or endangerment of a child under section 609.377
11.3 or 609.378;

11.4 (11) use of a child in sexual performance under section 617.246; or

11.5 (12) parental behavior, status, or condition that mandates that the county attorney file a
11.6 termination of parental rights petition under section 260C.503, subdivision 2.

11.7 Subd. 23. **Threatened injury.** (a) "Threatened injury" means a statement, overt act,
11.8 condition, or status that represents a substantial risk of physical or sexual abuse or mental
11.9 injury.

11.10 (b) Threatened injury includes, but is not limited to, exposing a child to a person
11.11 responsible for the child's care, as defined in subdivision 17, who has:

11.12 (1) subjected a child to, or failed to protect a child from, an overt act or condition that
11.13 constitutes egregious harm under subdivision 6;

11.14 (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph
11.15 (b), clause (4), or a similar law of another jurisdiction;

11.16 (3) committed an act that resulted in an involuntary termination of parental rights under
11.17 section 260C.301, or a similar law of another jurisdiction; or

11.18 (4) committed an act that resulted in the involuntary transfer of permanent legal and
11.19 physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201,
11.20 subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law
11.21 of another jurisdiction.

11.22 (c) A child is the subject of a report of threatened injury when the local welfare agency
11.23 receives birth match data under section 260A.33, subdivision 4, from the Department of
11.24 Human Services.

11.25 Sec. 4. **[260A.21] EVIDENCE.**

11.26 No evidence relating to the maltreatment of a child or to any prior incident of
11.27 maltreatment involving any of the same persons accused of maltreatment shall be excluded
11.28 in any proceeding arising out of the alleged maltreatment on the grounds of privilege set
11.29 forth in section 595.02, subdivision 1, paragraph (a), (d), or (g).

12.1 Sec. 5. **[260A.22] CULTURAL PRACTICES.**

12.2 A person who conducts an assessment or investigation under this chapter shall take into
12.3 account accepted child-rearing practices of the culture in which a child participates and
12.4 accepted teacher discipline practices that are not injurious to the child's health, welfare, and
12.5 safety.

12.6 Sec. 6. **[260A.23] MALTREATMENT REPORTING.**

12.7 Subdivision 1. **Mandatory reporters.** (a) A person who knows or has reason to believe
12.8 a child is being maltreated, as defined in section 260A.20, or has been maltreated within
12.9 the preceding three years, shall immediately report the information to the local welfare
12.10 agency, agency responsible for assessing or investigating the report, police department,
12.11 county sheriff, tribal social services agency, or tribal police department if the person is:

12.12 (1) a professional or professional's delegate who is engaged in the practice of the healing
12.13 arts, social services, hospital administration, psychological or psychiatric treatment, child
12.14 care, education, correctional supervision, probation and correctional services, or law
12.15 enforcement; or

12.16 (2) employed as a member of the clergy and received the information while engaged in
12.17 ministerial duties, provided that a member of the clergy is not required by this subdivision
12.18 to report information that is otherwise privileged under section 595.02, subdivision 1,
12.19 paragraph (c).

12.20 (b) "Practice of social services," for the purposes of this subdivision, includes but is not
12.21 limited to employee assistance counseling and the provision of guardian ad litem and
12.22 parenting time expeditor services.

12.23 Subd. 2. **Voluntary reporters.** Any person may voluntarily report to the local welfare
12.24 agency, agency responsible for assessing or investigating the report, police department,
12.25 county sheriff, tribal social services agency, or tribal police department if the person knows,
12.26 has reason to believe, or suspects a child is being or has been maltreated.

12.27 Subd. 3. **Reporting in cases where selection of spiritual means or prayer for**
12.28 **treatment or care may cause serious danger to child's health.** If the child's parent,
12.29 guardian, or other person responsible for the child's care in good faith selects and depends
12.30 upon spiritual means or prayer for treatment or care of disease or remedial care of the child
12.31 in lieu of medical care, the parent, guardian, or caretaker, or a person mandated to report
12.32 pursuant to subdivision 1, has a duty to report if a lack of medical care may cause serious
12.33 danger to the child's health.

13.1 Subd. 4. **Licensing board duty to report.** A board or other entity whose licensees
13.2 perform work within a school facility, upon receiving a complaint of alleged maltreatment,
13.3 shall report the alleged maltreatment to the commissioner of education.

13.4 Sec. 7. **[260A.24] RETALIATION PROHIBITED.**

13.5 (a) An employer of any person required to make reports under section 260A.23,
13.6 subdivision 1, shall not retaliate against the person for reporting in good faith maltreatment
13.7 pursuant to this chapter or against a child with respect to whom a report is made, because
13.8 of the report.

13.9 (b) The employer of any person required to report under section 260A.23 who retaliates
13.10 against the person because of a report of maltreatment is liable to that person for actual
13.11 damages and, in addition, a penalty of up to \$10,000.

13.12 (c) There shall be a rebuttable presumption that any adverse action within 90 days of a
13.13 report is retaliatory. For purposes of this paragraph, the term "adverse action" refers to action
13.14 taken by an employer of a person required to report under section 260A.23 which is involved
13.15 in a report against the person making the report or the child with respect to whom the report
13.16 was made because of the report, and includes, but is not limited to:

13.17 (1) discharge, suspension, termination, or transfer from the facility, institution, school,
13.18 or agency;

13.19 (2) discharge from or termination of employment;

13.20 (3) demotion or reduction in remuneration for services; or

13.21 (4) restriction or prohibition of access to the facility, institution, school, agency, or
13.22 persons affiliated with it.

13.23 Sec. 8. **[260A.25] CRIMINAL PENALTIES FOR FAILURE TO REPORT; CIVIL**
13.24 **PENALTY FOR MAKING FALSE REPORT.**

13.25 (a) A person mandated by section 260A.23, subdivision 1, to report who knows or has
13.26 reason to believe that a child is maltreated, as defined in section 260A.20, or has been
13.27 maltreated within the preceding three years, and fails to report is guilty of a misdemeanor.

13.28 (b) A person mandated by section 260A.23, subdivision 1, to report who knows or has
13.29 reason to believe that two or more children not related to the offender have been maltreated,
13.30 as defined in section 260A.20, by the same offender within the preceding ten years, and
13.31 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 section 260A.23, subdivision 3, 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 chapter.

(d) Any person who knowingly or recklessly makes a false report under the provisions of this chapter 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.

Sec. 9. **[260A.26] REPORTING REQUIREMENTS.**

(a) An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under section 260A.23, subdivision 1, 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.

(b) Any report shall be of sufficient content to identify the child, any person believed to be responsible for the maltreatment of the child if the person is known, the nature and extent of the maltreatment, 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 section 260A.23 notwithstanding refusal by a reporter to provide the reporter's name or address as long as the report is otherwise sufficient under this paragraph.

Sec. 10. **[260A.27] NOTIFICATION TO REPORTERS.**

Subdivision 1. Screening notification. If 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 that the report was screened out.

15.1 Subd. 2. **Final notification.** Any person mandated to report shall receive a summary of
15.2 the disposition of any report made by that reporter, including whether the case has been
15.3 opened for child protection or other services, or if a referral has been made to a community
15.4 organization, unless release would be detrimental to the best interests of the child. Any
15.5 person who is not mandated to report shall, upon request to the local welfare agency, receive
15.6 a concise summary of the disposition of any report made by that reporter, unless release
15.7 would be detrimental to the best interests of the child.

15.8 Sec. 11. **[260A.28] AGENCY DESIGNATED TO RECEIVE REPORTS.**

15.9 Subdivision 1. **Reports of maltreatment in facility.** A person mandated to report child
15.10 maltreatment occurring within a licensed facility shall report the information to the agency
15.11 responsible for licensing or certifying the facility under sections 144.50 to 144.58, 241.021,
15.12 and 245A.01 to 245A.16; or chapter 144H, 245D, or 245H; or a nonlicensed personal care
15.13 provider organization as defined in section 256B.0625, subdivision 19a.

15.14 Subd. 2. **Reporting deprivation of parental rights or kidnapping to law**
15.15 **enforcement.** A person mandated to report under section 260A.23, subdivision 1, who
15.16 knows or has reason to know of a violation of section 609.25 or 609.26 shall report the
15.17 information to the local police department or the county sheriff.

15.18 Subd. 3. **Report to medical examiner or coroner; notification to local agency and**
15.19 **law enforcement; report ombudsman.** (a) A person mandated to report maltreatment who
15.20 knows or has reason to believe a child has died as a result of maltreatment shall report that
15.21 information to the appropriate medical examiner or coroner instead of the local welfare
15.22 agency, police department, or county sheriff.

15.23 (b) The medical examiner or coroner shall notify the local welfare agency, police
15.24 department, or county sheriff in instances in which the medical examiner or coroner believes
15.25 that the child has died as a result of maltreatment. The medical examiner or coroner shall
15.26 complete an investigation as soon as feasible and report the findings to the police department
15.27 or county sheriff and the local welfare agency.

15.28 (c) If the child was receiving services or treatment for mental illness, developmental
15.29 disability, chemical dependency, or emotional disturbance from an agency, facility, or
15.30 program as defined in section 245.91, the medical examiner or coroner shall also notify and
15.31 report findings to the ombudsman established under sections 245.91 to 245.97.

Sec. 12. **[260A.31] REQUIRED ACTIONS OF THE RESPONSIBLE AGENCY AND
LAW ENFORCEMENT UPON RECEIVING REPORT.**

Subdivision 1. Police department or county sheriff. (a) The police department or the county sheriff shall immediately notify the local welfare agency or agency responsible for child protection reports under this chapter orally and in writing when a report is received.

(b) 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.

(c) The county sheriff and the head of each local welfare agency, agency responsible for child protection reports, and police department shall designate a person within the agency, department, or office who is responsible for ensuring that the notification duties of this section are carried out. If the alleged maltreatment occurs on tribal land, the local welfare agency or agency responsible for child protection reports and the local police department or county sheriff shall immediately notify the tribe's social services agency and tribal law enforcement orally and in writing when a report is received.

(d) If a child is the victim of an alleged crime under subdivision 2, paragraph (c), 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 maltreated child.

Subd. 2. Local welfare agency or agency responsible for maltreatment report. (a) 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.

(b) Copies of written reports received by a local welfare agency or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

(c) Receipt by a local welfare agency of a report or notification of a report of kidnapping under section 609.25 or depriving another of custodial or parental rights under section 609.26 shall not be construed to invoke the duties under this chapter except notification of law enforcement and the offer of services under section 260A.39, subdivision 1, paragraph (a), as appropriate.

17.1 Subd. 3. **Penalties for failure to cross notify.** (a) If a local welfare agency receives a
17.2 report under section 260A.23 and fails to notify the local police department or county sheriff
17.3 as required by subdivision 2, the person within the agency who is responsible for ensuring
17.4 that notification is made shall be subject to disciplinary action in keeping with the agency's
17.5 existing policy or collective bargaining agreement on discipline of employees.

17.6 (b) If a local police department or a county sheriff receives a report under section 260A.23
17.7 and fails to notify the local welfare agency as required by subdivision 1, the person within
17.8 the police department or county sheriff's office who is responsible for ensuring that
17.9 notification is made shall be subject to disciplinary action in keeping with the agency's
17.10 existing policy or collective bargaining agreement on discipline of employees.

17.11 Sec. 13. **[260A.32] REPORT TO OMBUDSMAN.**

17.12 When a local welfare agency receives a report or otherwise has information indicating
17.13 that a child who is a client, as defined in section 245.91, has been the subject of maltreatment
17.14 at an agency, facility, or program, as defined in section 245.91, the local welfare agency
17.15 shall, in addition to its other duties under this chapter, immediately inform the ombudsman
17.16 established under sections 245.91 to 245.97. The commissioner of education shall inform
17.17 the ombudsman established under sections 245.91 to 245.97 of reports regarding a child
17.18 who is a client, as defined in section 245.91, that maltreatment occurred at a school as
17.19 defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

17.20 Sec. 14. **[260A.33] AGENCY RESPONSIBLE FOR SCREENING AND**
17.21 **ASSESSMENT OR INVESTIGATION.**

17.22 Subdivision 1. **Facilities and schools.** (a) The local welfare agency is the agency
17.23 responsible for investigating allegations of maltreatment in child foster care, family child
17.24 care, legally nonlicensed child care, and reports involving children served by an unlicensed
17.25 personal care provider organization under section 256B.0659. Copies of findings related to
17.26 personal care provider organizations under section 256B.0659 must be forwarded to the
17.27 Department of Human Services provider enrollment.

17.28 (b) The Department of Human Services is the agency responsible for screening and
17.29 investigating allegations of maltreatment in juvenile correctional facilities listed under
17.30 section 241.021 located in the local welfare agency's county and in facilities licensed or
17.31 certified under chapters 245A, 245D, and 245G, except for child foster care and family
17.32 child care.

18.1 (c) The Department of Health is the agency responsible for screening and investigating
18.2 allegations of maltreatment in facilities licensed under sections 144.50 to 144.58 and 144A.43
18.3 to 144A.482 or chapter 144H.

18.4 (d) The Department of Education is the agency responsible for screening and investigating
18.5 allegations of maltreatment in a school as defined in section 120A.05, subdivisions 9, 11,
18.6 and 13, and chapter 124E.

18.7 (e) A health or corrections agency receiving a report may request the local welfare agency
18.8 to provide assistance pursuant to this section and sections 260A.38 and 260A.41.

18.9 Subd. 2. **Sexual abuse.** (a) The local welfare agency is the agency responsible for
18.10 investigating an allegation of sexual abuse if the alleged offender is the parent, guardian,
18.11 sibling, or an individual functioning within the family unit as a person responsible for the
18.12 child's care, or a person with a significant relationship to the child if that person resides in
18.13 the child's household.

18.14 (b) The local welfare agency is also responsible for investigating when a child is identified
18.15 as a victim of sex trafficking.

18.16 Subd. 3. **Neglect or physical abuse.** The local welfare agency is responsible for
18.17 immediately conducting a family assessment or investigation if the report alleges neglect
18.18 or physical abuse by a parent, guardian, or individual functioning within the family unit as
18.19 a person responsible for the child's care.

18.20 Subd. 4. **Birth match.** (a) Upon receiving data under section 144.225, subdivision 2b,
18.21 contained in a birth record or recognition of parentage identifying a child who is subject to
18.22 threatened injury under section 260A.20, subdivision 23, the Department of Human Services
18.23 shall send the data to the responsible local welfare agency. The data is known as "birth
18.24 match data."

18.25 (b) Unless the responsible local welfare agency has already begun an investigation or
18.26 assessment of the report due to the birth of the child or execution of the recognition of
18.27 parentage and the parent's previous history with child protection, the agency shall accept
18.28 the birth match data as a report under section 260A.20, subdivision 23.

18.29 Subd. 5. **Law enforcement.** (a) The local law enforcement agency is the agency
18.30 responsible for investigating a report of maltreatment if a violation of a criminal statute is
18.31 alleged.

18.32 (b) Law enforcement and the responsible agency must coordinate their investigations
18.33 or assessments as required under this chapter when the report alleges maltreatment that is

19.1 a violation of a criminal statute by a person who is a parent, guardian, sibling, person
19.2 responsible for the child's care functioning within the family unit, or person who lives in
19.3 the child's household and who has a significant relationship to the child, in a setting other
19.4 than a facility as defined in section 260A.20.

19.5 Sec. 15. **[260A.34] SCREENING GUIDELINES.**

19.6 (a) Child protection staff, supervisors, and others involved in child protection screening
19.7 shall follow the guidance provided in the maltreatment screening guidelines issued by the
19.8 commissioner and, when notified by the commissioner, shall immediately implement updated
19.9 procedures and protocols.

19.10 (b) Any modification to the screening guidelines must be preapproved by the
19.11 commissioner and must not be less protective of children than is mandated by statute. The
19.12 county agency must consult with the county attorney before proposing modifications to the
19.13 commissioner. The guidelines may provide additional protection for children but must not
19.14 limit reports that are screened in or provide additional limits on consideration of reports
19.15 that were screened out in making a screening determination.

19.16 Sec. 16. **[260A.35] TIMELINE FOR SCREENING.**

19.17 (a) The local welfare agency shall determine if the report is to be screened in or out as
19.18 soon as possible but in no event longer than 24 hours after the report is received.

19.19 (b) When determining whether a report will be screened in or out, the agency receiving
19.20 the report must consider, when relevant, all previous history, including reports that were
19.21 screened out. The agency may communicate with treating professionals and individuals
19.22 specified under section 260A.87, subdivision 4, paragraph (b).

19.23 Sec. 17. **[260A.36] RESPONSE PATH ASSIGNMENT.**

19.24 Subdivision 1. Local welfare agency. (a) Upon receipt of a report, the local welfare
19.25 agency shall determine whether to conduct a family assessment or an investigation as
19.26 appropriate to prevent or provide a remedy for maltreatment.

19.27 (b) The local welfare agency shall conduct an investigation when the report involves
19.28 sexual abuse or substantial child endangerment.

19.29 (c) The local welfare agency shall begin an immediate investigation if, at any time when
19.30 the local welfare agency is using a family assessment response, the local welfare agency

20.1 determines that there is reason to believe that sexual abuse or substantial child endangerment
20.2 or a serious threat to the child's safety exists.

20.3 (d) The local welfare agency may conduct a family assessment for reports that do not
20.4 allege sexual abuse or substantial child endangerment. In determining that a family
20.5 assessment is appropriate, the local welfare agency may consider issues of child safety,
20.6 parental cooperation, and the need for an immediate response.

20.7 (e) The local welfare agency may conduct a family assessment on a report that was
20.8 initially screened and assigned for an investigation. In determining that a complete
20.9 investigation is not required, the local welfare agency must document the reason for
20.10 terminating the investigation and notify the local law enforcement agency if the local law
20.11 enforcement agency is conducting a joint investigation.

20.12 Subd. 2. **Responsible social service agency.** The responsible agency shall conduct an
20.13 investigation when the report alleges maltreatment in a facility required to be licensed under
20.14 chapter 144H, 245A, 245D, or 245H; under sections 144.50 to 144.58 and 241.021; in a
20.15 school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E; or in
20.16 a nonlicensed personal care provider association as defined in section 256B.0625, subdivision
20.17 19a.

20.18 Sec. 18. **[260A.37] NOTICE TO CHILD'S TRIBE.**

20.19 The local welfare agency shall provide immediate notice, according to section 260.761,
20.20 subdivision 2, to an Indian child's tribe when the agency has reason to believe the family
20.21 assessment or investigation may involve an Indian child. For purposes of this section,
20.22 "immediate notice" means notice provided within 24 hours.

20.23 Sec. 19. **[260A.38] CONFLICT OF INTEREST.**

20.24 (a) A potential conflict of interest related to assisting in an investigation or assessment
20.25 under this chapter resulting in a direct or shared financial interest with a child abuse and
20.26 neglect treatment provider or resulting from a personal or family relationship with a party
20.27 in the investigation must be considered by the local welfare agency in an effort to prevent
20.28 unethical relationships.

20.29 (b) A person who conducts an investigation or assessment under this chapter may not
20.30 have:

20.31 (1) any direct or shared financial interest or referral relationship resulting in a direct
20.32 shared financial gain with a child abuse and neglect treatment provider; or

21.1 (2) a personal or family relationship with a party in the investigation.

21.2 (c) If an independent assessor is not available, the person responsible for making the
21.3 determination under this chapter may use the services of an assessor with a financial interest,
21.4 referral, or personal or family relationship.

21.5 Sec. 20. **[260A.39] AGENCY DUTIES REGARDING INVESTIGATION AND**
21.6 **ASSESSMENT.**

21.7 Subdivision 1. General duties. (a) The local welfare agency shall offer services to
21.8 prevent future maltreatment, safeguarding and enhancing the welfare of the maltreated child,
21.9 and supporting and preserving family life whenever possible.

21.10 (b) If the report alleges a violation of a criminal statute involving maltreatment or child
21.11 endangerment under section 609.378, the local law enforcement agency and local welfare
21.12 agency shall coordinate the planning and execution of their respective investigation and
21.13 assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews.
21.14 Each agency shall prepare a separate report of the results of the agency's investigation or
21.15 assessment.

21.16 (c) In cases of alleged child maltreatment resulting in death, the local agency may rely
21.17 on the fact-finding efforts of a law enforcement investigation to make a determination of
21.18 whether or not maltreatment occurred.

21.19 (d) When necessary, the local welfare agency shall seek authority to remove the child
21.20 from the custody of a parent, guardian, or adult with whom the child is living.

21.21 (e) In performing any of these duties, the local welfare agency shall maintain an
21.22 appropriate record.

21.23 (f) In conducting a family assessment or investigation, the local welfare agency shall
21.24 gather information on the existence of substance abuse and domestic violence.

21.25 (g) If the family assessment or investigation indicates there is a potential for abuse of
21.26 alcohol or other drugs by the parent, guardian, or person responsible for the child's care,
21.27 the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota
21.28 Rules, part 9530.6615.

21.29 (h) The agency may use either a family assessment or investigation to determine whether
21.30 the child is safe when responding to a report resulting from birth match data under section
21.31 260A.20, subdivision 23, paragraph (c). If the child subject of birth match data is determined
21.32 to be safe, the agency shall consult with the county attorney to determine the appropriateness

22.1 of filing a petition alleging the child is in need of protection or services under section
22.2 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is
22.3 determined not to be safe, the agency and the county attorney shall take appropriate action
22.4 as required under section 260C.503, subdivision 2.

22.5 Subd. 2. **Face-to-face contact.** (a) Upon receipt of a report, the local welfare agency
22.6 shall conduct a face-to-face contact with the child reported to be maltreated and with the
22.7 child's primary caregiver sufficient to complete a safety assessment and ensure the immediate
22.8 safety of the child.

22.9 (b) The face-to-face contact with the child and primary caregiver shall occur immediately
22.10 if sexual abuse or substantial child endangerment is alleged and within five calendar days
22.11 for all other reports. If the alleged offender was not already interviewed as the primary
22.12 caregiver, the local welfare agency shall also conduct a face-to-face interview with the
22.13 alleged offender in the early stages of the assessment or investigation.

22.14 (c) At the initial contact with the alleged offender, the local welfare agency or the agency
22.15 responsible for assessing or investigating the report must inform the alleged offender of the
22.16 complaints or allegations made against the individual in a manner consistent with laws
22.17 protecting the rights of the person who made the report. The interview with the alleged
22.18 offender may be postponed if it would jeopardize an active law enforcement investigation.

22.19 (d) The local welfare agency or the agency responsible for assessing or investigating
22.20 the report must provide the alleged offender with an opportunity to make a statement. The
22.21 alleged offender may submit supporting documentation relevant to the assessment or
22.22 investigation.

22.23 Subd. 3. **Collection of information.** (a) The local welfare agency responsible for
22.24 conducting a family assessment or investigation shall collect available and relevant
22.25 information to determine child safety, risk of subsequent maltreatment, and family strengths
22.26 and needs and share not public information with an Indian's tribal social services agency
22.27 without violating any law of the state that may otherwise impose a duty of confidentiality
22.28 on the local welfare agency in order to implement the tribal state agreement.

22.29 (b) The local welfare agency or the agency responsible for investigating the report shall
22.30 collect available and relevant information to ascertain whether maltreatment occurred and
22.31 whether protective services are needed.

22.32 (c) Information collected includes, when relevant, information with regard to the person
22.33 reporting the alleged maltreatment, including the nature of the reporter's relationship to the
22.34 child and to the alleged offender, and the basis of the reporter's knowledge for the report;

23.1 the child allegedly being maltreated; the alleged offender; the child's caretaker; and other
23.2 collateral sources having relevant information related to the alleged maltreatment.

23.3 (d) Information relevant to the assessment or investigation must be asked for, and may
23.4 include:

23.5 (1) the child's sex and age; prior reports of maltreatment, including any maltreatment
23.6 reports that were screened out and not accepted for assessment or investigation; information
23.7 relating to developmental functioning; credibility of the child's statement; and whether the
23.8 information provided under this clause is consistent with other information collected during
23.9 the course of the assessment or investigation;

23.10 (2) the alleged offender's age, a record check for prior reports of maltreatment, and
23.11 criminal charges and convictions;

23.12 (3) collateral source information regarding the alleged maltreatment and care of the
23.13 child. Collateral information includes, when relevant: (i) a medical examination of the child;
23.14 (ii) prior medical records relating to the alleged maltreatment or the care of the child
23.15 maintained by any facility, clinic, or health care professional and an interview with the
23.16 treating professionals; and (iii) interviews with the child's caretakers, including the child's
23.17 parent, guardian, foster parent, child care provider, teachers, counselors, family members,
23.18 relatives, and other persons who may have knowledge regarding the alleged maltreatment
23.19 and the care of the child; and

23.20 (4) information on the existence of domestic abuse and violence in the home of the child,
23.21 and substance abuse.

23.22 (e) Nothing in this subdivision precludes the local welfare agency, the local law
23.23 enforcement agency, or the agency responsible for assessing or investigating the report from
23.24 collecting other relevant information necessary to conduct the assessment or investigation.

23.25 (f) Notwithstanding section 13.384 or 144.291 to 144.298, the local welfare agency has
23.26 access to medical data and records for purposes of paragraph (d), clause (3).

23.27 Subd. 4. **Consultation regarding alleged medical neglect.** If the report alleges medical
23.28 neglect as defined in section 260C.007, subdivision 6, clause (5), the local welfare agency
23.29 shall, in addition to its other duties under this section, immediately consult with designated
23.30 hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration,
23.31 and medication are being provided; and shall immediately secure an independent medical
23.32 review of the infant's medical charts and records and, if necessary, seek a court order for
23.33 an independent medical examination of the infant.

Subd. 5. **Law enforcement fact finding.** If the report alleges maltreatment 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 section 260A.20, the local welfare agency may rely on the fact-finding efforts of the law enforcement investigation to make a determination whether or not threatened injury or other maltreatment has occurred under section 260A.20, subdivision 12, if an alleged offender has minor children or lives with minors.

Sec. 21. **[260A.40] SCREENED-OUT REPORTS.**

Subdivision 1. **Records.** A report that is screened out must be maintained according to section 260A.87, subdivision 6, paragraph (b).

Subd. 2. **Offer of social services.** 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.

Sec. 22. **[260A.41] INTERVIEWS.**

Subdivision 1. **Authority to interview.** (a) The agency responsible for assessing or investigating reports of maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged offender, and any other person with knowledge of the maltreatment for the purpose of gathering facts, assessing safety and risk to the child, and formulating a plan.

(b) Authority of the local welfare agency responsible for assessing or investigating the maltreatment report, the agency responsible for assessing or investigating the report, and the local law enforcement agency responsible for investigating the alleged maltreatment includes but is not limited to authority to interview, without parental consent, the alleged victim and any other children who currently reside with or who have resided with the alleged offender.

Subd. 2. **Interview procedure.** (a) The interview may take place at school or at any facility or other place where the alleged victim or other children might be found or the child may be transported to, and the interview may be conducted at a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency.

(b) The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official.

25.1 (c) For a family assessment, it is the preferred practice to request a parent or guardian's
25.2 permission to interview the child before conducting the child interview, unless doing so
25.3 would compromise the safety assessment.

25.4 Subd. 3. **Notification after interview.** (a) Except as provided in this subdivision, the
25.5 parent, legal custodian, or guardian shall be notified by the responsible agency or local law
25.6 enforcement agency no later than the conclusion of the investigation or assessment that this
25.7 interview has occurred.

25.8 (b) Notwithstanding notice required under the Minnesota Rules of Juvenile Protection,
25.9 the juvenile court may, after hearing on an ex parte motion by the local welfare agency,
25.10 order that, where reasonable cause exists, the agency withhold notification of this interview
25.11 from the parent, legal custodian, or guardian. If the interview took place or is to take place
25.12 on school property, the order shall specify that school officials may not disclose to the
25.13 parent, legal custodian, or guardian the contents of the notification of intent to interview
25.14 the child on school property, as provided under this subdivision, and any other related
25.15 information regarding the interview that may be a part of the child's school record. A copy
25.16 of the order shall be sent by the local welfare or law enforcement agency to the appropriate
25.17 school official.

25.18 Subd. 4. **Tennessen notice not required.** In conducting investigations and assessments
25.19 pursuant to this chapter, the notice required by section 13.04, subdivision 2, need not be
25.20 provided to a child under the age of ten who is the alleged victim of maltreatment.

25.21 Subd. 5. **Court order for interview.** (a) Where the alleged offender or a person
25.22 responsible for the care of the alleged victim or other child prevents access to the victim or
25.23 other child by the local welfare agency, the juvenile court may order the parent, legal
25.24 custodian, or guardian to produce the alleged victim or other child for questioning by the
25.25 local welfare agency or the local law enforcement agency outside the presence of the alleged
25.26 offender or any person responsible for the child's care at reasonable places and times as
25.27 specified by court order.

25.28 (b) Before making an order under paragraph (a), the court shall issue an order to show
25.29 cause, either upon its own motion or upon a verified petition, specifying the basis for the
25.30 requested interview and fixing the time and place of the hearing. The order to show cause
25.31 shall be served personally and shall be heard in the same manner as provided in other cases
25.32 in the juvenile court. The court shall consider the need for appointment of a guardian ad
25.33 litem to protect the best interests of the child. If appointed, the guardian ad litem shall be
25.34 present at the hearing on the order to show cause.

26.1 Subd. 6. **Interview format.** (a) When conducting an investigation, the local welfare
26.2 agency shall use a question and answer interviewing format with questioning as nondirective
26.3 as possible to elicit spontaneous responses.

26.4 (b) For investigations only, the following interviewing methods and procedures must
26.5 be used whenever possible when collecting information:

26.6 (1) audio recording of all interviews with witnesses and collateral sources; and

26.7 (2) in a case of alleged sexual abuse, audio-video recording of each interview with the
26.8 alleged victim and a child witness.

26.9 Subd. 7. **Interviews on school property.** (a) When the local welfare agency, local law
26.10 enforcement agency, or the agency responsible for assessing or investigating a report of
26.11 maltreatment determines that an interview should take place on school property, written
26.12 notification of intent to interview the child on school property must be received by school
26.13 officials before the interview. The notification shall include the name of the child to be
26.14 interviewed, the purpose of the interview, and a reference to the statutory authority to conduct
26.15 an interview on school property. For an interview conducted by the local welfare agency,
26.16 the notification shall be signed by the chair of the local welfare agency or the chair's designee.
26.17 The notification shall be private data on individuals subject to the provisions of this
26.18 subdivision. School officials may not disclose to the parent, legal custodian, or guardian
26.19 the contents of the notification or any other related information regarding the interview until
26.20 notified in writing by the local welfare agency or local law enforcement agency that the
26.21 investigation or assessment has been concluded, unless a school employee or agent is alleged
26.22 to have maltreated the child. Until that time, the local welfare agency, local law enforcement
26.23 agency, or the agency responsible for assessing or investigating a report of maltreatment
26.24 shall be solely responsible for any disclosure regarding the nature of the assessment or
26.25 investigation.

26.26 (b) Except where the alleged offender is believed to be a school official or employee,
26.27 the time, place, and manner of the interview on school premises shall be within the discretion
26.28 of school officials, but the local welfare agency or local law enforcement agency shall have
26.29 the exclusive authority to determine who may attend the interview. The conditions as to
26.30 time, place, and manner of the interview set by the school officials shall be reasonable, and
26.31 the interview shall be conducted not more than 24 hours after the receipt of the notification
26.32 unless another time is considered necessary by agreement between the school officials and
26.33 the local welfare agency or local law enforcement agency. Where the school fails to comply
26.34 with the provisions of this paragraph, the juvenile court may order the school to comply.

27.1 Every effort must be made to reduce the disruption of the educational program of the child,
27.2 other students, or school staff when an interview is conducted on school premises.

27.3 Sec. 23. **[260A.42] DOCUMENTING INTERVIEWS WITH CHILD**
27.4 **MALTREATMENT VICTIMS.**

27.5 Subdivision 1. **Policy.** It is the policy of this state to encourage adequate and accurate
27.6 documentation of the number and content of interviews conducted with alleged child abuse
27.7 victims during the course of a child maltreatment assessment or investigation, criminal
27.8 investigation, or prosecution, and to discourage interviews that are unnecessary, duplicative,
27.9 or otherwise not in the best interests of the child.

27.10 Subd. 2. **Definitions.** As used in this section:

27.11 (1) "child maltreatment" means maltreatment as defined in section 260A.20, subdivision
27.12 12;

27.13 (2) "government employee" means an employee of a state or local agency, and any
27.14 person acting as an agent of a state or local agency;

27.15 (3) "interview" means a statement of an alleged child maltreatment victim which is given
27.16 or made to a government employee during the course of a child maltreatment assessment
27.17 or investigation, criminal investigation, or prosecution; and

27.18 (4) "record" means an audio or video recording of an interview, or a written record of
27.19 an interview.

27.20 Subd. 3. **Record required.** Whenever an interview is conducted, the interviewer must
27.21 make a record of the interview. The record must contain the following information:

27.22 (1) the date, time, place, and duration of the interview;

27.23 (2) the identity of the persons present at the interview; and

27.24 (3) if the record is in writing, a summary of the information obtained during the interview.

27.25 Subd. 4. **Records maintained.** The records shall be maintained by the interviewer in
27.26 accordance with applicable provisions of section 260A.87 and chapter 13.

27.27 Subd. 5. **Guidelines on tape recording of interviews.** Every county attorney's office
27.28 shall be responsible for developing written guidelines on the tape recording of interviews
27.29 by government employees who conduct child maltreatment assessments or investigations,
27.30 criminal investigations, or prosecutions. The guidelines are public data as defined in section
27.31 13.02, subdivision 14.

28.1 Sec. 24. **[260A.43] CONCLUSION OF FAMILY ASSESSMENT OR FAMILY**
28.2 **INVESTIGATION BY LOCAL WELFARE AGENCY.**

28.3 Subdivision 1. **Timing.** The local welfare agency shall conclude the family assessment
28.4 or the investigation within 45 days of the receipt of a report. The conclusion of the assessment
28.5 or investigation may be extended to permit the completion of a criminal investigation or
28.6 the receipt of expert information requested within 45 days of the receipt of the report.

28.7 Subd. 2. **Determination after family assessment.** After conducting a family assessment,
28.8 the local welfare agency shall determine whether child protective services are needed to
28.9 address the safety of the child and other family members and the risk of subsequent
28.10 maltreatment.

28.11 Subd. 3. **Determinations after family investigation.** (a) After conducting an
28.12 investigation, the local welfare agency shall make two determinations: (1) whether
28.13 maltreatment occurred; and (2) whether child protective services are needed.

28.14 (b) No determination of maltreatment shall be made when the alleged offender is a child
28.15 under the age of ten.

28.16 (c) The local welfare agency or the agency responsible for investigating the report may
28.17 make a determination of no maltreatment early in an investigation, and close the case and
28.18 retain immunity, if the collected information shows no basis for a full investigation.

28.19 Subd. 4. **Child protective services.** For the purposes of this chapter, except for section
28.20 260A.91, a determination that child protective services are needed means that the local
28.21 welfare agency documented conditions during the assessment or investigation sufficient to
28.22 cause a child protection worker, as defined in section 260A.91, to conclude that a child is
28.23 at significant risk of maltreatment if protective intervention is not provided and that the
28.24 individual or individuals responsible for the child's care have not taken or are not likely to
28.25 take action to protect the child from maltreatment or risk of maltreatment.

28.26 Subd. 5. **Notifications at conclusion of family investigation.** (a) Within ten working
28.27 days of the conclusion of an investigation, the local welfare agency or agency responsible
28.28 for investigating the report shall notify the parent or guardian of the child and the person
28.29 determined to be maltreating the child, if not the parent or guardian of the child, of the
28.30 determination and a summary of the specific reasons for the determination.

28.31 (b) The notice must include a certification that the information collection procedures
28.32 under section 260A.39 were followed and a notice of the right of a data subject to obtain
28.33 access to other private data on the subject collected, created, or maintained under this section.

(c) In addition, the notice shall include the length of time that the records will be kept under section 260A.87, subdivision 6. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person determined to have maltreated the child, of their appeal or review rights under this chapter.

(d) 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, 245G, 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. 6. 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. Refusal to have a child screened is not a basis for a child in need of protection or services petition under chapter 260C.

Subd. 7. Notification at conclusion of family assessment. 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 maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed.

Sec. 25. ~~[260A.44]~~ PROVISION OF MEDICAL CARE.

(a) If lack of medical care due to a parent's or caretaker's good faith selection and dependence upon spiritual means or prayer for treatment or remedial care for the child 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.

(b) If the review or examination required under section 260A.39, subdivision 4, 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.

30.1 Sec. 26. **[260A.45] PROVISION OF CHILD PROTECTIVE SERVICES.**

30.2 The local welfare agency shall create a written plan, in collaboration with the family
30.3 whenever possible, within 30 days of the determination that child protective services are
30.4 needed or upon joint agreement of the local welfare agency and the family that family
30.5 support and preservation services are needed. Child protective services for a family are
30.6 voluntary unless ordered by the court.

30.7 Sec. 27. **[260A.46] CONSULTATION WITH THE COUNTY ATTORNEY.**

30.8 The local welfare agency shall consult with the county attorney to determine the
30.9 appropriateness of filing a petition alleging the child is in need of protection or services
30.10 under section 260C.007, subdivision 6, if:

30.11 (1) the family does not accept or comply with a plan for child protective services;

30.12 (2) voluntary child protective services may not provide sufficient protection for the child;

30.13 or

30.14 (3) the family is not cooperating with an investigation or assessment.

30.15 Sec. 28. **[260A.50] CONDUCTING INVESTIGATION IN FACILITY OR SCHOOL.**

30.16 Subdivision 1. Immediate investigation for alleged maltreatment in a facility. (a)
30.17 The commissioner of human services, health, or education, whichever is responsible for
30.18 investigating the report, shall immediately investigate if the report alleges that:

30.19 (1) a child who is in the care of a facility as defined in section 260A.20 is the victim of
30.20 maltreatment in a facility by an individual in that facility or has been the victim of
30.21 maltreatment in facility by an individual in that facility within the three years preceding the
30.22 report; or

30.23 (2) a child is the victim of maltreatment in a facility by an individual in a facility defined
30.24 in section 260A.20, subdivision 6, while in the care of that facility within the three years
30.25 preceding the report.

30.26 (b) The commissioner of the agency responsible for investigating the report shall arrange
30.27 for the transmittal to the commissioner of reports received by local agencies and may delegate
30.28 to a local welfare agency the duty to investigate reports. The commissioner of the agency
30.29 responsible for investigating the report or local welfare agency may interview any children
30.30 who are or have been in the care of a facility under investigation and the children's parents,
30.31 guardians, or legal custodians.

31.1 (c) In conducting an investigation under this section, the commissioner has the powers
31.2 and duties specified for a local welfare agency under this chapter.

31.3 Subd. 2. **Preinterview notification for facility investigation.** Before any interview
31.4 related to maltreatment in a facility under the provisions of section 260A.41, the
31.5 commissioner of the agency responsible for assessing or investigating the report or local
31.6 welfare agency shall notify the parent, guardian, or legal custodian of a child who will be
31.7 interviewed in the manner provided for in section 260A.41. If reasonable efforts to reach
31.8 the parent, guardian, or legal custodian of a child in an out-of-home placement have failed,
31.9 the child may be interviewed if there is reason to believe the interview is necessary to protect
31.10 the child or other children in the facility. The commissioner of the agency responsible for
31.11 assessing or investigating the report or local agency must provide the information required
31.12 in this subdivision to the parent, guardian, or legal custodian of a child interviewed without
31.13 parental notification as soon as possible after the interview. When the investigation is
31.14 completed, any parent, guardian, or legal custodian notified under this subdivision shall
31.15 receive the written memorandum provided for in section 260A.52, subdivision 5.

31.16 Subd. 3. **Facility records.** The commissioner of human services, the ombudsman for
31.17 mental health and developmental disabilities, the local welfare agencies responsible for
31.18 investigating reports, the commissioner of education, and the local law enforcement agencies
31.19 have the right to enter a facility as defined in section 260A.20 and to inspect and copy the
31.20 facility's records, including medical records, as part of the investigation. Notwithstanding
31.21 the provisions of chapter 13, the commissioner of human services, the ombudsman for
31.22 mental health and developmental disabilities, the local welfare agencies responsible for
31.23 investigating reports, the commissioner of education, and the local law enforcement agencies
31.24 also have the right to inform the facility under investigation that an investigation is being
31.25 conducted, to disclose to the facility the names of the individuals under investigation for
31.26 abusing or neglecting a child, and to provide the facility with a copy of the report and the
31.27 investigative findings.

31.28 Subd. 4. **Access to information.** In conducting investigations under this chapter, the
31.29 commissioner or local welfare agency shall obtain access to information consistent with
31.30 section 260A.39, subdivision 3. In conducting assessments or investigations under this
31.31 section, the commissioner of education shall obtain access to reports and investigative data
31.32 that are relevant to a report of maltreatment and are in the possession of a school facility as
31.33 defined in section 260A.20, subdivision 6, clause (2), notwithstanding the classification of
31.34 the data as educational or personnel data under chapter 13. This includes but is not limited
31.35 to school investigative reports, information concerning the conduct of school personnel

32.1 alleged to have committed maltreatment of students, information about witnesses, and any
32.2 protective or corrective action taken by the school facility regarding the school personnel
32.3 alleged to have committed maltreatment.

32.4 Subd. 5. **Investigation involving school facility.** In conducting an investigation involving
32.5 a school facility as defined in section 260A.20, subdivision 6, clause (2), the commissioner
32.6 of education shall collect available and relevant information and use the procedures in
32.7 sections 260A.39, subdivisions 2 and 3, and 260A.41, except that the requirement for
32.8 face-to-face observation of the child and face-to-face interview of the alleged offender is
32.9 to occur in the initial stages of the investigation provided that the commissioner may also
32.10 base the investigation on investigative reports and data received from the school facility
32.11 and local law enforcement agency, to the extent those investigations satisfy the requirements
32.12 of sections 260A.39, subdivisions 2 and 3, and 260A.41.

32.13 Sec. 29. **[260A.51] NOTIFICATION REQUIREMENTS FOR SCHOOLS AND**
32.14 **FACILITIES.**

32.15 Subdivision 1. **Notification requirements for school facility.** (a) Notwithstanding
32.16 section 260A.26, the commissioner of education must inform the parent, guardian, or legal
32.17 custodian of the child who is the subject of a report of alleged maltreatment in a school
32.18 facility within ten days of receiving the report, either orally or in writing, whether the
32.19 commissioner is investigating the report of alleged maltreatment.

32.20 (b) Regardless of whether a report is made under section 260A.26, as soon as practicable
32.21 after a school receives information regarding an incident that may constitute maltreatment
32.22 of a child in a school facility, the school shall inform the parent, legal guardian, or custodian
32.23 of the child that an incident occurred that may constitute maltreatment of the child, when
32.24 the incident occurred, and the nature of the conduct that may constitute maltreatment.

32.25 Subd. 2. **Notification requirements for other types of facilities.** When a report is
32.26 received that alleges maltreatment of a child while in the care of a licensed or unlicensed
32.27 day care facility, residential facility, agency, hospital, sanitarium, or other facility or
32.28 institution required to be licensed or certified according to sections 144.50 to 144.58;
32.29 241.021; or 245A.01 to 245A.16; or chapter 144H, 245D, or 245H; or a school as defined
32.30 in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal
32.31 care provider organization as defined in section 256B.0625, subdivision 19a, the
32.32 commissioner of the agency responsible for assessing or investigating the report or local
32.33 welfare agency investigating the report shall provide the following information to the parent,
32.34 guardian, or legal custodian of a child alleged to have been the victim of maltreatment in

the facility: the name of the facility, the fact that a report alleging maltreatment in the facility has been received, the nature of the alleged maltreatment 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.

Subd. 3. **Discretionary notification.** The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may also provide the information in subdivision 2 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 maltreatment of a child in the facility 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 maltreatment of a child in the facility, the number of alleged victims of maltreatment of a child in the facility, the number of alleged offenders, and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

Sec. 30. [260A.52] CONCLUSION OF SCHOOL OR FACILITY INVESTIGATION.

Subdivision 1. **Investigation involving a school facility.** If the commissioner of education conducts an 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 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 section 260A.20, subdivision 12; the fact that maltreatment was not determined; and a summary of the specific reasons for the determination.

Subd. 2. **Investigation involving a facility.** (a) 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 subdivision 4. 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.

(b) Any operator, employee, or volunteer worker at any facility who intentionally maltreats 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 that result in 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. 3. Nonmaltreatment mistake. (a) If paragraph (b) applies, 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.

(b) A nonmaltreatment mistake occurs when:

(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;

(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.

(c) This subdivision only applies to child care centers licensed under Minnesota Rules, chapter 9503.

Subd. 4. Mitigating factors in investigating facilities. (a) 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

35.1 directive or knew or should have known of the errors and took no reasonable measures to
35.2 correct the defect before administering care;

35.3 (2) comparative responsibility between the facility, other caregivers, and requirements
35.4 placed upon an employee, including the facility's compliance with related regulatory standards
35.5 and the adequacy of facility policies and procedures, facility training, an individual's
35.6 participation in the training, the caregiver's supervision, and facility staffing levels and the
35.7 scope of the individual employee's authority and discretion; and

35.8 (3) whether the facility or individual followed professional standards in exercising
35.9 professional judgment.

35.10 (b) The evaluation of the facility's responsibility under paragraph (a), clause (2), must
35.11 not be based on the completeness of the risk assessment or risk reduction plan required
35.12 under section 245A.66, but must be based on the facility's compliance with the regulatory
35.13 standards for policies and procedures, training, and supervision as cited in Minnesota Statutes
35.14 and Minnesota Rules.

35.15 (c) Notwithstanding paragraphs (a) and (b), when maltreatment is determined to have
35.16 been committed by an individual who is also the facility license holder, both the individual
35.17 and the facility must be determined responsible for the maltreatment, and both the background
35.18 study disqualification standards under section 245C.15, subdivision 4, and the licensing or
35.19 certification actions under sections 245A.06, 245A.07, 245H.06, or 245H.07 apply.

35.20 Subd. 5. **Notification when school or facility investigation is completed.** (a) When
35.21 the commissioner of the agency responsible for assessing or investigating the report or local
35.22 welfare agency has completed its investigation, every parent, guardian, or legal custodian
35.23 previously notified of the investigation by the commissioner or local welfare agency shall
35.24 be provided with the following information in a written memorandum: the name of the
35.25 facility investigated, the nature of the alleged maltreatment of a child in the facility, the
35.26 investigator's name, a summary of the investigation findings, a statement of whether
35.27 maltreatment was found, and the protective or corrective measures that are being or will be
35.28 taken.

35.29 (b) The memorandum shall be written in a manner that protects the identity of the reporter
35.30 and the child and shall not contain the name or, to the extent possible, reveal the identity
35.31 of the alleged offender or the identity of individuals interviewed during the investigation.

35.32 (c) If maltreatment is determined to exist, the commissioner or local welfare agency
35.33 shall also provide the written memorandum to the parent, guardian, or legal custodian of
35.34 each child in the facility who had contact with the individual responsible for the maltreatment.

(d) 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.

(e) 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.

(f) 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.

(g) The commissioner of education may notify the parent, guardian, or legal custodian of any student involved as a witness to alleged maltreatment.

Subd. 6. Notification to parent, child, or offender following investigation. (a) Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for investigating the report of maltreatment in a facility shall notify the parent or guardian of the child, the person determined to be maltreating the child, and the director of the facility of the determination and a summary of the specific reasons for the determination.

(b) 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.

(c) The notice must also include a certification that the information collection procedures under section 260A.39, subdivision 3, 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.

(d) In addition, the notice shall include the length of time that the records will be kept under section 260A.87, subdivision 6.

(e) 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.

(f) 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 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.

Sec. 31. **[260A.70] REPORTING OF PRENATAL EXPOSURE TO CONTROLLED SUBSTANCES.**

Subdivision 1. **Reports required.** (a) Except as provided in paragraph (b), a person mandated to report under this chapter 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 this chapter 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 of prenatal exposure to a controlled substance 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 sections 260A.22, 260A.23, 260A.86, and 260A.87.

Subd. 4. Controlled substances. For purposes of this section and section 260A.71, "controlled substance" means a controlled substance listed in section 253B.02, subdivision 2.

Sec. 32. **[260A.71] TOXICOLOGY TESTS REQUIRED.**

Subdivision 1. Test; report. (a) 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.

(b) If the test results are positive, the physician shall report the results under section 260A.70. A negative test result does not eliminate the obligation to report under section 260A.70 if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

Subd. 2. Newborns. (a) 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.

(b) If the test results are positive, the physician shall report the results as neglect under section 260A.20. A negative test result does not eliminate the obligation to report under

39.1 section 260A.20 if other medical evidence of prenatal exposure to a controlled substance
39.2 is present.

39.3 Subd. 3. **Report to Department of Health.** Physicians shall report to the Department
39.4 of Health the results of tests performed under subdivisions 1 and 2. A report shall be made
39.5 on the certificate of live birth medical supplement or the report of fetal death medical
39.6 supplement filed on or after February 1, 1991. The reports are medical data under section
39.7 13.384.

39.8 Subd. 4. **Reliability of tests.** A positive test result reported under this section must be
39.9 obtained from a confirmatory test performed by a drug testing laboratory that meets the
39.10 requirements of section 181.953 and must be performed according to the requirements for
39.11 performance of confirmatory tests imposed by the licensing, accreditation, or certification
39.12 program listed in section 181.953, subdivision 1, in which the laboratory participates.

39.13 Sec. 33. **[260A.85] RECONSIDERATION AND APPEAL OF MALTREATMENT**
39.14 **DETERMINATION FOLLOWING INVESTIGATION.**

39.15 Subdivision 1. **Following family assessment.** Administrative reconsideration is not
39.16 applicable in a family assessment since no determination concerning maltreatment is made.

39.17 Subd. 2. **Request for reconsideration.** (a) Except as provided under subdivision 5, an
39.18 individual or facility that the commissioner of human services, a local welfare agency, or
39.19 the commissioner of education determines has maltreated a child, an interested person acting
39.20 on behalf of the child, regardless of the determination, who contests the investigating agency's
39.21 final determination regarding maltreatment, may request the investigating agency to
39.22 reconsider its final determination regarding maltreatment. The request for reconsideration
39.23 must be submitted in writing to the investigating agency within 15 calendar days after receipt
39.24 of notice of the final determination regarding maltreatment or, if the request is made by an
39.25 interested person who is not entitled to notice, within 15 days after receipt of the notice by
39.26 the parent or guardian of the child. If mailed, the request for reconsideration must be
39.27 postmarked and sent to the investigating agency within 15 calendar days of the individual's
39.28 or facility's receipt of the final determination. If the request for reconsideration is made by
39.29 personal service, it must be received by the investigating agency within 15 calendar days
39.30 after the individual's or facility's receipt of the final determination.

39.31 (b) An individual who was determined to have maltreated a child under this chapter and
39.32 who was disqualified on the basis of serious or recurring maltreatment under sections
39.33 245C.14 and 245C.15 may request reconsideration of the maltreatment determination and
39.34 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.

Subd. 3. Request for fair hearing. (a) Except as provided under subdivisions 5 and 6, 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 section 256.045. 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 subdivision 2. Determinations under this section are not subject to accuracy and completeness challenges under section 13.04.

(b) Except as provided under subdivision 6, 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 ensure 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.

Subd. 4. Change of maltreatment determination. If, as a result of a reconsideration or fair hearing, the investigating agency changes the determination of maltreatment, that agency shall notify every parent, guardian, or legal custodian previously notified of the investigation, the commissioner of the agency responsible for assessing or investigating the report, the local welfare agency, and, if applicable, the director of the facility and the private licensing agency.

Subd. 5. Consolidation. 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 requested reconsideration of the maltreatment determination under subdivision 2 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 fair hearing. 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.

Subd. 6. **Contested case hearing.** 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:

(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 subdivision 2 and section 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 subdivision 2 and sections 245C.27 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

42.1 be consolidated into a single contested case hearing upon consent of all parties and the
42.2 administrative law judge.

42.3 Subd. 7. **Process for correction order or decertification.** If a maltreatment determination
42.4 is the basis for a correction order under section 245H.06 or decertification under section
42.5 245H.07, the certification holder has the right to request reconsideration under sections
42.6 245H.06 and 245H.07. If the certification holder appeals the maltreatment determination
42.7 or disqualification, but does not appeal the correction order or decertification, reconsideration
42.8 of the maltreatment determination shall be conducted under subdivision 2 and reconsideration
42.9 of the disqualification shall be conducted under section 245C.22.

42.10 Sec. 34. **[260A.86] IMMUNITY.**

42.11 (a) The following persons are immune from any civil or criminal liability that otherwise
42.12 might result from the person's actions, if the person is acting in good faith:

42.13 (1) a person making a voluntary or mandated report under this chapter or assisting in an
42.14 assessment under this chapter;

42.15 (2) a person with responsibility for performing duties under this section or supervisor
42.16 employed by a local welfare agency, the commissioner of an agency responsible for operating
42.17 or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital,
42.18 sanitarium, or other facility or institution required to be licensed or certified under sections
42.19 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B or 245H; or a school as
42.20 defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed
42.21 personal care provider organization as defined in section 256B.0625, subdivision 19a,
42.22 complying with sections 260A.42, subdivisions 2 and 3, and 260A.52; and

42.23 (3) a public or private school, facility as defined in section 260A.20, or the employee
42.24 of any public or private school or facility who permits access by a local welfare agency, the
42.25 Department of Education, or a local law enforcement agency and assists in an investigation
42.26 or assessment pursuant to this chapter.

42.27 (b) A person who is a supervisor or person with responsibility for performing duties
42.28 under this chapter employed by a local welfare agency, the commissioner of human services,
42.29 or the commissioner of education complying with this chapter or any related rule or provision
42.30 of law is immune from any civil or criminal liability that might otherwise result from the
42.31 person's actions, if the person is (1) acting in good faith and exercising due care, or (2)
42.32 acting in good faith and following the information collection procedures established under
42.33 section 260A.39, subdivision 3.

(c) Any physician or other medical personnel administering a toxicology test under section 260A.71 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.

(d) This section does not provide immunity to any person for failure to make a required report or for committing maltreatment.

(e) If a person who makes a voluntary or mandatory report under section 260A.23 prevails in a civil action from which the person has been granted immunity under this section, the court may award the person attorney fees and costs.

Sec. 35. **[260A.87] DATA PRACTICES.**

Subdivision 1. **Maintaining data.** 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 according to this section.

Subd. 2. **Data collected during investigation of maltreatment in school.** (a) 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 chapter, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

(b) In conducting an investigation involving a school facility as defined in section 260A.20, subdivision 6, clause (2), the commissioner of education shall collect investigative reports and data that are relevant to a report of maltreatment from local law enforcement and the school facility.

Subd. 3. **Classification and release of data.** (a) 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 paragraphs (g) to (o).

(b) All reports and records created, collected, or maintained under this chapter 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:

44.1 (1) the reports and records are necessary to conduct an investigation of actions that would
44.2 qualify as maltreatment under this chapter; and

44.3 (2) the reports and records will be used only for purposes of a child protection assessment
44.4 or investigation and will not be further disclosed to any other person or agency.

44.5 (c) The local social service agency or law enforcement agency in this state shall keep a
44.6 record of all records or reports disclosed pursuant to this subdivision and of any agency to
44.7 which the records or reports are disclosed. If in any case records or reports are disclosed
44.8 before a determination is made under section 260A.43, subdivision 3, paragraph (a), or a
44.9 disposition of a criminal proceeding is reached, the local social service agency or law
44.10 enforcement agency in this state shall forward the determination or disposition to any agency
44.11 that has received a report or record under this subdivision.

44.12 (d) The responsible authority of a local welfare agency or the responsible authority's
44.13 designee may release private or confidential data on an active case involving assessment
44.14 or investigation of actions that are defined as maltreatment under this chapter to a court
44.15 services agency if:

44.16 (1) the court services agency has an active case involving a common client who is the
44.17 subject of the data; and

44.18 (2) the data are necessary for the court services agency to effectively process the court
44.19 services agency's case, including investigating or performing other duties relating to the
44.20 case required by law.

44.21 (e) The data disclosed under paragraph (d) may be used only for purposes of the active
44.22 court services case described in paragraph (d), clause (1), and may not be further disclosed
44.23 to any other person or agency, except as authorized by law.

44.24 (f) Records maintained under subdivision 4, paragraph (b), may be shared with another
44.25 local welfare agency that requests the information because it is conducting an assessment
44.26 or investigation under this section of the subject of the records.

44.27 (g) Except as provided in paragraphs (b), (h), (i), (p), and (q); subdivision 1; and sections
44.28 260A.41, subdivision 2; and 260A.42, all records concerning individuals maintained by a
44.29 local welfare agency or agency responsible for assessing or investigating the report under
44.30 this chapter, including any written reports filed under sections 260A.23 and 260A.26, shall
44.31 be private data on individuals, except insofar as copies of reports are required by section
44.32 260A.31, subdivision 1 or 2, to be sent to the local police department or the county sheriff.

45.1 (h) All records concerning determinations of maltreatment by a facility are nonpublic
45.2 data as maintained by the Department of Education, except insofar as copies of reports are
45.3 required by section 260A.31, subdivision 1 or 2, to be sent to the local police department
45.4 or the county sheriff.

45.5 (i) Reports maintained by any police department or the county sheriff shall be private
45.6 data on individuals, except the reports shall be made available to the investigating, petitioning,
45.7 or prosecuting authority, including a county medical examiner or county coroner.

45.8 (j) Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data other than
45.9 the reports.

45.10 (k) The local welfare agency or agency responsible for assessing or investigating the
45.11 report shall make available to the investigating, petitioning, or prosecuting authority,
45.12 including a county medical examiner or county coroner or a professional delegate, any
45.13 records that contain information relating to a specific incident of maltreatment that is under
45.14 investigation, petition, or prosecution and information relating to any prior incident of
45.15 maltreatment involving any of the same persons.

45.16 (l) The records shall be collected and maintained according to chapter 13.

45.17 (m) An individual subject of a record shall have access to the record according to those
45.18 sections, except that the name of the reporter shall be confidential while the report is under
45.19 assessment or investigation except as otherwise permitted by this section.

45.20 (n) Any person conducting an investigation or assessment under this section who
45.21 intentionally discloses the identity of a reporter before the completion of the investigation
45.22 or assessment is guilty of a misdemeanor. After the assessment or investigation is completed,
45.23 the name of the reporter shall be confidential. The subject of the report may compel disclosure
45.24 of the name of the reporter only with the consent of the reporter or upon a written finding
45.25 by the court that the report was false and that there is evidence that the report was made in
45.26 bad faith. This subdivision does not alter disclosure responsibilities or obligations under
45.27 the Rules of Criminal Procedure.

45.28 (o) Upon request of the legislative auditor, data on individuals maintained under this
45.29 chapter must be released to the legislative auditor in order for the auditor to fulfill the
45.30 auditor's duties under section 3.971. The auditor shall maintain the data according to chapter
45.31 13.

45.32 (p) Active law enforcement investigative data received by a local welfare agency or
45.33 agency responsible for assessing or investigating the report under this chapter are confidential

data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals.

(q) Section 13.03, subdivision 4, applies to data received by the commissioner of education from a licensing entity.

Subd. 4. **Data disclosed to reporter.** (a) A local welfare 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 chapter 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.

(b) 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 chapter, 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 chapter must be limited to data pertinent to the individual's responsibility for caring for the child.

(c) 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 chapter or other law.

Subd. 5. **Data provided to commissioner of education.** 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 section 260A.20, subdivision 6, clause (2), when the data are 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 necessary and relevant information to the licensing entity to enable the entity to fulfill its statutory duties. 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

47.1 receiving entity, except that this section applies to the classification of and access to data
47.2 on the reporter of the maltreatment.

47.3 Subd. 6. **Data retention.** (a) Notwithstanding sections 138.163 and 138.17, a record
47.4 maintained or a record derived from a report of maltreatment by a local welfare agency,
47.5 agency responsible for assessing or investigating the report, court services agency, or school
47.6 under this chapter shall be destroyed as provided in paragraphs (b) to (e) by the responsible
47.7 authority.

47.8 (b) For a report alleging maltreatment that was not accepted for assessment or
47.9 investigation, a family assessment case, and a case where an investigation results in no
47.10 determination of maltreatment or the need for child protective services, the record must be
47.11 maintained for a period of five years after the date the report was not accepted for assessment
47.12 or investigation or the date of the final entry in the case record. A record of a report that
47.13 was not accepted must contain sufficient information to identify the subjects of the report,
47.14 the nature of the alleged maltreatment, and the reasons as to why the report was not accepted.
47.15 Records under this paragraph may not be used for employment, background checks, or
47.16 purposes other than to assist in future screening decisions and risk and safety assessments.

47.17 (c) All records relating to reports that, upon investigation, indicate either maltreatment
47.18 or a need for child protective services shall be maintained for ten years after the date of the
47.19 final entry in the case record.

47.20 (d) All records regarding a report of maltreatment, including a notification of intent to
47.21 interview that was received by a school under section 260A.41, subdivision 7, shall be
47.22 destroyed by the school when ordered to do so by the agency conducting the assessment or
47.23 investigation. The agency shall order the destruction of the notification when other records
47.24 relating to the report under investigation or assessment are destroyed under this subdivision.

47.25 (e) Private or confidential data released to a court services agency under subdivision 3,
47.26 paragraph (d), must be destroyed by the court services agency when ordered to do so by the
47.27 local welfare agency that released the data. The local welfare agency or agency responsible
47.28 for assessing or investigating the report shall order destruction of the data when other records
47.29 relating to the assessment or investigation are destroyed under this subdivision.

47.30 Subd. 7. **Disclosure to public.** (a) Notwithstanding any other provision of law and
47.31 subject to this subdivision, a public agency shall disclose to the public, upon request, the
47.32 findings and information related to a child fatality or near fatality if:

47.33 (1) a person is criminally charged with having caused the child fatality or near fatality;

48.1 (2) a county attorney certifies that a person would have been charged with having caused
48.2 the child fatality or near fatality but for that person's death; or

48.3 (3) a child protection investigation resulted in a determination of maltreatment.

48.4 (b) Findings and information disclosed under this subdivision consist of a written
48.5 summary that includes any of the following information the agency is able to provide:

48.6 (1) the cause and circumstances regarding the child fatality or near fatality;

48.7 (2) the age and gender of the child;

48.8 (3) information on any previous reports of maltreatment that are pertinent to the
48.9 maltreatment that led to the child fatality or near fatality;

48.10 (4) information on any previous investigations that are pertinent to the maltreatment that
48.11 led to the child fatality or near fatality;

48.12 (5) the result of any investigations described in clause (4);

48.13 (6) actions of and services provided by the local welfare agency on behalf of a child that
48.14 are pertinent to the maltreatment that led to the child fatality or near fatality; and

48.15 (7) the result of any review of the state child mortality review panel, a local child mortality
48.16 review panel, a local community child protection team, or any public agency.

48.17 (c) Nothing in this subdivision authorizes access to the private data in the custody of a
48.18 local welfare agency, or the disclosure to the public of the records or content of any
48.19 psychiatric, psychological, or therapeutic evaluation, or the disclosure of information that
48.20 would reveal the identities of persons who provided information related to maltreatment of
48.21 the child.

48.22 (d) A person whose request is denied may apply to the appropriate court for an order
48.23 compelling disclosure of all or part of the findings and information of the public agency.

48.24 The application must set forth, with reasonable particularity, factors supporting the
48.25 application. The court has jurisdiction to issue these orders. Actions under this chapter must
48.26 be set down for immediate hearing, and subsequent proceedings in those actions must be
48.27 given priority by the appellate courts.

48.28 (e) A public agency or its employees acting in good faith in disclosing or declining to
48.29 disclose information under this chapter are immune from criminal or civil liability that might
48.30 otherwise be incurred or imposed for that action.

49.1 Subd. 8. **Disclosure not required.** When interviewing a child under this section, an
49.2 individual does not include the parent or guardian of the minor for purposes of section 13.04,
49.3 subdivision 2, when the parent or guardian is the alleged offender of the abuse or neglect.

49.4 Sec. 36. **[260A.90] SPECIALIZED TRAINING AND EDUCATION REQUIRED.**

49.5 Subdivision 1. **Job classification; continuing education.** (a) The commissioner of
49.6 human services, for employees subject to the Minnesota Merit System, and directors of
49.7 county personnel systems, for counties not subject to the Minnesota Merit System, shall
49.8 establish a job classification consisting exclusively of persons with the specialized knowledge,
49.9 skills, and experience required to satisfactorily perform child protection duties pursuant to
49.10 this chapter.

49.11 (b) All child protection workers or social services staff having responsibility for child
49.12 protection duties under this chapter shall receive 15 hours of continuing education or
49.13 in-service training each year relevant to providing child protective services. The local social
49.14 service agency shall maintain a record of training completed by each employee having
49.15 responsibility for performing child protection duties.

49.16 Subd. 2. **Child protection worker foundation education.** An individual who seeks
49.17 employment as a child protection worker after the commissioner of human services has
49.18 implemented the foundation training program developed under section 260A.91 must
49.19 complete competency-based foundation training during their first six months of employment
49.20 as a child protection worker.

49.21 Subd. 3. **Background studies.** (a) County employees hired on or after July 1, 2015, who
49.22 have responsibility for child protection duties or current county employees who are assigned
49.23 new child protection duties on or after July 1, 2015, are required to undergo a background
49.24 study. A county may complete these background studies by either:

49.25 (1) use of the Department of Human Services NETStudy 2.0 system according to sections
49.26 245C.03 and 245C.10; or

49.27 (2) an alternative process defined by the county.

49.28 (b) County social services agencies and local welfare agencies must initiate background
49.29 studies before an individual begins a position allowing direct contact with persons served
49.30 by the agency.

49.31 Subd. 4. **Joint training.** The commissioners of human services and public safety shall
49.32 cooperate in the development of a joint program for training child maltreatment services

50.1 professionals in the appropriate techniques for child maltreatment assessment and
50.2 investigation. The program shall include but need not be limited to the following areas:

50.3 (1) the public policy goals of the state as set forth in section 260C.001 and the role of
50.4 the assessment or investigation in meeting these goals;

50.5 (2) the special duties of child protection workers and law enforcement officers under
50.6 this chapter;

50.7 (3) the appropriate methods for directing and managing affiliated professionals who
50.8 may be utilized in providing protective services and strengthening family ties;

50.9 (4) the appropriate methods for interviewing alleged victims of child maltreatment and
50.10 other children in the course of performing an assessment or an investigation;

50.11 (5) the dynamics of child maltreatment within family systems and the appropriate methods
50.12 for interviewing parents in the course of the assessment or investigation, including training
50.13 in recognizing cases in which one of the parents is a victim of domestic abuse and in need
50.14 of special legal or medical services;

50.15 (6) the legal, evidentiary considerations that may be relevant to the conduct of an
50.16 assessment or an investigation;

50.17 (7) the circumstances under which it is appropriate to remove the alleged offender or
50.18 the alleged victim from the home;

50.19 (8) the protective social services that are available to protect alleged victims from further
50.20 abuse, to prevent child maltreatment and domestic abuse, and to preserve the family unit;
50.21 and training in the preparation of case plans to coordinate services for the alleged child
50.22 victim with services for any parents who are victims of domestic abuse;

50.23 (9) the methods by which child protection workers and law enforcement workers
50.24 cooperate in conducting assessments and investigations in order to avoid duplication of
50.25 efforts; and

50.26 (10) appropriate methods for interviewing alleged child victims and conducting
50.27 investigations in cases where the alleged victim is developmentally, physically, or mentally
50.28 disabled.

50.29 Subd. 5. **Priority training.** The commissioners of human services and public safety
50.30 shall provide the program courses described in subdivision 2 at convenient times and
50.31 locations in the state. The commissioners shall give training priority in the program areas

51.1 cited in subdivision 2 to persons currently performing assessments and investigations
51.2 pursuant to this chapter.

51.3 Subd. 6. **Revenue.** (a) The commissioner of human services shall add the following
51.4 funds to the funds appropriated under section 260A.91, subdivision 2, to develop and support
51.5 training.

51.6 (b) The commissioner of human services shall submit claims for federal reimbursement
51.7 earned through the activities and services supported through Department of Human Services
51.8 child protection or child welfare training funds. Federal revenue earned must be used to
51.9 improve and expand training services by the department. The department expenditures
51.10 eligible for federal reimbursement under this section must not be made from federal funds
51.11 or funds used to match other federal funds.

51.12 (c) Each year, the commissioner of human services shall withhold from funds distributed
51.13 to each county under Minnesota Rules, parts 9550.0300 to 9550.0370, an amount equivalent
51.14 to 1.5 percent of each county's annual title XX allocation under section 256M.50. The
51.15 commissioner must use these funds to ensure decentralization of training.

51.16 (d) The federal revenue under this subdivision is available for these purposes until the
51.17 funds are expended.

51.18 **Sec. 37. [260A.91] CHILD PROTECTION WORKERS; TRAINING.**

51.19 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
51.20 meanings given unless the specific context indicates otherwise.

51.21 (b) "Advanced training" means training provided to a local child protection worker after
51.22 the person has performed an initial six months of employment as a child protection worker.

51.23 (c) "Child protection agency" means an agency authorized to receive reports, conduct
51.24 assessments and investigations, and make determinations pursuant to this chapter.

51.25 (d) "Child protection services" means the receipt and assessment of reports of
51.26 maltreatment and the provision of services to families and children when maltreatment has
51.27 occurred or when there is risk of maltreatment. These services include:

51.28 (1) the assessment of risk to a child alleged to have been maltreated;

51.29 (2) interviews of any person alleged to have maltreated a child and the child or children
51.30 involved in the report, and interviews with persons having facts or knowledge necessary to
51.31 assess the level of risk to a child and the need for protective intervention;

51.32 (3) the gathering of written or evidentiary materials;

52.1 (4) the recording of case findings and determinations; and

52.2 (5) other actions required by this chapter, administrative rule, or agency policy.

52.3 (e) "Competency-based training" means a course of instruction that provides both

52.4 information and skills practice, which is based upon clearly stated and measurable

52.5 instructional objectives, and which requires demonstration of the achievement of a particular

52.6 standard of skills and knowledge for satisfactory completion.

52.7 (f) "Foundation training" means training provided to a local child protection worker

52.8 after the person has begun to perform child protection duties, but before the expiration of

52.9 six months of employment as a child protection worker. This foundation training must occur

52.10 during the performance of job duties and must include an evaluation of the employee's

52.11 application of skills and knowledge.

52.12 Subd. 2. **Training program; development.** The commissioner of human services shall

52.13 develop a program of competency-based foundation and advanced training for child

52.14 protection workers if funds are appropriated to the commissioner for this purpose.

52.15 Sec. 38. **[260A.95] AUDIT.**

52.16 Subdivision 1. **Audit required.** The commissioner shall regularly audit for accuracy

52.17 the data reported by counties on maltreatment of children.

52.18 Subd. 2. **Audit procedure.** The commissioner shall develop a plan to perform quality

52.19 assurance reviews of local welfare agency screening practices and decisions. The

52.20 commissioner shall provide oversight and guidance to counties to ensure consistent

52.21 application of screening guidelines, thorough and appropriate screening decisions, and

52.22 correct documentation and maintenance of reports.

52.23 Subd. 3. **Report required.** The commissioner shall produce an annual report of the

52.24 summary results of the reviews. The report must only contain aggregate data and may not

52.25 include any data that could be used to personally identify any subject whose data is included

52.26 in the report. The report is public information and must be provided to the chairs and ranking

52.27 minority members of the legislative committees having jurisdiction over child protection

52.28 issues.

52.29 Sec. 39. **REVISOR'S INSTRUCTION.**

52.30 The revisor of statutes shall make necessary cross-reference changes and remove statutory

52.31 cross-references in Minnesota Statutes to conform with the recodification and repealer in

52.32 this act. The revisor may make technical and other necessary changes to sentence structure

53.1 to preserve the meaning of the text. The revisor may alter the statutory coding in this act to
53.2 incorporate statutory changes made by other law in the 2019 regular legislative session. If
53.3 a provision repealed in this act is also amended in the 2019 regular legislative session by
53.4 other law, the revisor shall merge the amendment into the recodification, notwithstanding
53.5 Minnesota Statutes, section 645.30.

53.6 Sec. 40. **REPEALER.**

53.7 Minnesota Statutes 2018, sections 626.556, subdivisions 1, 2, 3, 3a, 3b, 3c, 3d, 3e, 3f,
53.8 4, 4a, 5, 6, 6a, 7, 7a, 8, 9, 10, 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h, 10i, 10j, 10k, 10l, 10m,
53.9 10n, 11, 11a, 11b, 11c, 11d, 12, 14, 15, and 16; 626.5561; 626.5562; 626.558; 626.559,
53.10 subdivisions 1, 1a, 1b, 2, 3, and 5; 626.5591; and 626.561, are repealed.

53.11 ARTICLE 2

53.12 CONFORMING CHANGES

53.13 Section 1. Minnesota Statutes 2018, section 13.32, subdivision 3, is amended to read:

53.14 Subd. 3. **Private data; when disclosure is permitted.** Except as provided in subdivision
53.15 5, educational data is private data on individuals and shall not be disclosed except as follows:

53.16 (a) pursuant to section 13.05;

53.17 (b) pursuant to a valid court order;

53.18 (c) pursuant to a statute specifically authorizing access to the private data;

53.19 (d) to disclose information in health, including mental health, and safety emergencies
53.20 pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code
53.21 of Federal Regulations, title 34, section 99.36;

53.22 (e) pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1),
53.23 (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3), (b)(6), (b)(7), and (i), and Code of Federal Regulations,
53.24 title 34, sections 99.31, 99.32, 99.33, 99.34, 99.35, and 99.39;

53.25 (f) to appropriate health authorities to the extent necessary to administer immunization
53.26 programs and for bona fide epidemiologic investigations which the commissioner of health
53.27 determines are necessary to prevent disease or disability to individuals in the public
53.28 educational agency or institution in which the investigation is being conducted;

53.29 (g) when disclosure is required for institutions that participate in a program under title
53.30 IV of the Higher Education Act, United States Code, title 20, section 1092;

(h) to the appropriate school district officials to the extent necessary under subdivision 6, annually to indicate the extent and content of remedial instruction, including the results of assessment testing and academic performance at a postsecondary institution during the previous academic year by a student who graduated from a Minnesota school district within two years before receiving the remedial instruction;

(i) to appropriate authorities as provided in United States Code, title 20, section 1232g(b)(1)(E)(ii), if the data concern the juvenile justice system and the ability of the system to effectively serve, prior to adjudication, the student whose records are released; provided that the authorities to whom the data are released submit a written request for the data that certifies that the data will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student and the request and a record of the release are maintained in the student's file;

(j) to volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students;

(k) to provide student recruiting information, from educational data held by colleges and universities, as required by and subject to Code of Federal Regulations, title 32, section 216;

(l) to the juvenile justice system if information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals;

(m) with respect to Social Security numbers of students in the adult basic education system, to Minnesota State Colleges and Universities and the Department of Employment and Economic Development for the purpose and in the manner described in section 124D.52, subdivision 7;

(n) to the commissioner of education for purposes of an assessment or investigation of a report of alleged maltreatment of a student as mandated by ~~section 626.556~~ chapter 260A. Upon request by the commissioner of education, data that are relevant to a report of maltreatment and are from charter school and school district investigations of alleged maltreatment of a student must be disclosed to the commissioner, including, but not limited to, the following:

(1) information regarding the student alleged to have been maltreated;

(2) information regarding student and employee witnesses;

55.1 (3) information regarding the alleged perpetrator; and

55.2 (4) what corrective or protective action was taken, if any, by the school facility in response
55.3 to a report of maltreatment by an employee or agent of the school or school district;

55.4 (o) when the disclosure is of the final results of a disciplinary proceeding on a charge
55.5 of a crime of violence or nonforcible sex offense to the extent authorized under United
55.6 States Code, title 20, section 1232g(b)(6)(A) and (B) and Code of Federal Regulations, title
55.7 34, sections 99.31 (a)(13) and (14);

55.8 (p) when the disclosure is information provided to the institution under United States
55.9 Code, title 42, section 14071, concerning registered sex offenders to the extent authorized
55.10 under United States Code, title 20, section 1232g(b)(7); or

55.11 (q) when the disclosure is to a parent of a student at an institution of postsecondary
55.12 education regarding the student's violation of any federal, state, or local law or of any rule
55.13 or policy of the institution, governing the use or possession of alcohol or of a controlled
55.14 substance, to the extent authorized under United States Code, title 20, section 1232g(i), and
55.15 Code of Federal Regulations, title 34, section 99.31 (a)(15), and provided the institution
55.16 has an information release form signed by the student authorizing disclosure to a parent.
55.17 The institution must notify parents and students about the purpose and availability of the
55.18 information release forms. At a minimum, the institution must distribute the information
55.19 release forms at parent and student orientation meetings.

55.20 Sec. 2. Minnesota Statutes 2018, section 13.3805, subdivision 3, is amended to read:

55.21 Subd. 3. **Office of Health Facility Complaints; investigative data.** Except for
55.22 investigative data under ~~section 626.556~~ chapter 260A, all investigative data maintained by
55.23 the Department of Health's Office of Health Facility Complaints are subject to provisions
55.24 of and classified pursuant to section 626.557, subdivision 12b, paragraphs (b) to (d).
55.25 Notwithstanding sections ~~626.556, subdivision 11,~~ 260A.40, subdivision 4; 260A.87; and
55.26 626.557, subdivision 12b, paragraph (b), data identifying an individual substantiated as the
55.27 perpetrator are public data. For purposes of this subdivision, an individual is substantiated
55.28 as the perpetrator if the commissioner of health determines that the individual is the
55.29 perpetrator and the determination of the commissioner is upheld after the individual either
55.30 exercises applicable administrative appeal rights or fails to exercise these rights within the
55.31 time allowed by law.

Sec. 3. Minnesota Statutes 2018, section 13.43, subdivision 14, is amended to read:

Subd. 14. **Maltreatment data.** (a) When a report of alleged maltreatment of a student in a school facility, as defined in section ~~626.556~~, subdivision 2, paragraph (c) 260A.20, subdivision 6, is made to the commissioner of education under section ~~626.556~~ chapter 260A, data that are relevant to a report of maltreatment and are collected by the school facility about the person alleged to have committed maltreatment must be provided to the commissioner of education upon request for purposes of an assessment or investigation of the maltreatment report. Data received by the commissioner of education pursuant to these assessments or investigations are classified under section ~~626.556~~ chapter 260A.

(b) Personnel data may be released for purposes of providing information to a parent, legal guardian, or custodian of a child under section ~~626.556~~, subdivision 7 260A.34.

Sec. 4. Minnesota Statutes 2018, section 13.46, subdivision 3, is amended to read:

Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of services, licensees, and applicants that is collected, maintained, used, or disseminated by the welfare system in an investigation, authorized by statute, and relating to the enforcement of rules or law are confidential data on individuals pursuant to section 13.02, subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and shall not be disclosed except:

(1) pursuant to section 13.05;

(2) pursuant to statute or valid court order;

(3) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense; or

(4) to provide notices required or permitted by statute.

The data referred to in this subdivision shall be classified as public data upon submission to an administrative law judge or court in an administrative or judicial proceeding. Inactive welfare investigative data shall be treated as provided in section 13.39, subdivision 3.

(b) Notwithstanding any other provision in law, the commissioner of human services shall provide all active and inactive investigative data, including the name of the reporter of alleged maltreatment under section ~~626.556~~ or 626.557 or chapter 260A, to the ombudsman for mental health and developmental disabilities upon the request of the ombudsman.

(c) Notwithstanding paragraph (a) and section 13.39, the existence of an investigation by the commissioner of possible overpayments of public funds to a service provider or

57.1 recipient may be disclosed if the commissioner determines that it will not compromise the
57.2 investigation.

57.3 Sec. 5. Minnesota Statutes 2018, section 13.46, subdivision 4, is amended to read:

57.4 Subd. 4. **Licensing data.** (a) As used in this subdivision:

57.5 (1) "licensing data" are all data collected, maintained, used, or disseminated by the
57.6 welfare system pertaining to persons licensed or registered or who apply for licensure or
57.7 registration or who formerly were licensed or registered under the authority of the
57.8 commissioner of human services;

57.9 (2) "client" means a person who is receiving services from a licensee or from an applicant
57.10 for licensure; and

57.11 (3) "personal and personal financial data" are Social Security numbers, identity of and
57.12 letters of reference, insurance information, reports from the Bureau of Criminal
57.13 Apprehension, health examination reports, and social/home studies.

57.14 (b)(1)(i) Except as provided in paragraph (c), the following data on applicants, license
57.15 holders, and former licensees are public: name, address, telephone number of licensees,
57.16 date of receipt of a completed application, dates of licensure, licensed capacity, type of
57.17 client preferred, variances granted, record of training and education in child care and child
57.18 development, type of dwelling, name and relationship of other family members, previous
57.19 license history, class of license, the existence and status of complaints, and the number of
57.20 serious injuries to or deaths of individuals in the licensed program as reported to the
57.21 commissioner of human services, the local social services agency, or any other county
57.22 welfare agency. For purposes of this clause, a serious injury is one that is treated by a
57.23 physician.

57.24 (ii) When a correction order, an order to forfeit a fine, an order of license suspension,
57.25 an order of temporary immediate suspension, an order of license revocation, an order of
57.26 license denial, or an order of conditional license has been issued, or a complaint is resolved,
57.27 the following data on current and former licensees and applicants are public: the general
57.28 nature of the complaint or allegations leading to the temporary immediate suspension; the
57.29 substance and investigative findings of the licensing or maltreatment complaint, licensing
57.30 violation, or substantiated maltreatment; the existence of settlement negotiations; the record
57.31 of informal resolution of a licensing violation; orders of hearing; findings of fact; conclusions
57.32 of law; specifications of the final correction order, fine, suspension, temporary immediate

58.1 suspension, revocation, denial, or conditional license contained in the record of licensing
58.2 action; whether a fine has been paid; and the status of any appeal of these actions.

58.3 (iii) When a license denial under section 245A.05 or a sanction under section 245A.07
58.4 is based on a determination that a license holder, applicant, or controlling individual is
58.5 responsible for maltreatment under section ~~626.556~~ or 626.557 or chapter 260A, the identity
58.6 of the applicant, license holder, or controlling individual as the individual responsible for
58.7 maltreatment is public data at the time of the issuance of the license denial or sanction.

58.8 (iv) When a license denial under section 245A.05 or a sanction under section 245A.07
58.9 is based on a determination that a license holder, applicant, or controlling individual is
58.10 disqualified under chapter 245C, the identity of the license holder, applicant, or controlling
58.11 individual as the disqualified individual and the reason for the disqualification are public
58.12 data at the time of the issuance of the licensing sanction or denial. If the applicant, license
58.13 holder, or controlling individual requests reconsideration of the disqualification and the
58.14 disqualification is affirmed, the reason for the disqualification and the reason to not set aside
58.15 the disqualification are public data.

58.16 (2) For applicants who withdraw their application prior to licensure or denial of a license,
58.17 the following data are public: the name of the applicant, the city and county in which the
58.18 applicant was seeking licensure, the dates of the commissioner's receipt of the initial
58.19 application and completed application, the type of license sought, and the date of withdrawal
58.20 of the application.

58.21 (3) For applicants who are denied a license, the following data are public: the name and
58.22 address of the applicant, the city and county in which the applicant was seeking licensure,
58.23 the dates of the commissioner's receipt of the initial application and completed application,
58.24 the type of license sought, the date of denial of the application, the nature of the basis for
58.25 the denial, the existence of settlement negotiations, the record of informal resolution of a
58.26 denial, orders of hearings, findings of fact, conclusions of law, specifications of the final
58.27 order of denial, and the status of any appeal of the denial.

58.28 (4) When maltreatment is substantiated under section ~~626.556~~ or 626.557 or chapter
58.29 260A and the victim and the substantiated perpetrator are affiliated with a program licensed
58.30 under chapter 245A, the commissioner of human services, local social services agency, or
58.31 county welfare agency may inform the license holder where the maltreatment occurred of
58.32 the identity of the substantiated perpetrator and the victim.

58.33 (5) Notwithstanding clause (1), for child foster care, only the name of the license holder
58.34 and the status of the license are public if the county attorney has requested that data otherwise

59.1 classified as public data under clause (1) be considered private data based on the best interests
59.2 of a child in placement in a licensed program.

59.3 (c) The following are private data on individuals under section 13.02, subdivision 12,
59.4 or nonpublic data under section 13.02, subdivision 9: personal and personal financial data
59.5 on family day care program and family foster care program applicants and licensees and
59.6 their family members who provide services under the license.

59.7 (d) The following are private data on individuals: the identity of persons who have made
59.8 reports concerning licensees or applicants that appear in inactive investigative data, and the
59.9 records of clients or employees of the licensee or applicant for licensure whose records are
59.10 received by the licensing agency for purposes of review or in anticipation of a contested
59.11 matter. The names of reporters of complaints or alleged violations of licensing standards
59.12 under chapters 245A, 245B, 245C, and 245D, and applicable rules and alleged maltreatment
59.13 under ~~sections 626.556 and~~ section 626.557 and chapter 260A, are confidential data and
59.14 may be disclosed only as provided in ~~section 626.556, subdivision 11,~~ section 260A.40,
59.15 subdivision 4; 260A.87; or 626.557, subdivision 12b.

59.16 (e) Data classified as private, confidential, nonpublic, or protected nonpublic under this
59.17 subdivision become public data if submitted to a court or administrative law judge as part
59.18 of a disciplinary proceeding in which there is a public hearing concerning a license which
59.19 has been suspended, immediately suspended, revoked, or denied.

59.20 (f) Data generated in the course of licensing investigations that relate to an alleged
59.21 violation of law are investigative data under subdivision 3.

59.22 (g) Data that are not public data collected, maintained, used, or disseminated under this
59.23 subdivision that relate to or are derived from a report as defined in section ~~626.556,~~
59.24 ~~subdivision 2~~ 260A.20, or 626.5572, subdivision 18, are subject to the destruction provisions
59.25 of sections ~~626.556, subdivision 11,~~ 260A.87, subdivision 6, and 626.557, subdivision 12b.

59.26 (h) Upon request, not public data collected, maintained, used, or disseminated under
59.27 this subdivision that relate to or are derived from a report of substantiated maltreatment as
59.28 defined in section ~~626.556 or~~ 626.557 or chapter 260A may be exchanged with the
59.29 Department of Health for purposes of completing background studies pursuant to section
59.30 144.057 and with the Department of Corrections for purposes of completing background
59.31 studies pursuant to section 241.021.

59.32 (i) Data on individuals collected according to licensing activities under chapters 245A
59.33 and 245C, data on individuals collected by the commissioner of human services according
59.34 to investigations under section 626.557 and chapters 245A, 245B, 245C, ~~and~~ 245D, and

sections ~~626.556 and 626.557~~ 260A may be shared with the Department of Human Rights, the Department of Health, the Department of Corrections, the ombudsman for mental health and developmental disabilities, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated or the information may otherwise be relevant to the board's regulatory jurisdiction. Background study data on an individual who is the subject of a background study under chapter 245C for a licensed service for which the commissioner of human services is the license holder may be shared with the commissioner and the commissioner's delegate by the licensing division. Unless otherwise specified in this chapter, the identity of a reporter of alleged maltreatment or licensing violations may not be disclosed.

(j) In addition to the notice of determinations required under ~~section 626.556, subdivision 10f,~~ sections 260A.43, subdivisions 5 and 7, and 260A.52, subdivision 6, paragraphs (b), (c), (d), (e), and (f), if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in ~~section 626.556, subdivision 2~~ 260A.20, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

(k) All not public data collected, maintained, used, or disseminated under this subdivision and subdivision 3 may be exchanged between the Department of Human Services, Licensing Division, and the Department of Corrections for purposes of regulating services for which the Department of Human Services and the Department of Corrections have regulatory authority.

Sec. 6. Minnesota Statutes 2018, section 13.82, subdivision 8, is amended to read:

Subd. 8. **Child abuse identity data.** Active or inactive investigative data that identify a victim of child abuse or neglect reported under ~~section 626.556~~ chapter 260A are private data on individuals. Active or inactive investigative data that identify a reporter of child abuse or neglect under ~~section 626.556~~ chapter 260A are confidential data on individuals, unless the subject of the report compels disclosure under ~~section 626.556, subdivision 11,~~ sections 260A.40, subdivision 4, or 260A.87.

61.1 Sec. 7. Minnesota Statutes 2018, section 13.82, subdivision 9, is amended to read:

61.2 Subd. 9. **Inactive child abuse data.** Investigative data that become inactive under
61.3 subdivision 7, clause (a) or (b), and that relate to the alleged abuse or neglect of a child by
61.4 a person responsible for the child's care, as defined in section ~~626.556, subdivision 2~~ 260A.20,
61.5 are private data.

61.6 Sec. 8. Minnesota Statutes 2018, section 13.82, subdivision 17, is amended to read:

61.7 Subd. 17. **Protection of identities.** A law enforcement agency or a law enforcement
61.8 dispatching agency working under direction of a law enforcement agency shall withhold
61.9 public access to data on individuals to protect the identity of individuals in the following
61.10 circumstances:

61.11 (a) when access to the data would reveal the identity of an undercover law enforcement
61.12 officer, as provided in section 13.43, subdivision 5;

61.13 (b) when access to the data would reveal the identity of a victim or alleged victim of
61.14 criminal sexual conduct or sex trafficking under section 609.322, 609.341 to 609.3451, or
61.15 617.246, subdivision 2;

61.16 (c) when access to the data would reveal the identity of a paid or unpaid informant being
61.17 used by the agency if the agency reasonably determines that revealing the identity of the
61.18 informant would threaten the personal safety of the informant;

61.19 (d) when access to the data would reveal the identity of a victim of or witness to a crime
61.20 if the victim or witness specifically requests not to be identified publicly, unless the agency
61.21 reasonably determines that revealing the identity of the victim or witness would not threaten
61.22 the personal safety or property of the individual;

61.23 (e) when access to the data would reveal the identity of a deceased person whose body
61.24 was unlawfully removed from a cemetery in which it was interred;

61.25 (f) when access to the data would reveal the identity of a person who placed a call to a
61.26 911 system or the identity or telephone number of a service subscriber whose phone is used
61.27 to place a call to the 911 system and: (1) the agency determines that revealing the identity
61.28 may threaten the personal safety or property of any person; or (2) the object of the call is
61.29 to receive help in a mental health emergency. For the purposes of this paragraph, a voice
61.30 recording of a call placed to the 911 system is deemed to reveal the identity of the caller;

62.1 (g) when access to the data would reveal the identity of a juvenile witness and the agency
62.2 reasonably determines that the subject matter of the investigation justifies protecting the
62.3 identity of the witness; or

62.4 (h) when access to the data would reveal the identity of a mandated reporter under section
62.5 60A.952, subdivision 2, 609.456, ~~626.556~~, or ~~626.557~~ or chapter 260A.

62.6 Data concerning individuals whose identities are protected by this subdivision are private
62.7 data about those individuals. Law enforcement agencies shall establish procedures to acquire
62.8 the data and make the decisions necessary to protect the identity of individuals described
62.9 in clauses (c), (d), (f), and (g).

62.10 Sec. 9. Minnesota Statutes 2018, section 13.821, is amended to read:

62.11 **13.821 VIDEOTAPES OF CHILD ABUSE VICTIMS.**

62.12 (a) Notwithstanding section 13.04, subdivision 3, an individual subject of data may not
62.13 obtain a copy of a videotape in which a child victim or alleged victim is alleging, explaining,
62.14 denying, or describing an act of physical or sexual abuse without a court order under section
62.15 13.03, subdivision 6, or 611A.90. The definitions of physical abuse and sexual abuse in
62.16 section ~~626.556~~, ~~subdivision 2~~ 260A.20, apply to this section, except that abuse is not limited
62.17 to acts by a person responsible for the child's care or in a significant relationship with the
62.18 child or position of authority.

62.19 (b) This section does not limit other rights of access to data by an individual under section
62.20 13.04, subdivision 3, other than the right to obtain a copy of the videotape, nor prohibit
62.21 rights of access pursuant to discovery in a court proceeding.

62.22 Sec. 10. Minnesota Statutes 2018, section 13.84, subdivision 9, is amended to read:

62.23 Subd. 9. **Child abuse data; release to child protective services.** A court services agency
62.24 may release private or confidential data on an active case involving assessment or
62.25 investigation of actions that are defined as sexual abuse, physical abuse, or neglect under
62.26 ~~section 626.556~~ chapter 260A to a local welfare agency if:

62.27 (1) the local welfare agency has an active case involving a common client or clients who
62.28 are the subject of the data; and

62.29 (2) the data are necessary for the local welfare agency to effectively process the agency's
62.30 case, including investigating or performing other duties relating to the case required by law.

63.1 Court services data disclosed under this subdivision may be used only for purposes of
63.2 the active case described in clause (1) and may not be further disclosed to any other person
63.3 or agency, except as authorized by law.

63.4 Sec. 11. Minnesota Statutes 2018, section 13.871, subdivision 6, is amended to read:

63.5 Subd. 6. **Training; investigation; apprehension; reports.** (a) **Reports of gunshot**
63.6 **wounds.** Disclosure of the name of a person making a report under section ~~626.52,~~
63.7 ~~subdivision 2,~~ 260A.20 is governed by section 626.53.

63.8 (b) **Child abuse report records.** Data contained in child abuse report records are
63.9 classified under ~~section 626.556~~ chapter 260A.

63.10 (c) **Interstate data exchange.** Disclosure of child abuse reports to agencies of another
63.11 state is classified under section ~~626.556, subdivision 10g~~ 260A.87, subdivision 3, paragraphs
63.12 (b) and (c).

63.13 (d) **Release to family court services.** Release of child abuse data to a court services
63.14 agency is authorized under section ~~626.556, subdivision 10h~~ 260A.87, subdivision 3,
63.15 paragraphs (d) and (e).

63.16 (e) **Release of data to mandated reporters.** Release of child abuse data to mandated
63.17 reporters who have an ongoing responsibility for the health, education, or welfare of a child
63.18 affected by the data is authorized under section ~~626.556, subdivision 10j~~ 260A.87,
63.19 subdivision 4.

63.20 (f) **Release of child abuse assessment or investigative records to other counties.**
63.21 Release of child abuse investigative records to local welfare agencies is authorized under
63.22 section ~~626.556, subdivision 10k~~ 260A.87, subdivision 3, paragraph (f).

63.23 (g) **Classifying and sharing records and reports of child abuse.** The classification of
63.24 child abuse data and the sharing of records and reports of child abuse by and between local
63.25 welfare agencies and law enforcement agencies are governed under ~~section 626.556,~~
63.26 ~~subdivision 11~~ sections 260A.40, subdivision 4, and 260A.87.

63.27 (h) **Disclosure of information not required in certain cases.** Disclosure of certain data
63.28 obtained from interviewing a minor is governed by section ~~626.556, subdivision 11a~~ 260A.87,
63.29 subdivision 8.

63.30 (i) **Data received from law enforcement.** Classifying child abuse data received by
63.31 certain agencies from law enforcement agencies is governed under section ~~626.556,~~
63.32 ~~subdivision 11b~~ 260A.87, subdivision 3, paragraph (p).

(j) **Disclosure in child fatality cases.** Disclosure of information relating to a child fatality is governed under section ~~626.556, subdivision 11d~~ 260A.87, subdivision 7.

(k) **Reports of prenatal exposure to controlled substances.** Data on persons making reports under section ~~626.5561~~ 260A.70 are classified under section ~~626.5561, subdivision 3~~ 260A.87, subdivision 3.

(l) **Vulnerable adult report records.** Data contained in vulnerable adult report records are classified under section 626.557, subdivision 12b.

(m) **Adult protection team information sharing.** Sharing of local welfare agency vulnerable adult data with a protection team is governed by section 626.5571, subdivision 3.

(n) **Child protection team.** Data acquired by a case consultation committee or subcommittee of a child protection team are classified by section ~~626.558, subdivision 3~~ 260A.12, subdivision 4.

(o) **Peace officer discipline procedures.** Access by an officer under investigation to the investigating agency's investigative report on the officer is governed by section 626.89, subdivision 6.

(p) **Racial profiling study data.** Racial profiling study data is governed by Minnesota Statutes 2006, section 626.951.

Sec. 12. Minnesota Statutes 2018, section 13.88, is amended to read:

13.88 COMMUNITY DISPUTE RESOLUTION CENTER DATA.

The guidelines shall provide that all files relating to a case in a community dispute resolution program are to be classified as private data on individuals, pursuant to section 13.02, subdivision 12, with the following exceptions:

(1) When a party to the case has been formally charged with a criminal offense, the data are to be classified as public data on individuals, pursuant to section 13.02, subdivision 15.

(2) Data relating to suspected neglect or physical or sexual abuse of children or maltreatment of vulnerable adults are to be subject to the reporting requirements of ~~sections 626.556 and~~ section 626.557 and chapter 260A.

Sec. 13. Minnesota Statutes 2018, section 120B.22, subdivision 2, is amended to read:

Subd. 2. **In-service training.** Each district is encouraged to provide training for district staff and school board members on the following:

65.1 (1) helping students identify violence in the family and the community so that students
65.2 may learn to resolve conflicts in effective, nonviolent ways;

65.3 (2) responding to a disclosure of child sexual abuse in a supportive, appropriate manner;
65.4 and

65.5 (3) complying with mandatory reporting requirements under ~~section 626.556~~ chapter
65.6 260A.

65.7 The in-service training must be ongoing and involve experts familiar with sexual abuse,
65.8 domestic violence, and personal safety issues.

65.9 Sec. 14. Minnesota Statutes 2018, section 122A.20, subdivision 2, is amended to read:

65.10 Subd. 2. **Mandatory reporting.** (a) A school board must report to the Professional
65.11 Educator Licensing and Standards Board, the Board of School Administrators, or the Board
65.12 of Trustees of the Minnesota State Colleges and Universities, whichever has jurisdiction
65.13 over the teacher's or administrator's license, when its teacher or administrator is discharged
65.14 or resigns from employment after a charge is filed with the school board under section
65.15 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7, or after charges are filed that are
65.16 grounds for discharge under section 122A.40, subdivision 13, paragraph (a), clauses (1) to
65.17 (5), or when a teacher or administrator is suspended or resigns while an investigation is
65.18 pending under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5), or chapter
65.19 260A; or 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7; ~~or 626.556~~, or when a
65.20 teacher or administrator is suspended without an investigation under section 122A.41,
65.21 subdivisions 6, paragraph (a), clauses (1), (2), and (3), and 7; ~~or 626.556~~, or chapter 260A.
65.22 The report must be made to the appropriate licensing board within ten days after the
65.23 discharge, suspension, or resignation has occurred. The licensing board to which the report
65.24 is made must investigate the report for violation of subdivision 1 and the reporting board
65.25 must cooperate in the investigation. Notwithstanding any provision in chapter 13 or any
65.26 law to the contrary, upon written request from the licensing board having jurisdiction over
65.27 the license, a board or school superintendent shall provide the licensing board with
65.28 information about the teacher or administrator from the district's files, any termination or
65.29 disciplinary proceeding, any settlement or compromise, or any investigative file. Upon
65.30 written request from the appropriate licensing board, a board or school superintendent may,
65.31 at the discretion of the board or school superintendent, solicit the written consent of a student
65.32 and the student's parent to provide the licensing board with information that may aid the
65.33 licensing board in its investigation and license proceedings. The licensing board's request
65.34 need not identify a student or parent by name. The consent of the student and the student's

parent must meet the requirements of chapter 13 and Code of Federal Regulations, title 34, section 99.30. The licensing board may provide a consent form to the district. Any data transmitted to any board under this section is private data under section 13.02, subdivision 12, notwithstanding any other classification of the data when it was in the possession of any other agency.

(b) The licensing board to which a report is made must transmit to the Attorney General's Office any record or data it receives under this subdivision for the sole purpose of having the Attorney General's Office assist that board in its investigation. When the Attorney General's Office has informed an employee of the appropriate licensing board in writing that grounds exist to suspend or revoke a teacher's license to teach, that licensing board must consider suspending or revoking or decline to suspend or revoke the teacher's or administrator's license within 45 days of receiving a stipulation executed by the teacher or administrator under investigation or a recommendation from an administrative law judge that disciplinary action be taken.

(c) The Professional Educator Licensing and Standards Board and Board of School Administrators must report to the appropriate law enforcement authorities a revocation, suspension, or agreement involving a loss of license, relating to a teacher or administrator's inappropriate sexual conduct with a minor. For purposes of this section, "law enforcement authority" means a police department, county sheriff, or tribal police department. A report by the Professional Educator Licensing and Standards Board to appropriate law enforcement authorities does not diminish, modify, or otherwise affect the responsibilities of a school board or any person mandated to report abuse under ~~section 626.556~~ chapter 260A.

Sec. 15. Minnesota Statutes 2018, section 122A.40, subdivision 13, is amended to read:

Subd. 13. **Immediate discharge.** (a) Except as otherwise provided in paragraph (b), a board may discharge a continuing-contract teacher, effective immediately, upon any of the following grounds:

(1) immoral conduct, insubordination, or conviction of a felony;

(2) conduct unbecoming a teacher which requires the immediate removal of the teacher from classroom or other duties;

(3) failure without justifiable cause to teach without first securing the written release of the school board;

(4) gross inefficiency which the teacher has failed to correct after reasonable written notice;

67.1 (5) willful neglect of duty; or

67.2 (6) continuing physical or mental disability subsequent to a 12 months leave of absence
67.3 and inability to qualify for reinstatement in accordance with subdivision 12.

67.4 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair
67.5 discriminatory practice described in section 363A.13.

67.6 Prior to discharging a teacher under this paragraph, the board must notify the teacher in
67.7 writing and state its ground for the proposed discharge in reasonable detail. Within ten days
67.8 after receipt of this notification the teacher may make a written request for a hearing before
67.9 the board and it shall be granted before final action is taken. The board may suspend a
67.10 teacher with pay pending the conclusion of the hearing and determination of the issues
67.11 raised in the hearing after charges have been filed which constitute ground for discharge.
67.12 If a teacher has been charged with a felony and the underlying conduct that is the subject
67.13 of the felony charge is a ground for a proposed immediate discharge, the suspension pending
67.14 the conclusion of the hearing and determination of the issues may be without pay. If a
67.15 hearing under this paragraph is held, the board must reimburse the teacher for any salary
67.16 or compensation withheld if the final decision of the board or the arbitrator does not result
67.17 in a penalty to or suspension, termination, or discharge of the teacher.

67.18 (b) A board must discharge a continuing-contract teacher, effective immediately, upon
67.19 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
67.20 license has been revoked due to a conviction for child abuse, as defined in section 609.185;
67.21 sex trafficking in the first degree under section 609.322, subdivision 1; sex trafficking in
67.22 the second degree under section 609.322, subdivision 1a; engaging in hiring or agreeing to
67.23 hire a minor to engage in prostitution under section 609.324, subdivision 1; sexual abuse
67.24 under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23,
67.25 subdivision 3; solicitation of children to engage in sexual conduct or communication of
67.26 sexually explicit materials to children under section 609.352; interference with privacy
67.27 under section 609.746 or stalking under section 609.749 and the victim was a minor; using
67.28 minors in a sexual performance under section 617.246; possessing pornographic works
67.29 involving a minor under section 617.247; or any other offense not listed in this paragraph
67.30 that requires the person to register as a predatory offender under section 243.166, or a crime
67.31 under a similar law of another state or the United States.

67.32 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes
67.33 a final determination of child maltreatment involving a teacher under ~~section 626.556,~~
67.34 ~~subdivision 11,~~ sections 260A.40, subdivision 4, or 260A.87, the school principal or other

68.1 person having administrative control of the school must include in the teacher's employment
68.2 record the information contained in the record of the disciplinary action or the final
68.3 maltreatment determination, consistent with the definition of public data under section
68.4 13.41, subdivision 5, and must provide the Professional Educator Licensing and Standards
68.5 Board and the licensing division at the department with the necessary and relevant
68.6 information to enable the Professional Educator Licensing and Standards Board and the
68.7 department's licensing division to fulfill their statutory and administrative duties related to
68.8 issuing, renewing, suspending, or revoking a teacher's license. Information received by the
68.9 Professional Educator Licensing and Standards Board or the licensing division at the
68.10 department under this paragraph is governed by section 13.41 or other applicable law
68.11 governing data of the receiving entity. In addition to the background check required under
68.12 section 123B.03, a school board or other school hiring authority must contact the Professional
68.13 Educator Licensing and Standards Board and the department to determine whether the
68.14 teacher's license has been suspended or revoked, consistent with the discharge and final
68.15 maltreatment determinations identified in this paragraph. Unless restricted by federal or
68.16 state data practices law or by the terms of a collective bargaining agreement, the responsible
68.17 authority for a school district must disseminate to another school district private personnel
68.18 data on a current or former teacher employee or contractor of the district, including the
68.19 results of background investigations, if the requesting school district seeks the information
68.20 because the subject of the data has applied for employment with the requesting school
68.21 district.

68.22 Sec. 16. Minnesota Statutes 2018, section 122A.41, subdivision 6, is amended to read:

68.23 Subd. 6. **Grounds for discharge or demotion.** (a) Except as otherwise provided in
68.24 paragraph (b), causes for the discharge or demotion of a teacher either during or after the
68.25 probationary period must be:

68.26 (1) immoral character, conduct unbecoming a teacher, or insubordination;

68.27 (2) failure without justifiable cause to teach without first securing the written release of
68.28 the school board having the care, management, or control of the school in which the teacher
68.29 is employed;

68.30 (3) inefficiency in teaching or in the management of a school, consistent with subdivision
68.31 5, paragraph (b);

68.32 (4) affliction with a communicable disease must be considered as cause for removal or
68.33 suspension while the teacher is suffering from such disability; or

69.1 (5) discontinuance of position or lack of pupils.

69.2 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair
69.3 discriminatory practice described in section 363A.13.

69.4 (b) A probationary or continuing-contract teacher must be discharged immediately upon
69.5 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
69.6 license has been revoked due to a conviction for child abuse, as defined in section 609.185;
69.7 sex trafficking in the first degree under section 609.322, subdivision 1; sex trafficking in
69.8 the second degree under section 609.322, subdivision 1a; engaging in hiring or agreeing to
69.9 hire a minor to engage in prostitution under section 609.324, subdivision 1; sexual abuse
69.10 under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23,
69.11 subdivision 3; solicitation of children to engage in sexual conduct or communication of
69.12 sexually explicit materials to children under section 609.352; interference with privacy
69.13 under section 609.746 or stalking under section 609.749 and the victim was a minor; using
69.14 minors in a sexual performance under section 617.246; possessing pornographic works
69.15 involving a minor under section 617.247; or any other offense not listed in this paragraph
69.16 that requires the person to register as a predatory offender under section 243.166, or a crime
69.17 under a similar law of another state or the United States.

69.18 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes
69.19 a final determination of child maltreatment involving a teacher under ~~section 626.556,~~
69.20 ~~subdivision 11,~~ sections 260A.40, subdivision 4, or 260A.87, the school principal or other
69.21 person having administrative control of the school must include in the teacher's employment
69.22 record the information contained in the record of the disciplinary action or the final
69.23 maltreatment determination, consistent with the definition of public data under section
69.24 13.41, subdivision 5, and must provide the Professional Educator Licensing and Standards
69.25 Board and the licensing division at the department with the necessary and relevant
69.26 information to enable the Professional Educator Licensing and Standards Board and the
69.27 department's licensing division to fulfill their statutory and administrative duties related to
69.28 issuing, renewing, suspending, or revoking a teacher's license. Information received by the
69.29 Professional Educator Licensing and Standards Board or the licensing division at the
69.30 department under this paragraph is governed by section 13.41 or other applicable law
69.31 governing data of the receiving entity. In addition to the background check required under
69.32 section 123B.03, a school board or other school hiring authority must contact the Professional
69.33 Educator Licensing and Standards Board and the department to determine whether the
69.34 teacher's license has been suspended or revoked, consistent with the discharge and final
69.35 maltreatment determinations identified in this paragraph. Unless restricted by federal or

70.1 state data practices law or by the terms of a collective bargaining agreement, the responsible
70.2 authority for a school district must disseminate to another school district private personnel
70.3 data on a current or former teacher employee or contractor of the district, including the
70.4 results of background investigations, if the requesting school district seeks the information
70.5 because the subject of the data has applied for employment with the requesting school
70.6 district.

70.7 Sec. 17. Minnesota Statutes 2018, section 125A.0942, subdivision 4, is amended to read:

70.8 Subd. 4. **Prohibitions.** The following actions or procedures are prohibited:

70.9 (1) engaging in conduct prohibited under section 121A.58;

70.10 (2) requiring a child to assume and maintain a specified physical position, activity, or
70.11 posture that induces physical pain;

70.12 (3) totally or partially restricting a child's senses as punishment;

70.13 (4) presenting an intense sound, light, or other sensory stimuli using smell, taste,
70.14 substance, or spray as punishment;

70.15 (5) denying or restricting a child's access to equipment and devices such as walkers,
70.16 wheelchairs, hearing aids, and communication boards that facilitate the child's functioning,
70.17 except when temporarily removing the equipment or device is needed to prevent injury to
70.18 the child or others or serious damage to the equipment or device, in which case the equipment
70.19 or device shall be returned to the child as soon as possible;

70.20 (6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical
70.21 abuse under ~~section 626.556~~ chapter 260A;

70.22 (7) withholding regularly scheduled meals or water;

70.23 (8) denying access to bathroom facilities;

70.24 (9) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs
70.25 a child's ability to communicate distress, places pressure or weight on a child's head, throat,
70.26 neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's
70.27 torso; and

70.28 (10) prone restraint.

71.1 Sec. 18. Minnesota Statutes 2018, section 135A.15, subdivision 10, is amended to read:

71.2 Subd. 10. **Applicability of other laws.** This section does not exempt mandatory reporters
71.3 from the requirements of section ~~626.556~~ or 626.557 or chapter 260A governing the reporting
71.4 of maltreatment of minors or vulnerable adults. Nothing in this section limits the authority
71.5 of an institution to comply with other applicable state or federal laws related to investigations
71.6 or reports of sexual harassment, sexual violence, or sexual assault.

71.7 Sec. 19. Minnesota Statutes 2018, section 144.225, subdivision 2b, is amended to read:

71.8 Subd. 2b. **Commissioner of health; duties.** Notwithstanding the designation of certain
71.9 of this data as confidential under subdivision 2 or private under subdivision 2a, the
71.10 commissioner shall give the commissioner of human services access to birth record data
71.11 and data contained in recognitions of parentage prepared according to section 257.75
71.12 necessary to enable the commissioner of human services to identify a child who is subject
71.13 to threatened injury, as defined in section ~~626.556, subdivision 2, paragraph (p)~~ 260A.20,
71.14 subdivision 23, by a person responsible for the child's care, as defined in section ~~626.556,~~
71.15 ~~subdivision 2, paragraph (j), clause (1)~~ 260A.20, subdivision 16. The commissioner shall
71.16 be given access to all data included on official birth records.

71.17 Sec. 20. Minnesota Statutes 2018, section 144.343, subdivision 4, is amended to read:

71.18 Subd. 4. **Limitations.** No notice shall be required under this section if:

71.19 (1) the attending physician certifies in the pregnant woman's medical record that the
71.20 abortion is necessary to prevent the woman's death and there is insufficient time to provide
71.21 the required notice; or

71.22 (2) the abortion is authorized in writing by the person or persons who are entitled to
71.23 notice; or

71.24 (3) the pregnant minor woman declares that she is a victim of sexual abuse, neglect, or
71.25 physical abuse as defined in ~~section 626.556~~ chapter 260A. Notice of that declaration shall
71.26 be made to the proper authorities as provided in section ~~626.556, subdivision 3~~ 260A.23.

71.27 Sec. 21. Minnesota Statutes 2018, section 144.7065, subdivision 10, is amended to read:

71.28 Subd. 10. **Relation to other law; data classification.** (a) Adverse health events described
71.29 in subdivisions 2 to 6 do not constitute "maltreatment," "neglect," or "a physical injury that
71.30 is not reasonably explained" under section ~~626.556~~ or 626.557 or chapter 260A and are
71.31 excluded from the reporting requirements of ~~sections 626.556 and section 626.557~~ and

72.1 chapter 260A, provided the facility makes a determination within 24 hours of the discovery
72.2 of the event that this section is applicable and the facility files the reports required under
72.3 this section in a timely fashion.

72.4 (b) A facility that has determined that an event described in subdivisions 2 to 6 has
72.5 occurred must inform persons who are mandated reporters under section ~~626.556, subdivision~~
72.6 ~~3,~~ 260A.23 or 626.5572, subdivision 16, of that determination. A mandated reporter otherwise
72.7 required to report under section ~~626.556, subdivision 3,~~ 260A.23 or 626.557, subdivision
72.8 3, paragraph (e), is relieved of the duty to report an event that the facility determines under
72.9 paragraph (a) to be reportable under subdivisions 2 to 6.

72.10 (c) The protections and immunities applicable to voluntary reports under ~~sections 626.556~~
72.11 ~~and section 626.557 and chapter 260A~~ are not affected by this section.

72.12 (d) Notwithstanding section ~~626.556, 626.557, chapter 260A,~~ or any other provision of
72.13 Minnesota statute or rule to the contrary, a lead agency under section ~~626.556, subdivision~~
72.14 ~~3e~~ 260A.33, subdivision 1, paragraphs (a), (b), and (c), a lead investigative agency under
72.15 section 626.5572, subdivision 13, the commissioner of health, or the director of the Office
72.16 of Health Facility Complaints is not required to conduct an investigation of or obtain or
72.17 create investigative data or reports regarding an event described in subdivisions 2 to 6. If
72.18 the facility satisfies the requirements described in paragraph (a), the review or investigation
72.19 shall be conducted and data or reports shall be obtained or created only under sections
72.20 144.706 to 144.7069, except as permitted or required under sections 144.50 to 144.564, or
72.21 as necessary to carry out the state's certification responsibility under the provisions of
72.22 sections 1864 and 1867 of the Social Security Act. If a licensed health care provider reports
72.23 an event to the facility required to be reported under subdivisions 2 to 6 in a timely manner,
72.24 the provider's licensing board is not required to conduct an investigation of or obtain or
72.25 create investigative data or reports regarding the individual reporting of the events described
72.26 in subdivisions 2 to 6.

72.27 (e) Data contained in the following records are nonpublic and, to the extent they contain
72.28 data on individuals, confidential data on individuals, as defined in section 13.02:

72.29 (1) reports provided to the commissioner under sections 147.155, 147A.155, 148.267,
72.30 151.301, and 153.255;

72.31 (2) event reports, findings of root cause analyses, and corrective action plans filed by a
72.32 facility under this section; and

72.33 (3) records created or obtained by the commissioner in reviewing or investigating the
72.34 reports, findings, and plans described in clause (2).

73.1 For purposes of the nonpublic data classification contained in this paragraph, the reporting
73.2 facility shall be deemed the subject of the data.

73.3 Sec. 22. Minnesota Statutes 2018, section 144.7068, is amended to read:

73.4 **144.7068 REPORTS FROM LICENSING BOARDS.**

73.5 (a) Effective upon full implementation of the adverse health care events reporting system,
73.6 the records maintained under sections 147.155, 147A.155, 148.267, 151.301, and 153.255,
73.7 shall be reported to the commissioner on the schedule established in those sections.

73.8 (b) The commissioner shall forward these reports to the facility named in the report.

73.9 (c) The facility shall determine whether the event has been previously reported under
73.10 section 144.7065. The facility shall notify the commissioner whether the event has been
73.11 reported previously. If the event has not been previously reported, the facility shall make a
73.12 determination whether the event was reportable under section 144.7065. If the facility
73.13 determines the event was reportable, the date of discovery of the event for the purposes of
73.14 section 144.7065, subdivision 10, paragraph (d), shall be as follows:

73.15 (1) if the commissioner determines that the facility knew or reasonably should have
73.16 known about the occurrence of the event, the date the event occurred shall be the date of
73.17 discovery. The facility shall be considered out of compliance with the reporting act, and
73.18 the event shall be subject to ~~sections 626.556 and~~ section 626.557 and chapter 260A; or

73.19 (2) if the commissioner determines that the facility did not know about the occurrence
73.20 of the event, the date the facility receives the report from the commissioner shall serve as
73.21 the date of discovery.

73.22 If the facility determines that the event was not reportable under section 144.7065, the
73.23 facility shall notify the commissioner of that determination.

73.24 Sec. 23. Minnesota Statutes 2018, section 144A.472, subdivision 1, is amended to read:

73.25 Subdivision 1. **License applications.** Each application for a home care provider license
73.26 must include information sufficient to show that the applicant meets the requirements of
73.27 licensure, including:

73.28 (1) the applicant's name, e-mail address, physical address, and mailing address, including
73.29 the name of the county in which the applicant resides and has a principal place of business;

73.30 (2) the initial license fee in the amount specified in subdivision 7;

- 74.1 (3) the e-mail address, physical address, mailing address, and telephone number of the
74.2 principal administrative office;
- 74.3 (4) the e-mail address, physical address, mailing address, and telephone number of each
74.4 branch office, if any;
- 74.5 (5) the names, e-mail and mailing addresses, and telephone numbers of all owners and
74.6 managerial officials;
- 74.7 (6) documentation of compliance with the background study requirements of section
74.8 144A.476 for all persons involved in the management, operation, or control of the home
74.9 care provider;
- 74.10 (7) documentation of a background study as required by section 144.057 for any
74.11 individual seeking employment, paid or volunteer, with the home care provider;
- 74.12 (8) evidence of workers' compensation coverage as required by sections 176.181 and
74.13 176.182;
- 74.14 (9) documentation of liability coverage, if the provider has it;
- 74.15 (10) identification of the license level the provider is seeking;
- 74.16 (11) documentation that identifies the managerial official who is in charge of day-to-day
74.17 operations and attestation that the person has reviewed and understands the home care
74.18 provider regulations;
- 74.19 (12) documentation that the applicant has designated one or more owners, managerial
74.20 officials, or employees as an agent or agents, which shall not affect the legal responsibility
74.21 of any other owner or managerial official under this chapter;
- 74.22 (13) the signature of the officer or managing agent on behalf of an entity, corporation,
74.23 association, or unit of government;
- 74.24 (14) verification that the applicant has the following policies and procedures in place so
74.25 that if a license is issued, the applicant will implement the policies and procedures and keep
74.26 them current:
- 74.27 (i) requirements in ~~sections 626.556~~ chapter 260A, reporting of maltreatment of minors,
74.28 and section 626.557, reporting of maltreatment of vulnerable adults;
- 74.29 (ii) conducting and handling background studies on employees;
- 74.30 (iii) orientation, training, and competency evaluations of home care staff, and a process
74.31 for evaluating staff performance;

- 75.1 (iv) handling complaints from clients, family members, or client representatives regarding
75.2 staff or services provided by staff;
- 75.3 (v) conducting initial evaluation of clients' needs and the providers' ability to provide
75.4 those services;
- 75.5 (vi) conducting initial and ongoing client evaluations and assessments and how changes
75.6 in a client's condition are identified, managed, and communicated to staff and other health
75.7 care providers as appropriate;
- 75.8 (vii) orientation to and implementation of the home care client bill of rights;
- 75.9 (viii) infection control practices;
- 75.10 (ix) reminders for medications, treatments, or exercises, if provided; and
- 75.11 (x) conducting appropriate screenings, or documentation of prior screenings, to show
75.12 that staff are free of tuberculosis, consistent with current United States Centers for Disease
75.13 Control and Prevention standards; and
- 75.14 (15) other information required by the department.

75.15 Sec. 24. Minnesota Statutes 2018, section 144A.479, subdivision 6, is amended to read:

75.16 Subd. 6. **Reporting maltreatment of vulnerable adults and minors.** (a) All home care
75.17 providers must comply with requirements for the reporting of maltreatment of minors in
75.18 ~~section 626.556~~ chapter 260A and the requirements for the reporting of maltreatment of
75.19 vulnerable adults in section 626.557. Each home care provider must establish and implement
75.20 a written procedure to ensure that all cases of suspected maltreatment are reported.

75.21 (b) Each home care provider must develop and implement an individual abuse prevention
75.22 plan for each vulnerable minor or adult for whom home care services are provided by a
75.23 home care provider. The plan shall contain an individualized review or assessment of the
75.24 person's susceptibility to abuse by another individual, including other vulnerable adults or
75.25 minors; the person's risk of abusing other vulnerable adults or minors; and statements of
75.26 the specific measures to be taken to minimize the risk of abuse to that person and other
75.27 vulnerable adults or minors. For purposes of the abuse prevention plan, the term abuse
75.28 includes self-abuse.

75.29 Sec. 25. Minnesota Statutes 2018, section 144A.4796, subdivision 2, is amended to read:

75.30 Subd. 2. **Content.** (a) The orientation must contain the following topics:

75.31 (1) an overview of sections 144A.43 to 144A.4798;

(2) introduction and review of all the provider's policies and procedures related to the provision of home care services;

(3) handling of emergencies and use of emergency services;

(4) compliance with and reporting of the maltreatment of minors or vulnerable adults under ~~sections 626.556 and~~ section 626.557 and chapter 260A;

(5) home care bill of rights under section 144A.44;

(6) handling of clients' complaints, reporting of complaints, and where to report complaints including information on the Office of Health Facility Complaints and the Common Entry Point;

(7) consumer advocacy services of the Office of Ombudsman for Long-Term Care, Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care Ombudsman at the Department of Human Services, county managed care advocates, or other relevant advocacy services; and

(8) review of the types of home care services the employee will be providing and the provider's scope of licensure.

(b) In addition to the topics listed in paragraph (a), orientation may also contain training on providing services to clients with hearing loss. Any training on hearing loss provided under this subdivision must be high quality and research-based, may include online training, and must include training on one or more of the following topics:

(1) an explanation of age-related hearing loss and how it manifests itself, its prevalence, and challenges it poses to communication;

(2) health impacts related to untreated age-related hearing loss, such as increased incidence of dementia, falls, hospitalizations, isolation, and depression; or

(3) information about strategies and technology that may enhance communication and involvement, including communication strategies, assistive listening devices, hearing aids, visual and tactile alerting devices, communication access in real time, and closed captions.

Sec. 26. Minnesota Statutes 2018, section 144A.4796, subdivision 6, is amended to read:

Subd. 6. Required annual training. (a) All staff that perform direct home care services must complete at least eight hours of annual training for each 12 months of employment. The training may be obtained from the home care provider or another source and must include topics relevant to the provision of home care services. The annual training must include:

77.1 (1) training on reporting of maltreatment of minors under ~~section 626.556~~ chapter 260A
77.2 and maltreatment of vulnerable adults under section 626.557, whichever is applicable to
77.3 the services provided;

77.4 (2) review of the home care bill of rights in section 144A.44;

77.5 (3) review of infection control techniques used in the home and implementation of
77.6 infection control standards including a review of hand-washing techniques; the need for
77.7 and use of protective gloves, gowns, and masks; appropriate disposal of contaminated
77.8 materials and equipment, such as dressings, needles, syringes, and razor blades; disinfecting
77.9 reusable equipment; disinfecting environmental surfaces; and reporting of communicable
77.10 diseases; and

77.11 (4) review of the provider's policies and procedures relating to the provision of home
77.12 care services and how to implement those policies and procedures.

77.13 (b) In addition to the topics listed in paragraph (a), annual training may also contain
77.14 training on providing services to clients with hearing loss. Any training on hearing loss
77.15 provided under this subdivision must be high quality and research-based, may include online
77.16 training, and must include training on one or more of the following topics:

77.17 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,
77.18 and challenges it poses to communication;

77.19 (2) health impacts related to untreated age-related hearing loss, such as increased
77.20 incidence of dementia, falls, hospitalizations, isolation, and depression; or

77.21 (3) information about strategies and technology that may enhance communication and
77.22 involvement, including communication strategies, assistive listening devices, hearing aids,
77.23 visual and tactile alerting devices, communication access in real time, and closed captions.

77.24 Sec. 27. Minnesota Statutes 2018, section 144H.16, subdivision 1, is amended to read:

77.25 Subdivision 1. **Reporting of maltreatment of minors.** A PPEC center must develop
77.26 policies and procedures for reporting suspected child maltreatment that fulfill the
77.27 requirements of ~~section 626.556~~ chapter 260A. The policies and procedures must include
77.28 the telephone numbers of the local county child protection agency for reporting suspected
77.29 maltreatment. The policies and procedures specified in this subdivision must be provided
77.30 to the parents or guardians of all children at the time of admission to the PPEC center and
77.31 must be available upon request.

78.1 Sec. 28. Minnesota Statutes 2018, section 144H.18, subdivision 3, is amended to read:

78.2 Subd. 3. **Fines for violations of other statutes.** The commissioner shall impose a fine
78.3 of \$250 on a PPEC center, employee, or contractor for each violation by that PPEC center,
78.4 employee, or contractor of section 144H.16, subdivision 2, ~~or 626.556~~ or chapter 260A.

78.5 Sec. 29. Minnesota Statutes 2018, section 145.902, subdivision 3, is amended to read:

78.6 Subd. 3. **Immunity.** (a) A safe place with responsibility for performing duties under
78.7 this section, and any employee, doctor, ambulance personnel, or other medical professional
78.8 working at the safe place, are immune from any criminal liability that otherwise might result
78.9 from their actions, if they are acting in good faith in receiving a newborn, and are immune
78.10 from any civil liability that otherwise might result from merely receiving a newborn.

78.11 (b) A safe place performing duties under this section, or an employee, doctor, ambulance
78.12 personnel, or other medical professional working at the safe place who is a mandated reporter
78.13 under ~~section 626.556~~ chapter 260A, is immune from any criminal or civil liability that
78.14 otherwise might result from the failure to make a report under that section if the person is
78.15 acting in good faith in complying with this section.

78.16 Sec. 30. Minnesota Statutes 2018, section 145.952, subdivision 2, is amended to read:

78.17 Subd. 2. **Abuse.** "Abuse" means physical abuse, sexual abuse, neglect, mental injury,
78.18 and threatened injury, as those terms are defined in ~~section 626.556, subdivision 2~~ chapter
78.19 260A.

78.20 Sec. 31. Minnesota Statutes 2018, section 146A.025, is amended to read:

78.21 **146A.025 MALTREATMENT OF MINORS.**

78.22 Nothing in this chapter shall restrict the ability of a local welfare agency, local law
78.23 enforcement agency, the commissioner of human services, or the state to take action regarding
78.24 the maltreatment of minors under section 609.378 ~~or 626.556~~ or chapter 260A. A parent
78.25 who obtains complementary and alternative health care for the parent's minor child is not
78.26 relieved of the duty to seek necessary medical care consistent with the requirements of
78.27 ~~sections~~ section 609.378 and 626.556 and chapter 260A. A complementary or alternative
78.28 health care practitioner who is providing services to a child who is not receiving necessary
78.29 medical care must make a report under ~~section 626.556~~ chapter 260A. A complementary
78.30 or alternative health care provider is a mandated reporter under ~~section 626.556, subdivision~~
78.31 ~~3~~ 260A.23.

79.1 Sec. 32. Minnesota Statutes 2018, section 148B.593, is amended to read:

79.2 **148B.593 DISCLOSURE OF INFORMATION.**

79.3 (a) A person licensed under sections 148B.50 to 148B.593 may not disclose without
79.4 written consent of the client any communication made by the client to the licensee in the
79.5 course of the practice of professional counseling, nor may any employee of the licensee
79.6 reveal the information without the consent of the employer or client except as provided
79.7 under section ~~626.556~~ or 626.557 or chapter 260A.

79.8 (b) For purposes of sections 148B.50 to 148B.593, the confidential relations and
79.9 communications between the licensee and a client are placed upon the same basis as those
79.10 that exist between a licensed psychologist and client. Nothing in sections 148B.50 to
79.11 148B.593 may be construed to require any communications to be disclosed except by court
79.12 order.

79.13 Sec. 33. Minnesota Statutes 2018, section 148E.240, subdivision 7, is amended to read:

79.14 Subd. 7. **Reporting maltreatment of minors.** An applicant or licensee must comply
79.15 with the reporting of maltreatment of minors established by ~~section 626.556~~ chapter 260A.

79.16 Sec. 34. Minnesota Statutes 2018, section 148F.13, subdivision 12, is amended to read:

79.17 Subd. 12. **Abuse or neglect of minors or vulnerable adults.** An applicant or licensee
79.18 must comply with the reporting of maltreatment of minors established in ~~section 626.556~~
79.19 chapter 260A and the reporting of maltreatment of vulnerable adults established in section
79.20 626.557.

79.21 Sec. 35. Minnesota Statutes 2018, section 148F.205, subdivision 1, is amended to read:

79.22 Subdivision 1. **Mandatory reporting requirements.** A provider is required to file a
79.23 complaint when the provider knows or has reason to believe that another provider:

79.24 (1) is unable to practice with reasonable skill and safety as a result of a physical or mental
79.25 illness or condition, including, but not limited to, substance abuse or dependence, except
79.26 that this mandated reporting requirement is deemed fulfilled by a report made to the Health
79.27 Professionals Services Program (HPSP) as provided by section 214.33, subdivision 1;

79.28 (2) is engaging in or has engaged in sexual behavior with a client or former client in
79.29 violation of section 148F.165, subdivision 6 or 7;

79.30 (3) has failed to report abuse or neglect of children or vulnerable adults in violation of
79.31 section ~~626.556~~ or 626.557 or chapter 260A; or

80.1 (4) has employed fraud or deception in obtaining or renewing an alcohol and drug
80.2 counseling license.

80.3 Sec. 36. Minnesota Statutes 2018, section 153B.70, is amended to read:

80.4 **153B.70 GROUNDS FOR DISCIPLINARY ACTION.**

80.5 (a) The board may refuse to issue or renew a license, revoke or suspend a license, or
80.6 place on probation or reprimand a licensee for one or any combination of the following:

80.7 (1) making a material misstatement in furnishing information to the board;

80.8 (2) violating or intentionally disregarding the requirements of this chapter;

80.9 (3) conviction of a crime, including a finding or verdict of guilt, an admission of guilt,
80.10 or a no-contest plea, in this state or elsewhere, reasonably related to the practice of the
80.11 profession. Conviction, as used in this clause, includes a conviction of an offense which, if
80.12 committed in this state, would be deemed a felony, gross misdemeanor, or misdemeanor,
80.13 without regard to its designation elsewhere, or a criminal proceeding where a finding or
80.14 verdict of guilty is made or returned but the adjudication of guilt is either withheld or not
80.15 entered;

80.16 (4) making a misrepresentation in order to obtain or renew a license;

80.17 (5) displaying a pattern of practice or other behavior that demonstrates incapacity or
80.18 incompetence to practice;

80.19 (6) aiding or assisting another person in violating the provisions of this chapter;

80.20 (7) failing to provide information within 60 days in response to a written request from
80.21 the board, including documentation of completion of continuing education requirements;

80.22 (8) engaging in dishonorable, unethical, or unprofessional conduct;

80.23 (9) engaging in conduct of a character likely to deceive, defraud, or harm the public;

80.24 (10) inability to practice due to habitual intoxication, addiction to drugs, or mental or
80.25 physical illness;

80.26 (11) being disciplined by another state or territory of the United States, the federal
80.27 government, a national certification organization, or foreign nation, if at least one of the
80.28 grounds for the discipline is the same or substantially equivalent to one of the grounds in
80.29 this section;

81.1 (12) directly or indirectly giving to or receiving from a person, firm, corporation,
81.2 partnership, or association a fee, commission, rebate, or other form of compensation for
81.3 professional services not actually or personally rendered;

81.4 (13) incurring a finding by the board that the licensee, after the licensee has been placed
81.5 on probationary status, has violated the conditions of the probation;

81.6 (14) abandoning a patient or client;

81.7 (15) willfully making or filing false records or reports in the course of the licensee's
81.8 practice including, but not limited to, false records or reports filed with state or federal
81.9 agencies;

81.10 (16) willfully failing to report child maltreatment as required under the Maltreatment of
81.11 Minors Act, ~~section 626.556~~ chapter 260A; or

81.12 (17) soliciting professional services using false or misleading advertising.

81.13 (b) A license to practice is automatically suspended if (1) a guardian of a licensee is
81.14 appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other
81.15 than the minority of the licensee, or (2) the licensee is committed by order of a court pursuant
81.16 to chapter 253B. The license remains suspended until the licensee is restored to capacity
81.17 by a court and, upon petition by the licensee, the suspension is terminated by the board after
81.18 a hearing. The licensee may be reinstated to practice, either with or without restrictions, by
81.19 demonstrating clear and convincing evidence of rehabilitation. The regulated person is not
81.20 required to prove rehabilitation if the subsequent court decision overturns previous court
81.21 findings of public risk.

81.22 (c) If the board has probable cause to believe that a licensee or applicant has violated
81.23 paragraph (a), clause (10), it may direct the person to submit to a mental or physical
81.24 examination. For the purpose of this section, every person is deemed to have consented to
81.25 submit to a mental or physical examination when directed in writing by the board and to
81.26 have waived all objections to the admissibility of the examining physician's testimony or
81.27 examination report on the grounds that the testimony or report constitutes a privileged
81.28 communication. Failure of a regulated person to submit to an examination when directed
81.29 constitutes an admission of the allegations against the person, unless the failure was due to
81.30 circumstances beyond the person's control, in which case a default and final order may be
81.31 entered without the taking of testimony or presentation of evidence. A regulated person
81.32 affected under this paragraph shall at reasonable intervals be given an opportunity to
81.33 demonstrate that the person can resume the competent practice of the regulated profession
81.34 with reasonable skill and safety to the public. In any proceeding under this paragraph, neither

82.1 the record of proceedings nor the orders entered by the board shall be used against a regulated
82.2 person in any other proceeding.

82.3 (d) In addition to ordering a physical or mental examination, the board may,
82.4 notwithstanding section 13.384 or 144.293, or any other law limiting access to medical or
82.5 other health data, obtain medical data and health records relating to a licensee or applicant
82.6 without the person's or applicant's consent if the board has probable cause to believe that a
82.7 licensee is subject to paragraph (a), clause (10). The medical data may be requested from
82.8 a provider as defined in section 144.291, subdivision 2, paragraph (i), an insurance company,
82.9 or a government agency, including the Department of Human Services. A provider, insurance
82.10 company, or government agency shall comply with any written request of the board under
82.11 this section and is not liable in any action for damages for releasing the data requested by
82.12 the board if the data are released pursuant to a written request under this section, unless the
82.13 information is false and the provider giving the information knew, or had reason to know,
82.14 the information was false. Information obtained under this section is private data on
82.15 individuals as defined in section 13.02.

82.16 (e) If the board issues an order of immediate suspension of a license, a hearing must be
82.17 held within 30 days of the suspension and completed without delay.

82.18 Sec. 37. Minnesota Statutes 2018, section 214.103, subdivision 8, is amended to read:

82.19 Subd. 8. **Dismissal and reopening of a complaint.** (a) A complaint may not be dismissed
82.20 without the concurrence of at least two board members and, upon the request of the
82.21 complainant, a review by a representative of the attorney general's office. The designee of
82.22 the attorney general must review before dismissal any complaints which allege any violation
82.23 of chapter 609, any conduct which would be required to be reported under section ~~626.556~~
82.24 ~~or 626.557~~ or chapter 260A, any sexual contact or sexual conduct with a client, any violation
82.25 of a federal law, any actual or potential inability to practice the regulated profession or
82.26 occupation by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or
82.27 as a result of any mental or physical condition, any violation of state medical assistance
82.28 laws, or any disciplinary action related to credentialing in another jurisdiction or country
82.29 which was based on the same or related conduct specified in this subdivision.

82.30 (b) The board may reopen a dismissed complaint if the board receives newly discovered
82.31 information that was not available to the board during the initial investigation of the
82.32 complaint, or if the board receives a new complaint that indicates a pattern of behavior or
82.33 conduct.

83.1 Sec. 38. Minnesota Statutes 2018, section 214.104, is amended to read:

83.2 **214.104 HEALTH-RELATED LICENSING BOARDS; SUBSTANTIATED**
83.3 **MALTREATMENT.**

83.4 (a) A health-related licensing board shall make determinations as to whether regulated
83.5 persons who are under the board's jurisdiction should be the subject of disciplinary or
83.6 corrective action because of substantiated maltreatment under section ~~626.556~~ or 626.557
83.7 or chapter 260A. The board shall make a determination upon receipt, and after the review,
83.8 of an investigation memorandum or other notice of substantiated maltreatment under section
83.9 ~~626.556~~ or 626.557, chapter 260A, or of a notice from the commissioner of human services
83.10 that a background study of a regulated person shows substantiated maltreatment.

83.11 (b) Upon completion of its review of a report of substantiated maltreatment, the board
83.12 shall notify the commissioner of human services of its determination. The board shall notify
83.13 the commissioner of human services if, following a review of the report of substantiated
83.14 maltreatment, the board determines that it does not have jurisdiction in the matter and the
83.15 commissioner shall make the appropriate disqualification decision regarding the regulated
83.16 person as otherwise provided in chapter 245C. The board shall also notify the commissioner
83.17 of health or the commissioner of human services immediately upon receipt of knowledge
83.18 of a facility or program allowing a regulated person to provide direct contact services at the
83.19 facility or program while not complying with requirements placed on the regulated person.

83.20 (c) In addition to any other remedy provided by law, the board may, through its designated
83.21 board member, temporarily suspend the license of a licensee; deny a credential to an
83.22 applicant; or require the regulated person to be continuously supervised, if the board finds
83.23 there is probable cause to believe the regulated person referred to the board according to
83.24 paragraph (a) poses an immediate risk of harm to vulnerable persons. The board shall
83.25 consider all relevant information available, which may include but is not limited to:

83.26 (1) the extent the action is needed to protect persons receiving services or the public;

83.27 (2) the recency of the maltreatment;

83.28 (3) the number of incidents of maltreatment;

83.29 (4) the intrusiveness or violence of the maltreatment; and

83.30 (5) the vulnerability of the victim of maltreatment.

83.31 The action shall take effect upon written notice to the regulated person, served by certified
83.32 mail, specifying the statute violated. The board shall notify the commissioner of health or
83.33 the commissioner of human services of the suspension or denial of a credential. The action

84.1 shall remain in effect until the board issues a temporary stay or a final order in the matter
84.2 after a hearing or upon agreement between the board and the regulated person. At the time
84.3 the board issues the notice, the regulated person shall inform the board of all settings in
84.4 which the regulated person is employed or practices. The board shall inform all known
84.5 employment and practice settings of the board action and schedule a disciplinary hearing
84.6 to be held under chapter 14. The board shall provide the regulated person with at least 30
84.7 days' notice of the hearing, unless the parties agree to a hearing date that provides less than
84.8 30 days' notice, and shall schedule the hearing to begin no later than 90 days after issuance
84.9 of the notice of hearing.

84.10 Sec. 39. Minnesota Statutes 2018, section 243.166, subdivision 7, is amended to read:

84.11 Subd. 7. **Use of data.** (a) Except as otherwise provided in subdivision 7a or sections
84.12 244.052 and 299C.093, the data provided under this section is private data on individuals
84.13 under section 13.02, subdivision 12.

84.14 (b) The data may be used only by law enforcement and corrections agencies for law
84.15 enforcement and corrections purposes. Law enforcement may disclose the status of an
84.16 individual as a predatory offender to a child protection worker with a local welfare agency
84.17 for purposes of doing a family assessment under ~~section 626.556~~ chapter 260A.

84.18 (c) The commissioner of human services is authorized to have access to the data for:

84.19 (1) state-operated services, as defined in section 246.014, for the purposes described in
84.20 section 246.13, subdivision 2, paragraph (b); and

84.21 (2) purposes of completing background studies under chapter 245C.

84.22 Sec. 40. Minnesota Statutes 2018, section 245.8261, subdivision 9, is amended to read:

84.23 Subd. 9. **Conditions on use of restrictive procedures.** Restrictive procedures must not:

84.24 (1) be implemented with a child in a manner that constitutes sexual abuse, neglect, or
84.25 physical abuse under ~~section 626.556~~ chapter 260A, the reporting of maltreatment of minors;

84.26 (2) restrict a child's normal access to a nutritious diet, drinking water, adequate ventilation,
84.27 necessary medical care, ordinary hygiene facilities, or necessary clothing or to any protection
84.28 required by state licensing standards and federal regulations governing the program;

84.29 (3) be used as punishment or for the convenience of staff; or

84.30 (4) deny the child visitation or contact with legal counsel and next of kin.

85.1 Sec. 41. Minnesota Statutes 2018, section 245A.04, subdivision 5, is amended to read:

85.2 Subd. 5. **Commissioner's right of access.** (a) When the commissioner is exercising the
85.3 powers conferred by this chapter ~~and~~² sections 245.69, ~~626.556~~, and 626.557, and chapter
85.4 260A, the commissioner must be given access to:

85.5 (1) the physical plant and grounds where the program is provided;

85.6 (2) documents and records, including records maintained in electronic format;

85.7 (3) persons served by the program; and

85.8 (4) staff and personnel records of current and former staff whenever the program is in
85.9 operation and the information is relevant to inspections or investigations conducted by the
85.10 commissioner. Upon request, the license holder must provide the commissioner verification
85.11 of documentation of staff work experience, training, or educational requirements.

85.12 The commissioner must be given access without prior notice and as often as the
85.13 commissioner considers necessary if the commissioner is investigating alleged maltreatment,
85.14 conducting a licensing inspection, or investigating an alleged violation of applicable laws
85.15 or rules. In conducting inspections, the commissioner may request and shall receive assistance
85.16 from other state, county, and municipal governmental agencies and departments. The
85.17 applicant or license holder shall allow the commissioner to photocopy, photograph, and
85.18 make audio and video tape recordings during the inspection of the program at the
85.19 commissioner's expense. The commissioner shall obtain a court order or the consent of the
85.20 subject of the records or the parents or legal guardian of the subject before photocopying
85.21 hospital medical records.

85.22 (b) Persons served by the program have the right to refuse to consent to be interviewed,
85.23 photographed, or audio or videotaped. Failure or refusal of an applicant or license holder
85.24 to fully comply with this subdivision is reasonable cause for the commissioner to deny the
85.25 application or immediately suspend or revoke the license.

85.26 Sec. 42. Minnesota Statutes 2018, section 245A.06, subdivision 8, is amended to read:

85.27 Subd. 8. **Requirement to post conditional license.** For licensed family child care
85.28 providers and child care centers, upon receipt of any order of conditional license issued by
85.29 the commissioner under this section, and notwithstanding a pending request for
85.30 reconsideration of the order of conditional license by the license holder, the license holder
85.31 shall post the order of conditional license in a place that is conspicuous to the people receiving
85.32 services and all visitors to the facility for two years. When the order of conditional license
85.33 is accompanied by a maltreatment investigation memorandum prepared under section

86.1 ~~626.556 or~~ 626.557 or chapter 260A, the investigation memoranda must be posted with the
86.2 order of conditional license.

86.3 Sec. 43. Minnesota Statutes 2018, section 245A.07, subdivision 3, is amended to read:

86.4 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend
86.5 or revoke a license, or impose a fine if:

86.6 (1) a license holder fails to comply fully with applicable laws or rules;

86.7 (2) a license holder, a controlling individual, or an individual living in the household
86.8 where the licensed services are provided or is otherwise subject to a background study has
86.9 a disqualification which has not been set aside under section 245C.22;

86.10 (3) a license holder knowingly withholds relevant information from or gives false or
86.11 misleading information to the commissioner in connection with an application for a license,
86.12 in connection with the background study status of an individual, during an investigation,
86.13 or regarding compliance with applicable laws or rules; or

86.14 (4) after July 1, 2012, and upon request by the commissioner, a license holder fails to
86.15 submit the information required of an applicant under section 245A.04, subdivision 1,
86.16 paragraph (f) or (g).

86.17 A license holder who has had a license suspended, revoked, or has been ordered to pay
86.18 a fine must be given notice of the action by certified mail or personal service. If mailed, the
86.19 notice must be mailed to the address shown on the application or the last known address of
86.20 the license holder. The notice must state in plain language the reasons the license was
86.21 suspended or revoked, or a fine was ordered.

86.22 (b) If the license was suspended or revoked, the notice must inform the license holder
86.23 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
86.24 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
86.25 a license. The appeal of an order suspending or revoking a license must be made in writing
86.26 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
86.27 the commissioner within ten calendar days after the license holder receives notice that the
86.28 license has been suspended or revoked. If a request is made by personal service, it must be
86.29 received by the commissioner within ten calendar days after the license holder received the
86.30 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a
86.31 timely appeal of an order suspending or revoking a license, the license holder may continue
86.32 to operate the program as provided in section 245A.04, subdivision 7, paragraphs (g) and
86.33 (h), until the commissioner issues a final order on the suspension or revocation.

(c)(1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an order to pay a fine must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order.

(2) The license holder shall pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(3) A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail or personal service that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows:

(i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under ~~section 626.556~~ chapter 260A or the maltreatment of a vulnerable adult under section 626.557 for which the license holder is determined responsible for the maltreatment under ~~section 626.556, subdivision 10e, paragraph (i),~~ 260A.52, subdivision 4, paragraphs (a) and (b), or 626.557, subdivision 9c, paragraph (c);

(ii) if the commissioner determines that a determination of maltreatment for which the license holder is responsible is the result of maltreatment that meets the definition of serious maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit \$5,000;

(iii) for a program that operates out of the license holder's home and a program licensed under Minnesota Rules, parts 9502.0300 to ~~9502.0495~~ 9502.0445, the fine assessed against the license holder shall not exceed \$1,000 for each determination of maltreatment;

88.1 (iv) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule
88.2 governing matters of health, safety, or supervision, including but not limited to the provision
88.3 of adequate staff-to-child or adult ratios, and failure to comply with background study
88.4 requirements under chapter 245C; and

88.5 (v) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule
88.6 other than those subject to a \$5,000, \$1,000, or \$200 fine in items (i) to (iv).

88.7 For purposes of this section, "occurrence" means each violation identified in the
88.8 commissioner's fine order. Fines assessed against a license holder that holds a license to
88.9 provide home and community-based services, as identified in section 245D.03, subdivision
88.10 1, and a community residential setting or day services facility license under chapter 245D
88.11 where the services are provided, may be assessed against both licenses for the same
88.12 occurrence, but the combined amount of the fines shall not exceed the amount specified in
88.13 this clause for that occurrence.

88.14 (5) When a fine has been assessed, the license holder may not avoid payment by closing,
88.15 selling, or otherwise transferring the licensed program to a third party. In such an event, the
88.16 license holder will be personally liable for payment. In the case of a corporation, each
88.17 controlling individual is personally and jointly liable for payment.

88.18 (d) Except for background study violations involving the failure to comply with an order
88.19 to immediately remove an individual or an order to provide continuous, direct supervision,
88.20 the commissioner shall not issue a fine under paragraph (c) relating to a background study
88.21 violation to a license holder who self-corrects a background study violation before the
88.22 commissioner discovers the violation. A license holder who has previously exercised the
88.23 provisions of this paragraph to avoid a fine for a background study violation may not avoid
88.24 a fine for a subsequent background study violation unless at least 365 days have passed
88.25 since the license holder self-corrected the earlier background study violation.

88.26 Sec. 44. Minnesota Statutes 2018, section 245A.07, subdivision 5, is amended to read:

88.27 Subd. 5. **Requirement to post licensing order or fine.** For licensed family child care
88.28 providers and child care centers, upon receipt of any order of license suspension, temporary
88.29 immediate suspension, fine, or revocation issued by the commissioner under this section,
88.30 and notwithstanding a pending appeal of the order of license suspension, temporary
88.31 immediate suspension, fine, or revocation by the license holder, the license holder shall
88.32 post the order of license suspension, temporary immediate suspension, fine, or revocation
88.33 in a place that is conspicuous to the people receiving services and all visitors to the facility
88.34 for two years. When the order of license suspension, temporary immediate suspension, fine,

or revocation is accompanied by a maltreatment investigation memorandum prepared under section ~~626.556~~ or 626.557 or chapter 260A, the investigation memoranda must be posted with the order of license suspension, temporary immediate suspension, fine, or revocation.

Sec. 45. Minnesota Statutes 2018, section 245A.08, subdivision 2a, is amended to read:

Subd. 2a. **Consolidated contested case hearings.** (a) When a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, subdivision 3, is based on a disqualification for which reconsideration was timely requested and which was not set aside under section 245C.22, the scope of the contested case hearing shall include the disqualification and the licensing sanction or denial of a license, unless otherwise specified in this subdivision. When the licensing sanction or denial of a license is based on a determination of maltreatment under section ~~626.556~~ or 626.557 or chapter 260A, or a disqualification for serious or recurring maltreatment which was not set aside, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and the licensing sanction or denial of a license, unless otherwise specified in this subdivision. In such cases, a fair hearing under section 256.045 shall not be conducted as provided for in sections 245C.27, ~~626.556, subdivision 10;~~ 260A.85, and 626.557, subdivision 9d.

(b) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections ~~626.556, subdivision 10;~~ 260A.85 and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted when:

(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 is 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. In these cases, a fair hearing shall not be conducted under sections 245C.27, ~~626.556, subdivision 10;~~ 260A.85, and 626.557, subdivision 9d. The scope of the contested case hearing must include the maltreatment determination, 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

90.1 ~~626.556, subdivision 10i, 260A.85~~ and 626.557, subdivision 9d, and reconsideration of the
90.2 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall
90.3 also be conducted as provided under sections 245C.27, ~~626.556, subdivision 10i 260A.85,~~
90.4 and 626.557, subdivision 9d.

90.5 (c) In consolidated contested case hearings regarding sanctions issued in family child
90.6 care, child foster care, family adult day services, adult foster care, and community residential
90.7 settings, the county attorney shall defend the commissioner's orders in accordance with
90.8 section 245A.16, subdivision 4.

90.9 (d) The commissioner's final order under subdivision 5 is the final agency action on the
90.10 issue of maltreatment and disqualification, including for purposes of subsequent background
90.11 studies under chapter 245C and is the only administrative appeal of the final agency
90.12 determination, specifically, including a challenge to the accuracy and completeness of data
90.13 under section 13.04.

90.14 (e) When consolidated hearings under this subdivision involve a licensing sanction based
90.15 on a previous maltreatment determination for which the commissioner has issued a final
90.16 order in an appeal of that determination under section 256.045, or the individual failed to
90.17 exercise the right to appeal the previous maltreatment determination under section ~~626.556,~~
90.18 ~~subdivision 10i, 260A.85~~ or 626.557, subdivision 9d, the commissioner's order is conclusive
90.19 on the issue of maltreatment. In such cases, the scope of the administrative law judge's
90.20 review shall be limited to the disqualification and the licensing sanction or denial of a license.
90.21 In the case of a denial of a license or a licensing sanction issued to a facility based on a
90.22 maltreatment determination regarding an individual who is not the license holder or a
90.23 household member, the scope of the administrative law judge's review includes the
90.24 maltreatment determination.

90.25 (f) The hearings of all parties may be consolidated into a single contested case hearing
90.26 upon consent of all parties and the administrative law judge, if:

90.27 (1) a maltreatment determination or disqualification, which was not set aside under
90.28 section 245C.22, is the basis for a denial of a license under section 245A.05 or a licensing
90.29 sanction under section 245A.07;

90.30 (2) the disqualified subject is an individual other than the license holder and upon whom
90.31 a background study must be conducted under section 245C.03; and

90.32 (3) the individual has a hearing right under section 245C.27.

(g) When a denial of a license under section 245A.05 or a licensing sanction under section 245A.07 is based on a disqualification for which reconsideration was requested and was not set aside under section 245C.22, and the individual otherwise has no hearing right under section 245C.27, the scope of the administrative law judge's review shall include the denial or sanction and a determination whether the disqualification should be set aside, unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether the disqualification should be set aside, the administrative law judge shall consider the factors under section 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any person receiving services from the license holder.

(h) Notwithstanding section 245C.30, subdivision 5, when a licensing sanction under section 245A.07 is based on the termination of a variance under section 245C.30, subdivision 4, the scope of the administrative law judge's review shall include the sanction and a determination whether the disqualification should be set aside, unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether the disqualification should be set aside, the administrative law judge shall consider the factors under section 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any person receiving services from the license holder.

Sec. 46. Minnesota Statutes 2018, section 245A.085, is amended to read:

245A.085 CONSOLIDATION OF HEARINGS; RECONSIDERATION.

Hearings authorized under this chapter, ~~chapter 245C, and sections 256.045, 256B.04, 626.556, and 626.557, and chapters 245C and 260A,~~ shall be consolidated if feasible and in accordance with other applicable statutes and rules. Reconsideration under sections 245C.28; ~~626.556, subdivision 10;~~ 260A.85; and 626.557, subdivision 9d, shall also be consolidated if feasible.

Sec. 47. Minnesota Statutes 2018, section 245A.11, subdivision 7b, is amended to read:

Subd. 7b. **Adult foster care data privacy and security.** (a) An adult foster care or community residential setting license holder who creates, collects, records, maintains, stores, or discloses any individually identifiable recipient data, whether in an electronic or any other format, must comply with the privacy and security provisions of applicable privacy laws and regulations, including:

(1) the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-1; and the HIPAA Privacy Rule, Code of Federal Regulations, title 45, part 160, and subparts A and E of part 164; and

92.1 (2) the Minnesota Government Data Practices Act as codified in chapter 13.

92.2 (b) For purposes of licensure, the license holder shall be monitored for compliance with
92.3 the following data privacy and security provisions:

92.4 (1) the license holder must control access to data on residents served by the program
92.5 according to the definitions of public and private data on individuals under section 13.02;
92.6 classification of the data on individuals as private under section 13.46, subdivision 2; and
92.7 control over the collection, storage, use, access, protection, and contracting related to data
92.8 according to section 13.05, in which the license holder is assigned the duties of a government
92.9 entity;

92.10 (2) the license holder must provide each resident served by the program with a notice
92.11 that meets the requirements under section 13.04, in which the license holder is assigned the
92.12 duties of the government entity, and that meets the requirements of Code of Federal
92.13 Regulations, title 45, part 164.52. The notice shall describe the purpose for collection of
92.14 the data, and to whom and why it may be disclosed pursuant to law. The notice must inform
92.15 the individual that the license holder uses electronic monitoring and, if applicable, that
92.16 recording technology is used;

92.17 (3) the license holder must not install monitoring cameras in bathrooms;

92.18 (4) electronic monitoring cameras must not be concealed from the residents served by
92.19 the program; and

92.20 (5) electronic video and audio recordings of residents served by the program shall be
92.21 stored by the license holder for five days unless: (i) a resident served by the program or
92.22 legal representative requests that the recording be held longer based on a specific report of
92.23 alleged maltreatment; or (ii) the recording captures an incident or event of alleged
92.24 maltreatment under section ~~626.556~~ or 626.557 or chapter 260A or a crime under chapter
92.25 609. When requested by a resident served by the program or when a recording captures an
92.26 incident or event of alleged maltreatment or a crime, the license holder must maintain the
92.27 recording in a secured area for no longer than 30 days to give the investigating agency an
92.28 opportunity to make a copy of the recording. The investigating agency will maintain the
92.29 electronic video or audio recordings as required in section 626.557, subdivision 12b.

92.30 (c) The commissioner shall develop, and make available to license holders and county
92.31 licensing workers, a checklist of the data privacy provisions to be monitored for purposes
92.32 of licensure.

93.1 Sec. 48. Minnesota Statutes 2018, section 245A.145, subdivision 1, is amended to read:

93.2 Subdivision 1. **Policies and procedures.** (a) All licensed child care providers must
93.3 develop policies and procedures for reporting suspected child maltreatment that fulfill the
93.4 requirements in ~~section 626.556~~ chapter 260A and must develop policies and procedures
93.5 for reporting complaints about the operation of a child care program. The policies and
93.6 procedures must include the telephone numbers of the local county child protection agency
93.7 for reporting suspected maltreatment; the county licensing agency for family and group
93.8 family child care providers; and the state licensing agency for child care centers.

93.9 (b) The policies and procedures required in paragraph (a) must:

93.10 (1) be provided to the parents of all children at the time of enrollment in the child care
93.11 program; and

93.12 (2) be made available upon request.

93.13 Sec. 49. Minnesota Statutes 2018, section 245A.40, subdivision 1, is amended to read:

93.14 Subdivision 1. **Orientation.** The child care center license holder must ensure that every
93.15 staff person and volunteer is given orientation training and successfully completes the
93.16 training before starting assigned duties. The orientation training in this subdivision applies
93.17 to volunteers who will have direct contact with or access to children and who are not under
93.18 the direct supervision of a staff person. Completion of the orientation must be documented
93.19 in the individual's personnel record. The orientation training must include information about:

93.20 (1) the center's philosophy, child care program, and procedures for maintaining health
93.21 and safety according to section 245A.41 and Minnesota Rules, part 9503.0140, and handling
93.22 emergencies and accidents according to Minnesota Rules, part 9503.0110;

93.23 (2) specific job responsibilities;

93.24 (3) the behavior guidance standards in Minnesota Rules, part 9503.0055; and

93.25 (4) the reporting responsibilities in ~~section 626.556~~, chapter 260A and Minnesota Rules,
93.26 part 9503.0130.

93.27 Sec. 50. Minnesota Statutes 2018, section 245A.66, subdivision 3, is amended to read:

93.28 Subd. 3. **Orientation to risk reduction plan and annual review of plan.** (a) The license
93.29 holder shall ensure that all mandated reporters, as defined in section ~~626.556~~, subdivision
93.30 3 260A.23, who are under the control of the license holder, receive an orientation to the
93.31 risk reduction plan prior to first providing unsupervised direct contact services, as defined

in section 245C.02, subdivision 11, to children, not to exceed 14 days from the first supervised direct contact, and annually thereafter. The license holder must document the orientation to the risk reduction plan in the mandated reporter's personnel records.

(b) The license holder must review the risk reduction plan annually and document the annual review. When conducting the review, the license holder must consider incidents that have occurred in the center since the last review, including:

(1) the assessment factors in the plan;

(2) the internal reviews conducted under this section, if any;

(3) substantiated maltreatment findings, if any; and

(4) incidents that caused injury or harm to a child, if any, that occurred since the last review.

Following any change to the risk reduction plan, the license holder must inform mandated reporters, under the control of the license holder, of the changes in the risk reduction plan, and document that the mandated reporters were informed of the changes.

Sec. 51. Minnesota Statutes 2018, section 245C.05, subdivision 6, is amended to read:

Subd. 6. **Applicant, license holder, other entities, and agencies.** (a) The applicant, license holder, other entities as provided in this chapter, Bureau of Criminal Apprehension, law enforcement agencies, commissioner of health, and county agencies shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors substantiated under ~~section 626.556~~ chapter 260A.

(b) If a background study is initiated by an applicant, license holder, or other entities as provided in this chapter, and the applicant, license holder, or other entity receives information about the possible criminal or maltreatment history of an individual who is the subject of the background study, the applicant, license holder, or other entity must immediately provide the information to the commissioner.

(c) The program or county or other agency must provide written notice to the individual who is the subject of the background study of the requirements under this subdivision.

Sec. 52. Minnesota Statutes 2018, section 245C.15, subdivision 4, is amended to read:

Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed,

if any, for the offense; and (2) the individual has committed a misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (fraud); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.293 (harmful materials; dissemination and display to minors prohibited); or Minnesota Statutes 2012, section 609.21; or violation of an order for protection under section 518B.01 (Domestic Abuse Act).

(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section ~~626.556, subdivision 3~~, 260A.23 or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section ~~626.556~~ or 626.557 or chapter 260A was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) substantiated serious or recurring maltreatment of a minor under section ~~626.556~~, chapter 260A, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under section ~~626.556~~ or 626.557 or chapter 260A for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

(c) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes.

(d) An individual is disqualified under section 245C.14 if less than seven years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraphs (a) and (b).

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

(f) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual was disqualified under section 256.98, subdivision 8.

Sec. 53. Minnesota Statutes 2018, section 245C.16, subdivision 1, is amended to read:

Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people receiving services.

(b) The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm:

(1) the recency of the disqualifying characteristic;

(2) the recency of discharge from probation for the crimes;

(3) the number of disqualifying characteristics;

(4) the intrusiveness or violence of the disqualifying characteristic;

(5) the vulnerability of the victim involved in the disqualifying characteristic;

(6) the similarity of the victim to the persons served by the program where the individual studied will have direct contact;

(7) whether the individual has a disqualification from a previous background study that has not been set aside; and

(8) if the individual has a disqualification which may not be set aside because it is a permanent bar under section 245C.24, subdivision 1, or the individual is a child care background study subject who has a felony-level conviction for a drug-related offense in the last five years, the commissioner may order the immediate removal of the individual from any position allowing direct contact with, or access to, persons receiving services from the program.

(c) This section does not apply when the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the subject is determined to be responsible for substantiated maltreatment under section ~~626.556~~ or 626.557 or chapter 260A.

(d) This section does not apply to a background study related to an initial application for a child foster care license.

(e) Except for paragraph (f), this section does not apply to a background study that is also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for a personal care assistant or a qualified professional as defined in section 256B.0659, subdivision 1.

(f) If the commissioner has reason to believe, based on arrest information or an active maltreatment investigation, that an individual poses an imminent risk of harm to persons receiving services, the commissioner may order that the person be continuously supervised or immediately removed pending the conclusion of the maltreatment investigation or criminal proceedings.

Sec. 54. Minnesota Statutes 2018, section 245C.17, subdivision 3, is amended to read:

Subd. 3. Disqualification notification. (a) The commissioner shall notify an applicant, license holder, or other entity as provided in this chapter who is not the subject of the study:

(1) that the commissioner has found information that disqualifies the individual studied from being in a position allowing direct contact with, or access to, people served by the program; and

(2) the commissioner's determination of the individual's risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people served by the program, the

98.1 commissioner shall order the license holder to immediately remove the individual studied
98.2 from any position allowing direct contact with, or access to, people served by the program.

98.3 (c) If the commissioner determines under section 245C.16 that an individual studied
98.4 poses a risk of harm that requires continuous, direct supervision, the commissioner shall
98.5 order the applicant, license holder, or other entities as provided in this chapter to:

98.6 (1) immediately remove the individual studied from any position allowing direct contact
98.7 with, or access to, people receiving services; or

98.8 (2) before allowing the disqualified individual to be in a position allowing direct contact
98.9 with, or access to, people receiving services, the applicant, license holder, or other entity,
98.10 as provided in this chapter, must:

98.11 (i) obtain from the disqualified individual a copy of the individual's notice of
98.12 disqualification from the commissioner that explains the reason for disqualification;

98.13 (ii) ensure that the individual studied is under continuous, direct supervision when in a
98.14 position allowing direct contact with, or access to, people receiving services during the
98.15 period in which the individual may request a reconsideration of the disqualification under
98.16 section 245C.21; and

98.17 (iii) ensure that the disqualified individual requests reconsideration within 30 days of
98.18 receipt of the notice of disqualification.

98.19 (d) If the commissioner determines under section 245C.16 that an individual studied
98.20 does not pose a risk of harm that requires continuous, direct supervision, the commissioner
98.21 shall order the applicant, license holder, or other entities as provided in this chapter to:

98.22 (1) immediately remove the individual studied from any position allowing direct contact
98.23 with, or access to, people receiving services; or

98.24 (2) before allowing the disqualified individual to be in any position allowing direct
98.25 contact with, or access to, people receiving services, the applicant, license holder, or other
98.26 entity as provided in this chapter must:

98.27 (i) obtain from the disqualified individual a copy of the individual's notice of
98.28 disqualification from the commissioner that explains the reason for disqualification; and

98.29 (ii) ensure that the disqualified individual requests reconsideration within 15 days of
98.30 receipt of the notice of disqualification.

(e) The commissioner shall not notify the applicant, license holder, or other entity as provided in this chapter of the information contained in the subject's background study unless:

(1) the basis for the disqualification is failure to cooperate with the background study or substantiated maltreatment under section ~~626.556~~ or 626.557 or chapter 260A;

(2) the Data Practices Act under chapter 13 provides for release of the information; or

(3) the individual studied authorizes the release of the information.

Sec. 55. Minnesota Statutes 2018, section 245C.21, subdivision 2, is amended to read:

Subd. 2. Time frame for requesting reconsideration. (a) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (1) or (2), the disqualified individual must submit the request for a reconsideration within 30 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 30 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 30 calendar days after the individual's receipt of the notice of disqualification. Upon showing that the information under subdivision 3 cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain the information.

(b) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (3), the disqualified individual must submit the request for reconsideration within 15 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 15 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 15 calendar days after the individual's receipt of the notice of disqualification.

(c) An individual who was determined to have maltreated a child under ~~section 626.556~~ chapter 260A or a vulnerable adult under section 626.557, and who is disqualified on the basis of serious or recurring maltreatment, may request a reconsideration of both the maltreatment and the disqualification determinations. The request must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 30

calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 30 calendar days after the individual's receipt of the notice of disqualification.

(d) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections ~~626.556, subdivision 10i~~, 260A.85 and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted when:

(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, disqualification, and denial of a license or licensing sanction. In such cases, a fair hearing under section 256.045 must not be conducted under sections 245C.27, ~~626.556, subdivision 10i~~, 260A.85, and 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the maltreatment determination, 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~~, 260A.85 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~~, 260A.85, and 626.557, subdivision 9d.

Sec. 56. Minnesota Statutes 2018, section 245C.24, subdivision 4, is amended to read:

Subd. 4. **Seven-year bar to set aside disqualification.** The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home if within seven years preceding the study:

(1) the individual committed an act that constitutes maltreatment of a child under ~~section 626.556, subdivision 10e~~, sections 260A.43, subdivisions 1, 2, and 3, and 260A.52, subdivisions 1, 2, and 4, and the maltreatment resulted in substantial bodily harm as defined

101.1 in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by
101.2 competent psychological or psychiatric evidence; or

101.3 (2) the individual was determined under section 626.557 to be the perpetrator of a
101.4 substantiated incident of maltreatment of a vulnerable adult that resulted in substantial
101.5 bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional
101.6 harm as supported by competent psychological or psychiatric evidence.

101.7 Sec. 57. Minnesota Statutes 2018, section 245C.25, is amended to read:

101.8 **245C.25 CONSOLIDATED RECONSIDERATION OF MALTREATMENT**
101.9 **DETERMINATION AND DISQUALIFICATION.**

101.10 If an individual is disqualified on the basis of a determination of maltreatment under
101.11 section ~~626.556~~ or 626.557 or chapter 260A, which was serious or recurring, and the
101.12 individual requests reconsideration of the maltreatment determination under section ~~626.556~~,
101.13 ~~subdivision 10i~~, 260A.85 or 626.557, subdivision 9d, and also requests reconsideration of
101.14 the disqualification under section 245C.21, the commissioner shall consolidate the
101.15 reconsideration of the maltreatment determination and the disqualification into a single
101.16 reconsideration.

101.17 Sec. 58. Minnesota Statutes 2018, section 245C.27, subdivision 1, is amended to read:

101.18 Subdivision 1. **Fair hearing following a reconsideration decision.** (a) An individual
101.19 who is disqualified on the basis of a preponderance of evidence that the individual committed
101.20 an act or acts that meet the definition of any of the crimes listed in section 245C.15; for a
101.21 determination under section ~~626.556~~ or 626.557 or chapter 260A of substantiated
101.22 maltreatment that was serious or recurring under section 245C.15; or for failure to make
101.23 required reports under section ~~626.556~~, ~~subdivision 3~~, 260A.23, subdivision 1 or 2; 260A.28,
101.24 subdivision 1; or 626.557, subdivision 3, pursuant to section 245C.15, subdivision 4,
101.25 paragraph (b), clause (1), may request a fair hearing under section 256.045, following a
101.26 reconsideration decision issued under section 245C.23, unless the disqualification is deemed
101.27 conclusive under section 245C.29.

101.28 (b) The fair hearing is the only administrative appeal of the final agency determination
101.29 for purposes of appeal by the disqualified individual. The disqualified individual does not
101.30 have the right to challenge the accuracy and completeness of data under section 13.04.

101.31 (c) Except as provided under paragraph (e), if the individual was disqualified based on
101.32 a conviction of, admission to, or Alford Plea to any crimes listed in section 245C.15,

102.1 subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision 8, the
102.2 reconsideration decision under section 245C.22 is the final agency determination for purposes
102.3 of appeal by the disqualified individual and is not subject to a hearing under section 256.045.
102.4 If the individual was disqualified based on a judicial determination, that determination is
102.5 treated the same as a conviction for purposes of appeal.

102.6 (d) This subdivision does not apply to a public employee's appeal of a disqualification
102.7 under section 245C.28, subdivision 3.

102.8 (e) Notwithstanding paragraph (c), if the commissioner does not set aside a
102.9 disqualification of an individual who was disqualified based on both a preponderance of
102.10 evidence and a conviction or admission, the individual may request a fair hearing under
102.11 section 256.045, unless the disqualifications are deemed conclusive under section 245C.29.
102.12 The scope of the hearing conducted under section 256.045 with regard to the disqualification
102.13 based on a conviction or admission shall be limited solely to whether the individual poses
102.14 a risk of harm, according to section 256.045, subdivision 3b. In this case, the reconsideration
102.15 decision under section 245C.22 is not the final agency decision for purposes of appeal by
102.16 the disqualified individual.

102.17 Sec. 59. Minnesota Statutes 2018, section 245C.27, subdivision 2, is amended to read:

102.18 Subd. 2. **Consolidated fair hearing following a reconsideration decision.** (a) If an
102.19 individual who is disqualified on the bases of serious or recurring maltreatment requests a
102.20 fair hearing on the maltreatment determination under section ~~626.556, subdivision 10i,~~
102.21 260A.85 or 626.557, subdivision 9d, and requests a fair hearing under this section on the
102.22 disqualification following a reconsideration decision under section 245C.23, the scope of
102.23 the fair hearing under section 256.045 shall include the maltreatment determination and the
102.24 disqualification.

102.25 (b) A fair hearing is the only administrative appeal of the final agency determination.
102.26 The disqualified individual does not have the right to challenge the accuracy and
102.27 completeness of data under section 13.04.

102.28 (c) This subdivision does not apply to a public employee's appeal of a disqualification
102.29 under section 245C.28, subdivision 3.

102.30 Sec. 60. Minnesota Statutes 2018, section 245C.28, subdivision 1, is amended to read:

102.31 Subdivision 1. **License holder.** (a) If a maltreatment determination or a disqualification
102.32 for which reconsideration was timely requested and which was not set aside is the basis for

103.1 a denial of a license under section 245A.05 or a licensing sanction under section 245A.07,
103.2 the license holder has the right to a contested case hearing under chapter 14 and Minnesota
103.3 Rules, parts 1400.8505 to 1400.8612. The license holder must submit the appeal under
103.4 section 245A.05 or 245A.07, subdivision 3.

103.5 (b) As provided under section 245A.08, subdivision 2a, if the denial of a license or
103.6 licensing sanction is based on a disqualification for which reconsideration was timely
103.7 requested and was not set aside, the scope of the consolidated contested case hearing must
103.8 include:

103.9 (1) the disqualification, to the extent the license holder otherwise has a hearing right on
103.10 the disqualification under this chapter; and

103.11 (2) the licensing sanction or denial of a license.

103.12 (c) As provided for under section 245A.08, subdivision 2a, if the denial of a license or
103.13 licensing sanction is based on a determination of maltreatment under section ~~626.556~~ or
103.14 ~~626.557~~ or chapter 260A, or a disqualification for serious or recurring maltreatment which
103.15 was not set aside, the scope of the contested case hearing must include:

103.16 (1) the maltreatment determination, if the maltreatment is not conclusive under section
103.17 245C.29;

103.18 (2) the disqualification, if the disqualification is not conclusive under section 245C.29;
103.19 and

103.20 (3) the licensing sanction or denial of a license. In such cases, a fair hearing must not
103.21 be conducted under section 256.045. If the disqualification was based on a determination
103.22 of substantiated serious or recurring maltreatment under section ~~626.556~~ or ~~626.557~~ or
103.23 chapter 260A, the appeal must be submitted under sections 245A.07, subdivision 3, and
103.24 ~~626.556, subdivision 10i, 260A.85~~, or 626.557, subdivision 9d.

103.25 (d) Except for family child care and child foster care, reconsideration of a maltreatment
103.26 determination under sections ~~626.556, subdivision 10i, 260A.85~~ and 626.557, subdivision
103.27 9d, and reconsideration of a disqualification under section 245C.22, must not be conducted
103.28 when:

103.29 (1) a denial of a license under section 245A.05, or a licensing sanction under section
103.30 245A.07, is based on a determination that the license holder is responsible for maltreatment
103.31 or the disqualification of a license holder based on serious or recurring maltreatment;

103.32 (2) the denial of a license or licensing sanction is issued at the same time as the
103.33 maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination, disqualification, and denial of a license or licensing sanction. In such cases a fair hearing under section 256.045 must not be conducted under sections 245C.27, ~~626.556, subdivision 10i, 260A.85,~~ and 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the maltreatment determination, 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, 260A.85~~ 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, 260A.85,~~ and 626.557, subdivision 9d.

Sec. 61. Minnesota Statutes 2018, section 245C.29, subdivision 1, is amended to read:

Subdivision 1. **Conclusive maltreatment determination or disposition.** Unless otherwise specified in statute, a maltreatment determination or disposition under section ~~626.556 or 626.557~~ or chapter 260A is conclusive, if:

(1) the commissioner has issued a final order in an appeal of that determination or disposition under section 245A.08, subdivision 5, or 256.045;

(2) the individual did not request reconsideration of the maltreatment determination or disposition under section ~~626.556 or 626.557~~ or chapter 260A; or

(3) the individual did not request a hearing of the maltreatment determination or disposition under section 256.045.

Sec. 62. Minnesota Statutes 2018, section 245C.31, subdivision 1, is amended to read:

Subdivision 1. **Board determines disciplinary or corrective action.** (a) When the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the commissioner determines that the regulated individual is responsible for substantiated maltreatment under section ~~626.556 or 626.557~~ or chapter 260A, instead of the commissioner making a decision regarding disqualification, the board shall make a determination whether to impose disciplinary or corrective action under chapter 214.

105.1 (b) This section does not apply to a background study of an individual regulated by a
105.2 health-related licensing board if the individual's study is related to child foster care, adult
105.3 foster care, or family child care licensure.

105.4 Sec. 63. Minnesota Statutes 2018, section 245C.32, subdivision 2, is amended to read:

105.5 Subd. 2. **Use.** (a) The commissioner may also use these systems and records to obtain
105.6 and provide criminal history data from the Bureau of Criminal Apprehension, criminal
105.7 history data held by the commissioner, and data about substantiated maltreatment under
105.8 section ~~626.556~~ or 626.557 or chapter 260A, for other purposes, provided that:

105.9 (1) the background study is specifically authorized in statute; or

105.10 (2) the request is made with the informed consent of the subject of the study as provided
105.11 in section 13.05, subdivision 4.

105.12 (b) An individual making a request under paragraph (a), clause (2), must agree in writing
105.13 not to disclose the data to any other individual without the consent of the subject of the data.

105.14 (c) The commissioner may recover the cost of obtaining and providing background study
105.15 data by charging the individual or entity requesting the study a fee of no more than \$20 per
105.16 study. The fees collected under this paragraph are appropriated to the commissioner for the
105.17 purpose of conducting background studies.

105.18 (d) The commissioner shall recover the cost of obtaining background study data required
105.19 under section 524.5-118 through a fee of \$50 per study for an individual who has not lived
105.20 outside Minnesota for the past ten years, and a fee of \$100 for an individual who has resided
105.21 outside of Minnesota for any period during the ten years preceding the background study.
105.22 The commissioner shall recover, from the individual, any additional fees charged by other
105.23 states' licensing agencies that are associated with these data requests. Fees under subdivision
105.24 3 also apply when criminal history data from the National Criminal Records Repository is
105.25 required.

105.26 Sec. 64. Minnesota Statutes 2018, section 245D.02, subdivision 11, is amended to read:

105.27 Subd. 11. **Incident.** "Incident" means an occurrence which involves a person and requires
105.28 the program to make a response that is not a part of the program's ordinary provision of
105.29 services to that person, and includes:

105.30 (1) serious injury of a person as determined by section 245.91, subdivision 6;

105.31 (2) a person's death;

106.1 (3) any medical emergency, unexpected serious illness, or significant unexpected change
106.2 in an illness or medical condition of a person that requires the program to call 911, physician
106.3 treatment, or hospitalization;

106.4 (4) any mental health crisis that requires the program to call 911, a mental health crisis
106.5 intervention team, or a similar mental health response team or service when available and
106.6 appropriate;

106.7 (5) an act or situation involving a person that requires the program to call 911, law
106.8 enforcement, or the fire department;

106.9 (6) a person's unauthorized or unexplained absence from a program;

106.10 (7) conduct by a person receiving services against another person receiving services
106.11 that:

106.12 (i) is so severe, pervasive, or objectively offensive that it substantially interferes with a
106.13 person's opportunities to participate in or receive service or support;

106.14 (ii) places the person in actual and reasonable fear of harm;

106.15 (iii) places the person in actual and reasonable fear of damage to property of the person;

106.16 or

106.17 (iv) substantially disrupts the orderly operation of the program;

106.18 (8) any sexual activity between persons receiving services involving force or coercion
106.19 as defined under section 609.341, subdivisions 3 and 14;

106.20 (9) any emergency use of manual restraint as identified in section 245D.061 or successor
106.21 provisions; or

106.22 (10) a report of alleged or suspected child or vulnerable adult maltreatment under section
106.23 ~~626.556~~ or 626.557 or chapter 260A.

106.24 Sec. 65. Minnesota Statutes 2018, section 245D.06, subdivision 1, is amended to read:

106.25 Subdivision 1. **Incident response and reporting.** (a) The license holder must respond
106.26 to incidents under section 245D.02, subdivision 11, that occur while providing services to
106.27 protect the health and safety of and minimize risk of harm to the person.

106.28 (b) The license holder must maintain information about and report incidents to the
106.29 person's legal representative or designated emergency contact and case manager within 24
106.30 hours of an incident occurring while services are being provided, within 24 hours of discovery
106.31 or receipt of information that an incident occurred, unless the license holder has reason to

107.1 know that the incident has already been reported, or as otherwise directed in a person's
107.2 coordinated service and support plan or coordinated service and support plan addendum.
107.3 An incident of suspected or alleged maltreatment must be reported as required under
107.4 paragraph (d), and an incident of serious injury or death must be reported as required under
107.5 paragraph (e).

107.6 (c) When the incident involves more than one person, the license holder must not disclose
107.7 personally identifiable information about any other person when making the report to each
107.8 person and case manager unless the license holder has the consent of the person.

107.9 (d) Within 24 hours of reporting maltreatment as required under section ~~626.556~~ or
107.10 626.557 or chapter 260A, the license holder must inform the case manager of the report
107.11 unless there is reason to believe that the case manager is involved in the suspected
107.12 maltreatment. The license holder must disclose the nature of the activity or occurrence
107.13 reported and the agency that received the report.

107.14 (e) The license holder must report the death or serious injury of the person as required
107.15 in paragraph (b) and to the Department of Human Services Licensing Division, and the
107.16 Office of Ombudsman for Mental Health and Developmental Disabilities as required under
107.17 section 245.94, subdivision 2a, within 24 hours of the death or serious injury, or receipt of
107.18 information that the death or serious injury occurred, unless the license holder has reason
107.19 to know that the death or serious injury has already been reported.

107.20 (f) When a death or serious injury occurs in a facility certified as an intermediate care
107.21 facility for persons with developmental disabilities, the death or serious injury must be
107.22 reported to the Department of Health, Office of Health Facility Complaints, and the Office
107.23 of Ombudsman for Mental Health and Developmental Disabilities, as required under sections
107.24 245.91 and 245.94, subdivision 2a, unless the license holder has reason to know that the
107.25 death or serious injury has already been reported.

107.26 (g) The license holder must conduct an internal review of incident reports of deaths and
107.27 serious injuries that occurred while services were being provided and that were not reported
107.28 by the program as alleged or suspected maltreatment, for identification of incident patterns,
107.29 and implementation of corrective action as necessary to reduce occurrences. The review
107.30 must include an evaluation of whether related policies and procedures were followed,
107.31 whether the policies and procedures were adequate, whether there is a need for additional
107.32 staff training, whether the reported event is similar to past events with the persons or the
107.33 services involved, and whether there is a need for corrective action by the license holder to
107.34 protect the health and safety of persons receiving services. Based on the results of this

108.1 review, the license holder must develop, document, and implement a corrective action plan
108.2 designed to correct current lapses and prevent future lapses in performance by staff or the
108.3 license holder, if any.

108.4 (h) The license holder must verbally report the emergency use of manual restraint of a
108.5 person as required in paragraph (b) within 24 hours of the occurrence. The license holder
108.6 must ensure the written report and internal review of all incident reports of the emergency
108.7 use of manual restraints are completed according to the requirements in section 245D.061
108.8 or successor provisions.

108.9 Sec. 66. Minnesota Statutes 2018, section 245D.06, subdivision 6, is amended to read:

108.10 Subd. 6. **Restricted procedures.** (a) The following procedures are allowed when the
108.11 procedures are implemented in compliance with the standards governing their use as
108.12 identified in clauses (1) to (3). Allowed but restricted procedures include:

108.13 (1) permitted actions and procedures subject to the requirements in subdivision 7;

108.14 (2) procedures identified in a positive support transition plan subject to the requirements
108.15 in subdivision 8; or

108.16 (3) emergency use of manual restraint subject to the requirements in section 245D.061.

108.17 (b) A restricted procedure identified in paragraph (a) must not:

108.18 (1) be implemented with a child in a manner that constitutes sexual abuse, neglect,
108.19 physical abuse, or mental injury, as defined in section ~~626.556, subdivision 2~~ 260A.20;

108.20 (2) be implemented with an adult in a manner that constitutes abuse or neglect as defined
108.21 in section 626.5572, subdivision 2 or 17;

108.22 (3) be implemented in a manner that violates a person's rights identified in section
108.23 245D.04;

108.24 (4) restrict a person's normal access to a nutritious diet, drinking water, adequate
108.25 ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions,
108.26 necessary clothing, or any protection required by state licensing standards or federal
108.27 regulations governing the program;

108.28 (5) deny the person visitation or ordinary contact with legal counsel, a legal representative,
108.29 or next of kin;

109.1 (6) be used for the convenience of staff, as punishment, as a substitute for adequate
109.2 staffing, or as a consequence if the person refuses to participate in the treatment or services
109.3 provided by the program;

109.4 (7) use prone restraint. For purposes of this section, "prone restraint" means use of
109.5 manual restraint that places a person in a face-down position. Prone restraint does not include
109.6 brief physical holding of a person who, during an emergency use of manual restraint, rolls
109.7 into a prone position, if the person is restored to a standing, sitting, or side-lying position
109.8 as quickly as possible;

109.9 (8) apply back or chest pressure while a person is in a prone position as identified in
109.10 clause (7), supine position, or side-lying position; or

109.11 (9) be implemented in a manner that is contraindicated for any of the person's known
109.12 medical or psychological limitations.

109.13 Sec. 67. Minnesota Statutes 2018, section 245D.09, subdivision 4, is amended to read:

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

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

109.20 (i) responding to and reporting incidents as required under section 245D.06, subdivision
109.21 1; and

109.22 (ii) following safety practices established by the license holder and as required in section
109.23 245D.06, subdivision 2;

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

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

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

(5) sections 245A.65, 245A.66, ~~626.556~~, and 626.557 and chapter 260A, governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment. This orientation must be provided within 72 hours of first providing direct contact services and annually thereafter according to section 245A.65, subdivision 3;

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

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

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

(9) basic first aid; and

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

Sec. 68. Minnesota Statutes 2018, section 245D.32, subdivision 5, is amended to read:

Subd. 5. **Investigations of alleged or suspected maltreatment.** Nothing in this section changes the commissioner's responsibilities to investigate alleged or suspected maltreatment of a minor under ~~section 626.556~~ chapter 260A or a vulnerable adult under section 626.557.

Sec. 69. Minnesota Statutes 2018, section 245F.04, subdivision 1, is amended to read:

Subdivision 1. **General application and license requirements.** An applicant for licensure as a clinically managed withdrawal management program or medically monitored withdrawal management program must meet the following requirements, except where otherwise noted. All programs must comply with federal requirements and the general requirements in ~~chapters 245A and 245C and sections 626.556, 626.557, and 626.5572~~ and chapters 245A, 245C, and 260A. A withdrawal management program must be located in a hospital licensed under sections 144.50 to 144.581, or must be a supervised living facility with a class B license from the Department of Health under Minnesota Rules, parts 4665.0100 to 4665.9900.

111.1 Sec. 70. Minnesota Statutes 2018, section 245F.15, subdivision 3, is amended to read:

111.2 Subd. 3. **Program director qualifications.** A program director must:

111.3 (1) have at least one year of work experience in direct service to individuals with
111.4 substance use disorders or one year of work experience in the management or administration
111.5 of direct service to individuals with substance use disorders;

111.6 (2) have a baccalaureate degree or three years of work experience in administration or
111.7 personnel supervision in human services; and

111.8 (3) know and understand the requirements of this chapter ~~and chapters 245A and 245C,~~
111.9 ~~and~~ sections 253B.04, 253B.05, ~~626.556, 626.557, and 626.5572,~~ and chapters 245A, 245C,
111.10 and 260A.

111.11 Sec. 71. Minnesota Statutes 2018, section 245F.15, subdivision 5, is amended to read:

111.12 Subd. 5. **Responsible staff person qualifications.** Each responsible staff person must
111.13 know and understand the requirements of this chapter ~~and~~ sections 245A.65, 253B.04,
111.14 253B.05, ~~626.556, 626.557, and 626.5572,~~ and chapter 260A. In a clinically managed
111.15 program, the responsible staff person must be a licensed practical nurse employed by or
111.16 under contract with the license holder. In a medically monitored program, the responsible
111.17 staff person must be a registered nurse, program director, or physician.

111.18 Sec. 72. Minnesota Statutes 2018, section 245F.16, subdivision 1, is amended to read:

111.19 Subdivision 1. **Policy requirements.** A license holder must have written personnel
111.20 policies and must make them available to staff members at all times. The personnel policies
111.21 must:

111.22 (1) ensure that a staff member's retention, promotion, job assignment, or pay are not
111.23 affected by a good-faith communication between the staff member and the Department of
111.24 Human Services, Department of Health, Ombudsman for Mental Health and Developmental
111.25 Disabilities, law enforcement, or local agencies that investigate complaints regarding patient
111.26 rights, health, or safety;

111.27 (2) include a job description for each position that specifies job responsibilities, degree
111.28 of authority to execute job responsibilities, standards of job performance related to specified
111.29 job responsibilities, and qualifications;

111.30 (3) provide for written job performance evaluations for staff members of the license
111.31 holder at least annually;

112.1 (4) describe behavior that constitutes grounds for disciplinary action, suspension, or
112.2 dismissal, including policies that address substance use problems and meet the requirements
112.3 of section 245F.15, subdivisions 1 and 2. The policies and procedures must list behaviors
112.4 or incidents that are considered substance use problems. The list must include:

112.5 (i) receiving treatment for substance use disorder within the period specified for the
112.6 position in the staff qualification requirements;

112.7 (ii) substance use that has a negative impact on the staff member's job performance;

112.8 (iii) substance use that affects the credibility of treatment services with patients, referral
112.9 sources, or other members of the community; and

112.10 (iv) symptoms of intoxication or withdrawal on the job;

112.11 (5) include policies prohibiting personal involvement with patients and policies
112.12 prohibiting patient maltreatment as specified under ~~chapter 604 and~~ sections 245A.65,
112.13 ~~626.556, 626.557, and 626.5572~~ and chapters 260A and 604;

112.14 (6) include a chart or description of organizational structure indicating the lines of
112.15 authority and responsibilities;

112.16 (7) include a written plan for new staff member orientation that, at a minimum, includes
112.17 training related to the specific job functions for which the staff member was hired, program
112.18 policies and procedures, patient needs, and the areas identified in subdivision 2, paragraphs
112.19 (b) to (e); and

112.20 (8) include a policy on the confidentiality of patient information.

112.21 Sec. 73. Minnesota Statutes 2018, section 245F.16, subdivision 2, is amended to read:

112.22 Subd. 2. **Staff development.** (a) A license holder must ensure that each staff member
112.23 receives orientation training before providing direct patient care and at least 30 hours of
112.24 continuing education every two years. A written record must be kept to demonstrate
112.25 completion of training requirements.

112.26 (b) Within 72 hours of beginning employment, all staff having direct patient contact
112.27 must be provided orientation on the following:

112.28 (1) specific license holder and staff responsibilities for patient confidentiality;

112.29 (2) standards governing the use of protective procedures;

112.30 (3) patient ethical boundaries and patient rights, including the rights of patients admitted
112.31 under chapter 253B;

- 113.1 (4) infection control procedures;
- 113.2 (5) mandatory reporting under sections 245A.65, ~~626.556~~, and 626.557; and chapter
- 113.3 260A, including specific training covering the facility's policies concerning obtaining patient
- 113.4 releases of information;
- 113.5 (6) HIV minimum standards as required in section 245A.19;
- 113.6 (7) motivational counseling techniques and identifying stages of change; and
- 113.7 (8) eight hours of training on the program's protective procedures policy required in
- 113.8 section 245F.09, including:
- 113.9 (i) approved therapeutic holds;
- 113.10 (ii) protective procedures used to prevent patients from imminent danger of harming
- 113.11 self or others;
- 113.12 (iii) the emergency conditions under which the protective procedures may be used, if
- 113.13 any;
- 113.14 (iv) documentation standards for using protective procedures;
- 113.15 (v) how to monitor and respond to patient distress; and
- 113.16 (vi) person-centered planning and trauma-informed care.
- 113.17 (c) All staff having direct patient contact must be provided annual training on the
- 113.18 following:
- 113.19 (1) infection control procedures;
- 113.20 (2) mandatory reporting under sections 245A.65, ~~626.556~~, and 626.557; and chapter
- 113.21 260A, including specific training covering the facility's policies concerning obtaining patient
- 113.22 releases of information;
- 113.23 (3) HIV minimum standards as required in section 245A.19; and
- 113.24 (4) motivational counseling techniques and identifying stages of change.
- 113.25 (d) All staff having direct patient contact must be provided training every two years on
- 113.26 the following:
- 113.27 (1) specific license holder and staff responsibilities for patient confidentiality;
- 113.28 (2) standards governing use of protective procedures, including:
- 113.29 (i) approved therapeutic holds;

114.1 (ii) protective procedures used to prevent patients from imminent danger of harming
114.2 self or others;

114.3 (iii) the emergency conditions under which the protective procedures may be used, if
114.4 any;

114.5 (iv) documentation standards for using protective procedures;

114.6 (v) how to monitor and respond to patient distress; and

114.7 (vi) person-centered planning and trauma-informed care; and

114.8 (3) patient ethical boundaries and patient rights, including the rights of patients admitted
114.9 under chapter 253B.

114.10 (e) Continuing education that is completed in areas outside of the required topics must
114.11 provide information to the staff person that is useful to the performance of the individual
114.12 staff person's duties.

114.13 Sec. 74. Minnesota Statutes 2018, section 245F.18, is amended to read:

114.14 **245F.18 POLICY AND PROCEDURES MANUAL.**

114.15 A license holder must develop a written policy and procedures manual that is
114.16 alphabetically indexed and has a table of contents, so that staff have immediate access to
114.17 all policies and procedures, and that consumers of the services and other authorized parties
114.18 have access to all policies and procedures. The manual must contain the following materials:

114.19 (1) a description of patient education services as required in section 245F.06;

114.20 (2) personnel policies that comply with section 245F.16;

114.21 (3) admission information and referral and discharge policies that comply with section
114.22 245F.05;

114.23 (4) a health monitoring plan that complies with section 245F.12;

114.24 (5) a protective procedures policy that complies with section 245F.09, if the program
114.25 elects to use protective procedures;

114.26 (6) policies and procedures for assuring appropriate patient-to-staff ratios that comply
114.27 with section 245F.14;

114.28 (7) policies and procedures for assessing and documenting the susceptibility for risk of
114.29 abuse to the patient as the basis for the individual abuse prevention plan required by section
114.30 245A.65;

115.1 (8) procedures for mandatory reporting as required by sections 245A.65, ~~626.556~~, and
115.2 ~~626.557~~ and chapter 260A;

115.3 (9) a medication control plan that complies with section 245F.13; and

115.4 (10) policies and procedures regarding HIV that meet the minimum standards under
115.5 section 245A.19.

115.6 Sec. 75. Minnesota Statutes 2018, section 245G.03, subdivision 1, is amended to read:

115.7 Subdivision 1. **License requirements.** (a) An applicant for a license to provide substance
115.8 use disorder treatment must comply with the general requirements in ~~chapters 245A and~~
115.9 ~~245C, sections 626.556 and section 626.557, chapters 245A, 245C, and 260A,~~ and Minnesota
115.10 Rules, chapter 9544.

115.11 (b) The commissioner may grant variances to the requirements in this chapter that do
115.12 not affect the client's health or safety if the conditions in section 245A.04, subdivision 9,
115.13 are met.

115.14 Sec. 76. Minnesota Statutes 2018, section 245G.10, subdivision 3, is amended to read:

115.15 Subd. 3. **Responsible staff member.** A treatment director must designate a staff member
115.16 who, when present in the facility, is responsible for the delivery of treatment service. A
115.17 license holder must have a designated staff member during all hours of operation. A license
115.18 holder providing room and board and treatment at the same site must have a responsible
115.19 staff member on duty 24 hours a day. The designated staff member must know and understand
115.20 the implications of this chapter, ~~and sections 245A.65, 626.556, 626.557, and 626.5572,~~
115.21 and chapter 260A.

115.22 Sec. 77. Minnesota Statutes 2018, section 245G.11, subdivision 3, is amended to read:

115.23 Subd. 3. **Treatment directors.** A treatment director must:

115.24 (1) have at least one year of work experience in direct service to an individual with
115.25 substance use disorder or one year of work experience in the management or administration
115.26 of direct service to an individual with substance use disorder;

115.27 (2) have a baccalaureate degree or three years of work experience in administration or
115.28 personnel supervision in human services; and

115.29 (3) know and understand the implications of this chapter, ~~chapter 245A, and sections~~
115.30 ~~626.556, 626.557, and 626.5572,~~ and chapters 245A and 260A. Demonstration of the
115.31 treatment director's knowledge must be documented in the personnel record.

116.1 Sec. 78. Minnesota Statutes 2018, section 245G.11, subdivision 4, is amended to read:

116.2 Subd. 4. **Alcohol and drug counselor supervisors.** An alcohol and drug counselor
116.3 supervisor must:

116.4 (1) meet the qualification requirements in subdivision 5;

116.5 (2) have three or more years of experience providing individual and group counseling
116.6 to individuals with substance use disorder; and

116.7 (3) know and understand the implications of this chapter and sections 245A.65, ~~626.556,~~
116.8 ~~626.557, and 626.5572,~~ and chapter 260A.

116.9 Sec. 79. Minnesota Statutes 2018, section 245G.12, is amended to read:

116.10 **245G.12 PROVIDER POLICIES AND PROCEDURES.**

116.11 A license holder must develop a written policies and procedures manual, indexed
116.12 according to section 245A.04, subdivision 14, paragraph (c), that provides staff members
116.13 immediate access to all policies and procedures and provides a client and other authorized
116.14 parties access to all policies and procedures. The manual must contain the following
116.15 materials:

116.16 (1) assessment and treatment planning policies, including screening for mental health
116.17 concerns and treatment objectives related to the client's identified mental health concerns
116.18 in the client's treatment plan;

116.19 (2) policies and procedures regarding HIV according to section 245A.19;

116.20 (3) the license holder's methods and resources to provide information on tuberculosis
116.21 and tuberculosis screening to each client and to report a known tuberculosis infection
116.22 according to section 144.4804;

116.23 (4) personnel policies according to section 245G.13;

116.24 (5) policies and procedures that protect a client's rights according to section 245G.15;

116.25 (6) a medical services plan according to section 245G.08;

116.26 (7) emergency procedures according to section 245G.16;

116.27 (8) policies and procedures for maintaining client records according to section 245G.09;

116.28 (9) procedures for reporting the maltreatment of minors according to ~~section 626.556,~~

116.29 chapter 260A, and vulnerable adults according to sections 245A.65, 626.557, and 626.5572;

117.1 (10) a description of treatment services, including the amount and type of services
117.2 provided;

117.3 (11) the methods used to achieve desired client outcomes;

117.4 (12) the hours of operation; and

117.5 (13) the target population served.

117.6 Sec. 80. Minnesota Statutes 2018, section 245G.13, subdivision 1, is amended to read:

117.7 Subdivision 1. **Personnel policy requirements.** A license holder must have written
117.8 personnel policies that are available to each staff member. The personnel policies must:

117.9 (1) ensure that staff member retention, promotion, job assignment, or pay are not affected
117.10 by a good faith communication between a staff member and the department, the Department
117.11 of Health, the ombudsman for mental health and developmental disabilities, law enforcement,
117.12 or a local agency for the investigation of a complaint regarding a client's rights, health, or
117.13 safety;

117.14 (2) contain a job description for each staff member position specifying responsibilities,
117.15 degree of authority to execute job responsibilities, and qualification requirements;

117.16 (3) provide for a job performance evaluation based on standards of job performance
117.17 conducted on a regular and continuing basis, including a written annual review;

117.18 (4) describe behavior that constitutes grounds for disciplinary action, suspension, or
117.19 dismissal, including policies that address staff member problematic substance use and the
117.20 requirements of section 245G.11, subdivision 1, policies prohibiting personal involvement
117.21 with a client in violation of chapter 604, and policies prohibiting client abuse described in
117.22 sections 245A.65, ~~626.556~~, 626.557, and 626.5572, and chapter 260A;

117.23 (5) identify how the program will identify whether behaviors or incidents are problematic
117.24 substance use, including a description of how the facility must address:

117.25 (i) receiving treatment for substance use within the period specified for the position in
117.26 the staff qualification requirements, including medication-assisted treatment;

117.27 (ii) substance use that negatively impacts the staff member's job performance;

117.28 (iii) chemical use that affects the credibility of treatment services with a client, referral
117.29 source, or other member of the community;

117.30 (iv) symptoms of intoxication or withdrawal on the job; and

118.1 (v) the circumstances under which an individual who participates in monitoring by the
118.2 health professional services program for a substance use or mental health disorder is able
118.3 to provide services to the program's clients;

118.4 (6) include a chart or description of the organizational structure indicating lines of
118.5 authority and responsibilities;

118.6 (7) include orientation within 24 working hours of starting for each new staff member
118.7 based on a written plan that, at a minimum, must provide training related to the staff member's
118.8 specific job responsibilities, policies and procedures, client confidentiality, HIV minimum
118.9 standards, and client needs; and

118.10 (8) include policies outlining the license holder's response to a staff member with a
118.11 behavior problem that interferes with the provision of treatment service.

118.12 Sec. 81. Minnesota Statutes 2018, section 245G.13, subdivision 2, is amended to read:

118.13 Subd. 2. **Staff development.** (a) A license holder must ensure that each staff member
118.14 has the training described in this subdivision.

118.15 (b) Each staff member must be trained every two years in:

118.16 (1) client confidentiality rules and regulations and client ethical boundaries; and

118.17 (2) emergency procedures and client rights as specified in sections 144.651, 148F.165,
118.18 and 253B.03.

118.19 (c) Annually each staff member with direct contact must be trained on mandatory
118.20 reporting as specified in sections 245A.65, ~~626.556, 626.5561~~, 626.557, and 626.5572, and
118.21 chapter 260A, including specific training covering the license holder's policies for obtaining
118.22 a release of client information.

118.23 (d) Upon employment and annually thereafter, each staff member with direct contact
118.24 must receive training on HIV minimum standards according to section 245A.19.

118.25 (e) A treatment director, supervisor, nurse, or counselor must have a minimum of 12
118.26 hours of training in co-occurring disorders that includes competencies related to philosophy,
118.27 trauma-informed care, screening, assessment, diagnosis and person-centered treatment
118.28 planning, documentation, programming, medication, collaboration, mental health
118.29 consultation, and discharge planning. A new staff member who has not obtained the training
118.30 must complete the training within six months of employment. A staff member may request,
118.31 and the license holder may grant, credit for relevant training obtained before employment,
118.32 which must be documented in the staff member's personnel file.

119.1 Sec. 82. Minnesota Statutes 2018, section 245H.11, is amended to read:

119.2 **245H.11 REPORTING.**

119.3 (a) The certification holder must comply with the reporting requirements for abuse and
119.4 neglect specified in ~~section 626.556~~ chapter 260A. A person mandated to report physical
119.5 or sexual child abuse or neglect occurring within a certified center shall report the information
119.6 to the commissioner.

119.7 (b) The certification holder must inform the commissioner within 24 hours of:

119.8 (1) the death of a child in the program; and

119.9 (2) any injury to a child in the program that required treatment by a physician.

119.10 Sec. 83. Minnesota Statutes 2018, section 254A.09, is amended to read:

119.11 **254A.09 CONFIDENTIALITY OF RECORDS.**

119.12 The Department of Human Services shall assure confidentiality to individuals who are
119.13 the subject of research by the state authority or are recipients of substance misuse or substance
119.14 use disorder information, assessment, or treatment from a licensed or approved program.
119.15 The commissioner shall withhold from all persons not connected with the conduct of the
119.16 research the names or other identifying characteristics of a subject of research unless the
119.17 individual gives written permission that information relative to treatment and recovery may
119.18 be released. Persons authorized to protect the privacy of subjects of research may not be
119.19 compelled in any federal, state or local, civil, criminal, administrative or other proceeding
119.20 to identify or disclose other confidential information about the individuals. Identifying
119.21 information and other confidential information related to substance misuse or substance use
119.22 disorder information, assessment, treatment, or aftercare services may be ordered to be
119.23 released by the court for the purpose of civil or criminal investigations or proceedings if,
119.24 after review of the records considered for disclosure, the court determines that the information
119.25 is relevant to the purpose for which disclosure is requested. The court shall order disclosure
119.26 of only that information which is determined relevant. In determining whether to compel
119.27 disclosure, the court shall weigh the public interest and the need for disclosure against the
119.28 injury to the patient, to the treatment relationship in the program affected and in other
119.29 programs similarly situated, and the actual or potential harm to the ability of programs to
119.30 attract and retain patients if disclosure occurs. This section does not exempt any person
119.31 from the reporting obligations under ~~section 626.556~~ chapter 260A, nor limit the use of
119.32 information reported in any proceeding arising out of the abuse or neglect of a child.
119.33 Identifying information and other confidential information related to substance misuse or

120.1 substance use disorder, assessment, treatment, or aftercare services may be ordered to be
120.2 released by the court for the purpose of civil or criminal investigations or proceedings. No
120.3 information may be released pursuant to this section that would not be released pursuant to
120.4 section 595.02, subdivision 2.

120.5 Sec. 84. Minnesota Statutes 2018, section 254B.04, subdivision 1, is amended to read:

120.6 Subdivision 1. **Eligibility.** Persons eligible for benefits under Code of Federal
120.7 Regulations, title 25, part 20, and persons eligible for medical assistance benefits under
120.8 sections 256B.055, 256B.056, and 256B.057, subdivisions 1, 5, and 6, or who meet the
120.9 income standards of section 256B.056, subdivision 4, are entitled to chemical dependency
120.10 fund services. State money appropriated for this paragraph must be placed in a separate
120.11 account established for this purpose.

120.12 Persons with dependent children who are determined to be in need of chemical
120.13 dependency treatment pursuant to an assessment under section ~~626.556, subdivision 10,~~
120.14 260A.39, subdivision 1, or a case plan under section 260C.201, subdivision 6, or 260C.212,
120.15 shall be assisted by the local agency to access needed treatment services. Treatment services
120.16 must be appropriate for the individual or family, which may include long-term care treatment
120.17 or treatment in a facility that allows the dependent children to stay in the treatment facility.
120.18 The county shall pay for out-of-home placement costs, if applicable.

120.19 Sec. 85. Minnesota Statutes 2018, section 256.01, subdivision 12, is amended to read:

120.20 Subd. 12. **Child mortality review panel.** (a) The commissioner shall establish a child
120.21 mortality review panel to review deaths of children in Minnesota, including deaths attributed
120.22 to maltreatment or in which maltreatment may be a contributing cause and to review near
120.23 fatalities as defined in section ~~626.556, subdivision 11d~~ 260A.87. The commissioners of
120.24 health, education, and public safety and the attorney general shall each designate a
120.25 representative to the child mortality review panel. Other panel members shall be appointed
120.26 by the commissioner, including a board-certified pathologist and a physician who is a coroner
120.27 or a medical examiner. The purpose of the panel shall be to make recommendations to the
120.28 state and to county agencies for improving the child protection system, including
120.29 modifications in statute, rule, policy, and procedure.

120.30 (b) The commissioner may require a county agency to establish a local child mortality
120.31 review panel. The commissioner may establish procedures for conducting local reviews
120.32 and may require that all professionals with knowledge of a child mortality case participate
120.33 in the local review. In this section, "professional" means a person licensed to perform or a

121.1 person performing a specific service in the child protective service system. "Professional"
121.2 includes law enforcement personnel, social service agency attorneys, educators, and social
121.3 service, health care, and mental health care providers.

121.4 (c) If the commissioner of human services has reason to believe that a child's death was
121.5 caused by maltreatment or that maltreatment was a contributing cause, the commissioner
121.6 has access to not public data under chapter 13 maintained by state agencies, statewide
121.7 systems, or political subdivisions that are related to the child's death or circumstances
121.8 surrounding the care of the child. The commissioner shall also have access to records of
121.9 private hospitals as necessary to carry out the duties prescribed by this section. Access to
121.10 data under this paragraph is limited to police investigative data; autopsy records and coroner
121.11 or medical examiner investigative data; hospital, public health, or other medical records of
121.12 the child; hospital and other medical records of the child's parent that relate to prenatal care;
121.13 and records created by social service agencies that provided services to the child or family
121.14 within three years preceding the child's death. A state agency, statewide system, or political
121.15 subdivision shall provide the data upon request of the commissioner. Not public data may
121.16 be shared with members of the state or local child mortality review panel in connection with
121.17 an individual case.

121.18 (d) Notwithstanding the data's classification in the possession of any other agency, data
121.19 acquired by a local or state child mortality review panel in the exercise of its duties is
121.20 protected nonpublic or confidential data as defined in section 13.02, but may be disclosed
121.21 as necessary to carry out the purposes of the review panel. The data is not subject to subpoena
121.22 or discovery. The commissioner may disclose conclusions of the review panel, but shall
121.23 not disclose data that was classified as confidential or private data on decedents, under
121.24 section 13.10, or private, confidential, or protected nonpublic data in the disseminating
121.25 agency, except that the commissioner may disclose local social service agency data as
121.26 provided in section 626.556, subdivision 11d, on individual cases involving a fatality or
121.27 near fatality of a person served by the local social service agency prior to the date of death.

121.28 (e) A person attending a child mortality review panel meeting shall not disclose what
121.29 transpired at the meeting, except to carry out the purposes of the mortality review panel.
121.30 The proceedings and records of the mortality review panel are protected nonpublic data as
121.31 defined in section 13.02, subdivision 13, and are not subject to discovery or introduction
121.32 into evidence in a civil or criminal action against a professional, the state or a county agency,
121.33 arising out of the matters the panel is reviewing. Information, documents, and records
121.34 otherwise available from other sources are not immune from discovery or use in a civil or
121.35 criminal action solely because they were presented during proceedings of the review panel.

122.1 A person who presented information before the review panel or who is a member of the
122.2 panel shall not be prevented from testifying about matters within the person's knowledge.
122.3 However, in a civil or criminal proceeding a person shall not be questioned about the person's
122.4 presentation of information to the review panel or opinions formed by the person as a result
122.5 of the review meetings.

122.6 Sec. 86. Minnesota Statutes 2018, section 256.01, subdivision 14b, is amended to read:

122.7 Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of human
122.8 services may authorize projects to test tribal delivery of child welfare services to American
122.9 Indian children and their parents and custodians living on the reservation. The commissioner
122.10 has authority to solicit and determine which tribes may participate in a project. Grants may
122.11 be issued to Minnesota Indian tribes to support the projects. The commissioner may waive
122.12 existing state rules as needed to accomplish the projects. The commissioner may authorize
122.13 projects to use alternative methods of (1) investigating and assessing reports of child
122.14 maltreatment, and (2) administrative reconsideration, administrative appeal, and judicial
122.15 appeal of maltreatment determinations, provided the alternative methods used by the projects
122.16 comply with the provisions of ~~sections~~ section 256.045 and 626.556 and chapter 260A
122.17 dealing with the rights of individuals who are the subjects of reports or investigations,
122.18 including notice and appeal rights and data practices requirements. The commissioner may
122.19 seek any federal approvals necessary to carry out the projects as well as seek and use any
122.20 funds available to the commissioner, including use of federal funds, foundation funds,
122.21 existing grant funds, and other funds. The commissioner is authorized to advance state funds
122.22 as necessary to operate the projects. Federal reimbursement applicable to the projects is
122.23 appropriated to the commissioner for the purposes of the projects. The projects must be
122.24 required to address responsibility for safety, permanency, and well-being of children.

122.25 (b) For the purposes of this section, "American Indian child" means a person under 21
122.26 years old and who is a tribal member or eligible for membership in one of the tribes chosen
122.27 for a project under this subdivision and who is residing on the reservation of that tribe.

122.28 (c) In order to qualify for an American Indian child welfare project, a tribe must:

122.29 (1) be one of the existing tribes with reservation land in Minnesota;

122.30 (2) have a tribal court with jurisdiction over child custody proceedings;

122.31 (3) have a substantial number of children for whom determinations of maltreatment have
122.32 occurred;

123.1 (4) have capacity to respond to reports of abuse and neglect under ~~section 626.556~~
123.2 chapter 260A;

123.3 (5) provide a wide range of services to families in need of child welfare services; and

123.4 (6) have a tribal-state title IV-E agreement in effect.

123.5 (d) Grants awarded under this section may be used for the nonfederal costs of providing
123.6 child welfare services to American Indian children on the tribe's reservation, including costs
123.7 associated with:

123.8 (1) assessment and prevention of child abuse and neglect;

123.9 (2) family preservation;

123.10 (3) facilitative, supportive, and reunification services;

123.11 (4) out-of-home placement for children removed from the home for child protective
123.12 purposes; and

123.13 (5) other activities and services approved by the commissioner that further the goals of
123.14 providing safety, permanency, and well-being of American Indian children.

123.15 (e) When a tribe has initiated a project and has been approved by the commissioner to
123.16 assume child welfare responsibilities for American Indian children of that tribe under this
123.17 section, the affected county social service agency is relieved of responsibility for responding
123.18 to reports of abuse and neglect under ~~section 626.556~~ chapter 260A for those children during
123.19 the time within which the tribal project is in effect and funded. The commissioner shall
123.20 work with tribes and affected counties to develop procedures for data collection, evaluation,
123.21 and clarification of ongoing role and financial responsibilities of the county and tribe for
123.22 child welfare services prior to initiation of the project. Children who have not been identified
123.23 by the tribe as participating in the project shall remain the responsibility of the county.
123.24 Nothing in this section shall alter responsibilities of the county for law enforcement or court
123.25 services.

123.26 (f) Participating tribes may conduct children's mental health screenings under section
123.27 245.4874, subdivision 1, paragraph (a), clause (12), for children who are eligible for the
123.28 initiative and living on the reservation and who meet one of the following criteria:

123.29 (1) the child must be receiving child protective services;

123.30 (2) the child must be in foster care; or

123.31 (3) the child's parents must have had parental rights suspended or terminated.

124.1 Tribes may access reimbursement from available state funds for conducting the screenings.
124.2 Nothing in this section shall alter responsibilities of the county for providing services under
124.3 section 245.487.

124.4 (g) Participating tribes may establish a local child mortality review panel. In establishing
124.5 a local child mortality review panel, the tribe agrees to conduct local child mortality reviews
124.6 for child deaths or near-fatalities occurring on the reservation under subdivision 12. Tribes
124.7 with established child mortality review panels shall have access to nonpublic data and shall
124.8 protect nonpublic data under subdivision 12, paragraphs (c) to (e). The tribe shall provide
124.9 written notice to the commissioner and affected counties when a local child mortality review
124.10 panel has been established and shall provide data upon request of the commissioner for
124.11 purposes of sharing nonpublic data with members of the state child mortality review panel
124.12 in connection to an individual case.

124.13 (h) The commissioner shall collect information on outcomes relating to child safety,
124.14 permanency, and well-being of American Indian children who are served in the projects.
124.15 Participating tribes must provide information to the state in a format and completeness
124.16 deemed acceptable by the state to meet state and federal reporting requirements.

124.17 (i) In consultation with the White Earth Band, the commissioner shall develop and submit
124.18 to the chairs and ranking minority members of the legislative committees with jurisdiction
124.19 over health and human services a plan to transfer legal responsibility for providing child
124.20 protective services to White Earth Band member children residing in Hennepin County to
124.21 the White Earth Band. The plan shall include a financing proposal, definitions of key terms,
124.22 statutory amendments required, and other provisions required to implement the plan. The
124.23 commissioner shall submit the plan by January 15, 2012.

124.24 Sec. 87. Minnesota Statutes 2018, section 256.01, subdivision 15, is amended to read:

124.25 Subd. 15. **Citizen review panels.** (a) The commissioner shall establish a minimum of
124.26 three citizen review panels to examine the policies and procedures of state and local welfare
124.27 agencies to evaluate the extent to which the agencies are effectively discharging their child
124.28 protection responsibilities. Local social service agencies shall cooperate and work with the
124.29 citizen review panels. Where appropriate, the panels may examine specific cases to evaluate
124.30 the effectiveness of child protection activities. The panels must examine the extent to which
124.31 the state and local agencies are meeting the requirements of the federal Child Abuse
124.32 Prevention and Treatment Act and the Reporting of Maltreatment of Minors Act. The
124.33 commissioner may authorize mortality review panels or child protection teams to carry out

125.1 the duties of a citizen review panel if membership meets or is expanded to meet the
125.2 requirements of this section.

125.3 (b) The panel membership must include volunteers who broadly represent the community
125.4 in which the panel is established, including members who have expertise in the prevention
125.5 and treatment of child abuse and neglect, child protection advocates, and representatives of
125.6 the councils of color and ombudsperson for families.

125.7 (c) A citizen review panel has access to the following data for specific case review under
125.8 this paragraph: police investigative data; autopsy records and coroner or medical examiner
125.9 investigative data; hospital, public health, or other medical records of the child; hospital
125.10 and other medical records of the child's parent that relate to prenatal care; records created
125.11 by social service agencies that provided services to the child or family; and personnel data
125.12 related to an employee's performance in discharging child protection responsibilities. A
125.13 state agency, statewide system, or political subdivision shall provide the data upon request
125.14 of the commissioner. Not public data may be shared with members of the state or local
125.15 citizen review panel in connection with an individual case.

125.16 (d) Notwithstanding the data's classification in the possession of any other agency, data
125.17 acquired by a local or state citizen review panel in the exercise of its duties are protected
125.18 nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary
125.19 to carry out the purposes of the review panel. The data are not subject to subpoena or
125.20 discovery. The commissioner may disclose conclusions of the review panel, but may not
125.21 disclose data on individuals that were classified as confidential or private data on individuals
125.22 in the possession of the state agency, statewide system, or political subdivision from which
125.23 the data were received, except that the commissioner may disclose local social service
125.24 agency data as provided in section ~~626.556, subdivision 11d~~ 260A.87, on individual cases
125.25 involving a fatality or near fatality of a person served by the local social service agency
125.26 prior to the date of death.

125.27 (e) A person attending a citizen review panel meeting may not disclose what transpired
125.28 at the meeting, except to carry out the purposes of the review panel. The proceedings and
125.29 records of the review panel are protected nonpublic data as defined in section 13.02,
125.30 subdivision 13, and are not subject to discovery or introduction into evidence in a civil or
125.31 criminal action against a professional, the state, or county agency arising out of the matters
125.32 the panel is reviewing. Information, documents, and records otherwise available from other
125.33 sources are not immune from discovery or use in a civil or criminal action solely because
125.34 they were presented during proceedings of the review panel. A person who presented
125.35 information before the review panel or who is a member of the panel is not prevented from

126.1 testifying about matters within the person's knowledge. However, in a civil or criminal
126.2 proceeding, a person must not be questioned about the person's presentation of information
126.3 to the review panel or opinions formed by the person as a result of the review panel meetings.

126.4 Sec. 88. Minnesota Statutes 2018, section 256.045, subdivision 3, is amended to read:

126.5 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

126.6 (1) any person applying for, receiving or having received public assistance, medical
126.7 care, or a program of social services granted by the state agency or a county agency or the
126.8 federal Food Stamp Act whose application for assistance is denied, not acted upon with
126.9 reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed
126.10 to have been incorrectly paid;

126.11 (2) any patient or relative aggrieved by an order of the commissioner under section
126.12 252.27;

126.13 (3) a party aggrieved by a ruling of a prepaid health plan;

126.14 (4) except as provided under chapter 245C, any individual or facility determined by a
126.15 lead investigative agency to have maltreated a vulnerable adult under section 626.557 after
126.16 they have exercised their right to administrative reconsideration under section 626.557;

126.17 (5) any person whose claim for foster care payment according to a placement of the
126.18 child resulting from a child protection assessment under ~~section 626.556~~ chapter 260A is
126.19 denied or not acted upon with reasonable promptness, regardless of funding source;

126.20 (6) any person to whom a right of appeal according to this section is given by other
126.21 provision of law;

126.22 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
126.23 under section 256B.15;

126.24 (8) an applicant aggrieved by an adverse decision to an application or redetermination
126.25 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

126.26 (9) except as provided under chapter 245A, an individual or facility determined to have
126.27 maltreated a minor under ~~section 626.556~~ chapter 260A, after the individual or facility has
126.28 exercised the right to administrative reconsideration under ~~section 626.556~~ chapter 260A;

126.29 (10) except as provided under chapter 245C, an individual disqualified under sections
126.30 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
126.31 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
126.32 individual has committed an act or acts that meet the definition of any of the crimes listed

127.1 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
127.2 ~~626.556, subdivision 3,~~ 260A.23, subdivision 1, or 626.557, subdivision 3. Hearings
127.3 regarding a maltreatment determination under clause (4) or (9) and a disqualification under
127.4 this clause in which the basis for a disqualification is serious or recurring maltreatment,
127.5 shall be consolidated into a single fair hearing. In such cases, the scope of review by the
127.6 human services judge shall include both the maltreatment determination and the
127.7 disqualification. The failure to exercise the right to an administrative reconsideration shall
127.8 not be a bar to a hearing under this section if federal law provides an individual the right to
127.9 a hearing to dispute a finding of maltreatment;

127.10 (11) any person with an outstanding debt resulting from receipt of public assistance,
127.11 medical care, or the federal Food Stamp Act who is contesting a setoff claim by the
127.12 Department of Human Services or a county agency. The scope of the appeal is the validity
127.13 of the claimant agency's intention to request a setoff of a refund under chapter 270A against
127.14 the debt;

127.15 (12) a person issued a notice of service termination under section 245D.10, subdivision
127.16 3a, from residential supports and services as defined in section 245D.03, subdivision 1,
127.17 paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a;

127.18 (13) an individual disability waiver recipient based on a denial of a request for a rate
127.19 exception under section 256B.4914; or

127.20 (14) a person issued a notice of service termination under section 245A.11, subdivision
127.21 11, that is not otherwise subject to appeal under subdivision 4a.

127.22 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10),
127.23 is the only administrative appeal to the final agency determination specifically, including
127.24 a challenge to the accuracy and completeness of data under section 13.04. Hearings requested
127.25 under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or
127.26 after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged
127.27 to have maltreated a resident prior to October 1, 1995, shall be held as a contested case
127.28 proceeding under the provisions of chapter 14. Hearings requested under paragraph (a),
127.29 clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A
127.30 hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only
127.31 available when there is no district court action pending. If such action is filed in district
127.32 court while an administrative review is pending that arises out of some or all of the events
127.33 or circumstances on which the appeal is based, the administrative review must be suspended

128.1 until the judicial actions are completed. If the district court proceedings are completed,
128.2 dismissed, or overturned, the matter may be considered in an administrative hearing.

128.3 (c) For purposes of this section, bargaining unit grievance procedures are not an
128.4 administrative appeal.

128.5 (d) The scope of hearings involving claims to foster care payments under paragraph (a),
128.6 clause (5), shall be limited to the issue of whether the county is legally responsible for a
128.7 child's placement under court order or voluntary placement agreement and, if so, the correct
128.8 amount of foster care payment to be made on the child's behalf and shall not include review
128.9 of the propriety of the county's child protection determination or child placement decision.

128.10 (e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to
128.11 whether the proposed termination of services is authorized under section 245D.10,
128.12 subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements
128.13 of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a,
128.14 paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of
128.15 termination of services, the scope of the hearing shall also include whether the case
128.16 management provider has finalized arrangements for a residential facility, a program, or
128.17 services that will meet the assessed needs of the recipient by the effective date of the service
128.18 termination.

128.19 (f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor
128.20 under contract with a county agency to provide social services is not a party and may not
128.21 request a hearing under this section, except if assisting a recipient as provided in subdivision
128.22 4.

128.23 (g) An applicant or recipient is not entitled to receive social services beyond the services
128.24 prescribed under chapter 256M or other social services the person is eligible for under state
128.25 law.

128.26 (h) The commissioner may summarily affirm the county or state agency's proposed
128.27 action without a hearing when the sole issue is an automatic change due to a change in state
128.28 or federal law.

128.29 (i) Unless federal or Minnesota law specifies a different time frame in which to file an
128.30 appeal, an individual or organization specified in this section may contest the specified
128.31 action, decision, or final disposition before the state agency by submitting a written request
128.32 for a hearing to the state agency within 30 days after receiving written notice of the action,
128.33 decision, or final disposition, or within 90 days of such written notice if the applicant,
128.34 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision

129.1 13, why the request was not submitted within the 30-day time limit. The individual filing
129.2 the appeal has the burden of proving good cause by a preponderance of the evidence.

129.3 Sec. 89. Minnesota Statutes 2018, section 256.045, subdivision 3b, is amended to read:

129.4 Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.** (a)
129.5 The state human services judge shall determine that maltreatment has occurred if a
129.6 preponderance of evidence exists to support the final disposition under ~~sections 626.556~~
129.7 ~~and section 626.557 and chapter 260A~~. For purposes of hearings regarding disqualification,
129.8 the state human services judge shall affirm the proposed disqualification in an appeal under
129.9 subdivision 3, paragraph (a), clause (10), if a preponderance of the evidence shows the
129.10 individual has:

129.11 (1) committed maltreatment under section ~~626.556 or 626.557 or chapter 260A~~, which
129.12 is serious or recurring;

129.13 (2) committed an act or acts meeting the definition of any of the crimes listed in section
129.14 245C.15, subdivisions 1 to 4; or

129.15 (3) failed to make required reports under section ~~626.556 or 626.557 or chapter 260A~~,
129.16 for incidents in which the final disposition under section ~~626.556 or 626.557 or chapter~~
129.17 ~~260A~~ was substantiated maltreatment that was serious or recurring.

129.18 (b) If the disqualification is affirmed, the state human services judge shall determine
129.19 whether the individual poses a risk of harm in accordance with the requirements of section
129.20 245C.22, and whether the disqualification should be set aside or not set aside. In determining
129.21 whether the disqualification should be set aside, the human services judge shall consider
129.22 all of the characteristics that cause the individual to be disqualified, including those
129.23 characteristics that were not subject to review under paragraph (a), in order to determine
129.24 whether the individual poses a risk of harm. A decision to set aside a disqualification that
129.25 is the subject of the hearing constitutes a determination that the individual does not pose a
129.26 risk of harm and that the individual may provide direct contact services in the individual
129.27 program specified in the set aside.

129.28 (c) If a disqualification is based solely on a conviction or is conclusive for any reason
129.29 under section 245C.29, the disqualified individual does not have a right to a hearing under
129.30 this section.

129.31 (d) The state human services judge shall recommend an order to the commissioner of
129.32 health, education, or human services, as applicable, who shall issue a final order. The
129.33 commissioner shall affirm, reverse, or modify the final disposition. Any order of the

130.1 commissioner issued in accordance with this subdivision is conclusive upon the parties
130.2 unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under
130.3 chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.482, the
130.4 commissioner's determination as to maltreatment is conclusive, as provided under section
130.5 245C.29.

130.6 Sec. 90. Minnesota Statutes 2018, section 256.045, subdivision 4, is amended to read:

130.7 Subd. 4. **Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b,
130.8 or 4a shall be conducted according to the provisions of the federal Social Security Act and
130.9 the regulations implemented in accordance with that act to enable this state to qualify for
130.10 federal grants-in-aid, and according to the rules and written policies of the commissioner
130.11 of human services. County agencies shall install equipment necessary to conduct telephone
130.12 hearings. A state human services judge may schedule a telephone conference hearing when
130.13 the distance or time required to travel to the county agency offices will cause a delay in the
130.14 issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings
130.15 may be conducted by telephone conferences unless the applicant, recipient, former recipient,
130.16 person, or facility contesting maltreatment objects. A human services judge may grant a
130.17 request for a hearing in person by holding the hearing by interactive video technology or
130.18 in person. The human services judge must hear the case in person if the person asserts that
130.19 either the person or a witness has a physical or mental disability that would impair the
130.20 person's or witness's ability to fully participate in a hearing held by interactive video
130.21 technology. The hearing shall not be held earlier than five days after filing of the required
130.22 notice with the county or state agency. The state human services judge shall notify all
130.23 interested persons of the time, date, and location of the hearing at least five days before the
130.24 date of the hearing. Interested persons may be represented by legal counsel or other
130.25 representative of their choice, including a provider of therapy services, at the hearing and
130.26 may appear personally, testify and offer evidence, and examine and cross-examine witnesses.
130.27 The applicant, recipient, former recipient, person, or facility contesting maltreatment shall
130.28 have the opportunity to examine the contents of the case file and all documents and records
130.29 to be used by the county or state agency at the hearing at a reasonable time before the date
130.30 of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses
130.31 (4), (9), and (10), either party may subpoena the private data relating to the investigation
130.32 prepared by the agency under section ~~626.556~~ or 626.557 or chapter 260A that is not
130.33 otherwise accessible under section 13.04, provided the identity of the reporter may not be
130.34 disclosed.

131.1 (b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph
131.2 (a), clause (4), (9), or (10), must be subject to a protective order which prohibits its disclosure
131.3 for any other purpose outside the hearing provided for in this section without prior order of
131.4 the district court. Disclosure without court order is punishable by a sentence of not more
131.5 than 90 days imprisonment or a fine of not more than \$1,000, or both. These restrictions on
131.6 the use of private data do not prohibit access to the data under section 13.03, subdivision
131.7 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), (9), and (10), upon
131.8 request, the county agency shall provide reimbursement for transportation, child care,
131.9 photocopying, medical assessment, witness fee, and other necessary and reasonable costs
131.10 incurred by the applicant, recipient, or former recipient in connection with the appeal. All
131.11 evidence, except that privileged by law, commonly accepted by reasonable people in the
131.12 conduct of their affairs as having probative value with respect to the issues shall be submitted
131.13 at the hearing and such hearing shall not be "a contested case" within the meaning of section
131.14 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and
131.15 may not submit evidence after the hearing except by agreement of the parties at the hearing,
131.16 provided the petitioner has the opportunity to respond.

131.17 (c) In hearings under subdivision 3, paragraph (a), clauses (4), (9), and (10), involving
131.18 determinations of maltreatment or disqualification made by more than one county agency,
131.19 by a county agency and a state agency, or by more than one state agency, the hearings may
131.20 be consolidated into a single fair hearing upon the consent of all parties and the state human
131.21 services judge.

131.22 (d) For hearings under subdivision 3, paragraph (a), clause (4) or (10), involving a
131.23 vulnerable adult, the human services judge shall notify the vulnerable adult who is the
131.24 subject of the maltreatment determination and, if known, a guardian of the vulnerable adult
131.25 appointed under section 524.5-310, or a health care agent designated by the vulnerable adult
131.26 in a health care directive that is currently effective under section 145C.06 and whose authority
131.27 to make health care decisions is not suspended under section 524.5-310, of the hearing. The
131.28 notice must be sent by certified mail and inform the vulnerable adult of the right to file a
131.29 signed written statement in the proceedings. A guardian or health care agent who prepares
131.30 or files a written statement for the vulnerable adult must indicate in the statement that the
131.31 person is the vulnerable adult's guardian or health care agent and sign the statement in that
131.32 capacity. The vulnerable adult, the guardian, or the health care agent may file a written
131.33 statement with the human services judge hearing the case no later than five business days
131.34 before commencement of the hearing. The human services judge shall include the written
131.35 statement in the hearing record and consider the statement in deciding the appeal. This

132.1 subdivision does not limit, prevent, or excuse the vulnerable adult from being called as a
132.2 witness testifying at the hearing or grant the vulnerable adult, the guardian, or health care
132.3 agent a right to participate in the proceedings or appeal the human services judge's decision
132.4 in the case. The lead investigative agency must consider including the vulnerable adult
132.5 victim of maltreatment as a witness in the hearing. If the lead investigative agency determines
132.6 that participation in the hearing would endanger the well-being of the vulnerable adult or
132.7 not be in the best interests of the vulnerable adult, the lead investigative agency shall inform
132.8 the human services judge of the basis for this determination, which must be included in the
132.9 final order. If the human services judge is not reasonably able to determine the address of
132.10 the vulnerable adult, the guardian, or the health care agent, the human services judge is not
132.11 required to send a hearing notice under this subdivision.

132.12 Sec. 91. Minnesota Statutes 2018, section 256B.0621, subdivision 4, is amended to read:

132.13 Subd. 4. **Relocation targeted county case management provider qualifications.** (a)

132.14 A relocation targeted county case management provider is an enrolled medical assistance
132.15 provider who is determined by the commissioner to have all of the following characteristics:

132.16 (1) the legal authority to provide public welfare under sections 393.01, subdivision 7;
132.17 and 393.07; or a federally recognized Indian tribe;

132.18 (2) the demonstrated capacity and experience to provide the components of case
132.19 management to coordinate and link community resources needed by the eligible population;

132.20 (3) the administrative capacity and experience to serve the target population for whom
132.21 it will provide services and ensure quality of services under state and federal requirements;

132.22 (4) the legal authority to provide complete investigative and protective services under
132.23 section ~~626.556, subdivision 10~~ 260A.33; and child welfare and foster care services under
132.24 section 393.07, subdivisions 1 and 2; or a federally recognized Indian tribe;

132.25 (5) a financial management system that provides accurate documentation of services
132.26 and costs under state and federal requirements; and

132.27 (6) the capacity to document and maintain individual case records under state and federal
132.28 requirements.

132.29 (b) A provider of targeted case management under section 256B.0625, subdivision 20,
132.30 may be deemed a certified provider of relocation targeted case management.

132.31 (c) A relocation targeted county case management provider may subcontract with another
132.32 provider to deliver relocation targeted case management services. Subcontracted providers

133.1 must demonstrate the ability to provide the services outlined in subdivision 6, and have a
133.2 procedure in place that notifies the recipient and the recipient's legal representative of any
133.3 conflict of interest if the contracted targeted case management provider also provides, or
133.4 will provide, the recipient's services and supports. Counties must require that contracted
133.5 providers must provide information on all conflicts of interest and obtain the recipient's
133.6 informed consent or provide the recipient with alternatives.

133.7 Sec. 92. Minnesota Statutes 2018, section 256B.0625, subdivision 33, is amended to read:

133.8 Subd. 33. **Child welfare targeted case management.** Medical assistance, subject to
133.9 federal approval, covers child welfare targeted case management services as defined in
133.10 section 256B.094 to children under age 21 who have been assessed and determined in
133.11 accordance with section 256F.10 to be:

133.12 (1) at risk of placement or in placement as defined in section 260C.212, subdivision 1;

133.13 (2) at risk of maltreatment or experiencing maltreatment as defined in section ~~626.556,~~
133.14 ~~subdivision 10e~~ 260A.20, subdivision 12; or

133.15 (3) in need of protection or services as defined in section 260C.007, subdivision 6.

133.16 Sec. 93. Minnesota Statutes 2018, section 256B.0945, subdivision 1, is amended to read:

133.17 Subdivision 1. **Residential services; provider qualifications.** (a) Counties must arrange
133.18 to provide residential services for children with severe emotional disturbance according to
133.19 sections 245.4882, 245.4885, and this section.

133.20 (b) Services must be provided by a facility that is licensed according to section 245.4882
133.21 and administrative rules promulgated thereunder, and under contract with the county.

133.22 (c) Eligible service costs may be claimed for a facility that is located in a state that
133.23 borders Minnesota if:

133.24 (1) the facility is the closest facility to the child's home, providing the appropriate level
133.25 of care; and

133.26 (2) the commissioner of human services has completed an inspection of the out-of-state
133.27 program according to the interagency agreement with the commissioner of corrections under
133.28 section 260B.198, subdivision 11, paragraph (b), and the program has been certified by the
133.29 commissioner of corrections under section 260B.198, subdivision 11, paragraph (a), to
133.30 substantially meet the standards applicable to children's residential mental health treatment
133.31 programs under Minnesota Rules, chapter 2960. Nothing in this section requires the

134.1 commissioner of human services to enforce the background study requirements under chapter
134.2 245C or the requirements related to prevention and investigation of alleged maltreatment
134.3 under section ~~626.556~~ or 626.557 or chapter 260A. Complaints received by the commissioner
134.4 of human services must be referred to the out-of-state licensing authority for possible
134.5 follow-up.

134.6 (d) Notwithstanding paragraph (b), eligible service costs may be claimed for an
134.7 out-of-state inpatient treatment facility if:

134.8 (1) the facility specializes in providing mental health services to children who are deaf,
134.9 deafblind, or hard-of-hearing and who use American Sign Language as their first language;

134.10 (2) the facility is licensed by the state in which it is located; and

134.11 (3) the state in which the facility is located is a member state of the Interstate Compact
134.12 on Mental Health.

134.13 Sec. 94. Minnesota Statutes 2018, section 256B.0949, subdivision 16, is amended to read:

134.14 Subd. 16. **Agency duties.** (a) An agency delivering an EIDBI service under this section
134.15 must:

134.16 (1) enroll as a medical assistance Minnesota health care program provider according to
134.17 Minnesota Rules, part 9505.0195, and section 256B.04, subdivision 21, and meet all
134.18 applicable provider standards and requirements;

134.19 (2) demonstrate compliance with federal and state laws for EIDBI service;

134.20 (3) verify and maintain records of a service provided to the person or the person's legal
134.21 representative as required under Minnesota Rules, parts 9505.2175 and 9505.2197;

134.22 (4) demonstrate that while enrolled or seeking enrollment as a Minnesota health care
134.23 program provider the agency did not have a lead agency contract or provider agreement
134.24 discontinued because of a conviction of fraud; or did not have an owner, board member, or
134.25 manager fail a state or federal criminal background check or appear on the list of excluded
134.26 individuals or entities maintained by the federal Department of Human Services Office of
134.27 Inspector General;

134.28 (5) have established business practices including written policies and procedures, internal
134.29 controls, and a system that demonstrates the organization's ability to deliver quality EIDBI
134.30 services;

134.31 (6) have an office located in Minnesota;

135.1 (7) conduct a criminal background check on an individual who has direct contact with
135.2 the person or the person's legal representative;

135.3 (8) report maltreatment according to ~~sections 626.556 and~~ section 626.557 and chapter
135.4 260A;

135.5 (9) comply with any data requests consistent with the Minnesota Government Data
135.6 Practices Act, sections 256B.064 and 256B.27;

135.7 (10) provide training for all agency staff on the requirements and responsibilities listed
135.8 in the Maltreatment of Minors Act, ~~section 626.556~~ chapter 260A, and the Vulnerable Adult
135.9 Protection Act, section 626.557, including mandated and voluntary reporting, nonretaliation,
135.10 and the agency's policy for all staff on how to report suspected abuse and neglect;

135.11 (11) have a written policy to resolve issues collaboratively with the person and the
135.12 person's legal representative when possible. The policy must include a timeline for when
135.13 the person and the person's legal representative will be notified about issues that arise in
135.14 the provision of services;

135.15 (12) provide the person's legal representative with prompt notification if the person is
135.16 injured while being served by the agency. An incident report must be completed by the
135.17 agency staff member in charge of the person. A copy of all incident and injury reports must
135.18 remain on file at the agency for at least five years from the report of the incident; and

135.19 (13) before starting a service, provide the person or the person's legal representative a
135.20 description of the treatment modality that the person shall receive, including the staffing
135.21 certification levels and training of the staff who shall provide a treatment.

135.22 (b) When delivering the ITP, and annually thereafter, an agency must provide the person
135.23 or the person's legal representative with:

135.24 (1) a written copy and a verbal explanation of the person's or person's legal
135.25 representative's rights and the agency's responsibilities;

135.26 (2) documentation in the person's file the date that the person or the person's legal
135.27 representative received a copy and explanation of the person's or person's legal
135.28 representative's rights and the agency's responsibilities; and

135.29 (3) reasonable accommodations to provide the information in another format or language
135.30 as needed to facilitate understanding of the person's or person's legal representative's rights
135.31 and the agency's responsibilities.

136.1 Sec. 95. Minnesota Statutes 2018, section 256B.0951, subdivision 5, is amended to read:

136.2 Subd. 5. **Variance of certain standards prohibited.** The safety standards, rights, or
136.3 procedural protections under ~~chapter 245C~~ and sections 245.825; 245.91 to 245.97; 245A.09,
136.4 subdivision 2, paragraph (c), clauses (2) and (5); 245A.12; 245A.13; 252.41, subdivision
136.5 9; 256B.092, subdivisions 1b, clause (7), and 10; ~~626.556; and 626.557; and chapters 245C~~
136.6 and 260A, and procedures for the monitoring of psychotropic medications shall not be varied
136.7 under the alternative quality assurance licensing system. The commission may make
136.8 recommendations to the commissioners of human services and health or to the legislature
136.9 regarding alternatives to or modifications of the rules and procedures referenced in this
136.10 subdivision.

136.11 Sec. 96. Minnesota Statutes 2018, section 256B.0954, is amended to read:

136.12 **256B.0954 CERTAIN PERSONS DEFINED AS MANDATED REPORTERS.**

136.13 Members of the Quality Assurance Commission established under section 256B.0951,
136.14 members of quality assurance review councils established under section 256B.0952, quality
136.15 assurance managers appointed under section 256B.0952, and members of quality assurance
136.16 teams established under section 256B.0952 are mandated reporters as that term is defined
136.17 in sections ~~626.556, subdivision 3~~ 260A.23, subdivision 1, and 626.5572, subdivision 16.

136.18 Sec. 97. Minnesota Statutes 2018, section 256B.097, subdivision 4, is amended to read:

136.19 Subd. 4. **Regional quality councils.** (a) The commissioner shall establish, as selected
136.20 by the State Quality Council, regional quality councils of key stakeholders, including regional
136.21 representatives of:

136.22 (1) disability service recipients and their family members;

136.23 (2) disability service providers;

136.24 (3) disability advocacy groups; and

136.25 (4) county human services agencies and staff from the Department of Human Services
136.26 and Ombudsman for Mental Health and Developmental Disabilities.

136.27 (b) Each regional quality council shall:

136.28 (1) direct and monitor the community-based, person-directed quality assurance system
136.29 in this section;

136.30 (2) approve a training program for quality assurance team members under clause (13);

- 137.1 (3) review summary reports from quality assurance team reviews and make
137.2 recommendations to the State Quality Council regarding program licensure;
- 137.3 (4) make recommendations to the State Quality Council regarding the system;
- 137.4 (5) resolve complaints between the quality assurance teams, counties, providers, persons
137.5 receiving services, their families, and legal representatives;
- 137.6 (6) analyze and review quality outcomes and critical incident data reporting incidents
137.7 of life safety concerns immediately to the Department of Human Services licensing division;
- 137.8 (7) provide information and training programs for persons with disabilities and their
137.9 families and legal representatives on service options and quality expectations;
- 137.10 (8) disseminate information and resources developed to other regional quality councils;
- 137.11 (9) respond to state-level priorities;
- 137.12 (10) establish regional priorities for quality improvement;
- 137.13 (11) submit an annual report to the State Quality Council on the status, outcomes,
137.14 improvement priorities, and activities in the region;
- 137.15 (12) choose a representative to participate on the State Quality Council and assume other
137.16 responsibilities consistent with the priorities of the State Quality Council; and
- 137.17 (13) recruit, train, and assign duties to members of quality assurance teams, taking into
137.18 account the size of the service provider, the number of services to be reviewed, the skills
137.19 necessary for the team members to complete the process, and ensure that no team member
137.20 has a financial, personal, or family relationship with the facility, program, or service being
137.21 reviewed or with anyone served at the facility, program, or service. Quality assurance teams
137.22 must be comprised of county staff, persons receiving services or the person's families, legal
137.23 representatives, members of advocacy organizations, providers, and other involved
137.24 community members. Team members must complete the training program approved by the
137.25 regional quality council and must demonstrate performance-based competency. Team
137.26 members may be paid a per diem and reimbursed for expenses related to their participation
137.27 in the quality assurance process.
- 137.28 (c) The commissioner shall monitor the safety standards, rights, and procedural
137.29 protections for the monitoring of psychotropic medications and those identified under
137.30 sections 245.825; 245.91 to 245.97; 245A.09, subdivision 2, paragraph (c), clauses (2) and
137.31 (5); 245A.12; 245A.13; 252.41, subdivision 9; 256B.092, subdivision 1b, clause (7); ~~626.556;~~
137.32 and 626.557; and chapter 260A.

138.1 (d) The regional quality councils may hire staff to perform the duties assigned in this
138.2 subdivision.

138.3 (e) The regional quality councils may charge fees for their services.

138.4 (f) The quality assurance process undertaken by a regional quality council consists of
138.5 an evaluation by a quality assurance team of the facility, program, or service. The process
138.6 must include an evaluation of a random sample of persons served. The sample must be
138.7 representative of each service provided. The sample size must be at least five percent but
138.8 not less than two persons served. All persons must be given the opportunity to be included
138.9 in the quality assurance process in addition to those chosen for the random sample.

138.10 (g) A facility, program, or service may contest a licensing decision of the regional quality
138.11 council as permitted under chapter 245A.

138.12 Sec. 98. Minnesota Statutes 2018, section 256B.097, subdivision 6, is amended to read:

138.13 Subd. 6. **Mandated reporters.** Members of the State Quality Council under subdivision
138.14 3, the regional quality councils under subdivision 4, and quality assurance team members
138.15 under subdivision 4, paragraph (b), clause (13), are mandated reporters as defined in sections
138.16 ~~626.556, subdivision 3~~ 260A.23, subdivision 1, and 626.5572, subdivision 16.

138.17 Sec. 99. Minnesota Statutes 2018, section 256B.77, subdivision 17, is amended to read:

138.18 Subd. 17. **Approval of alternatives.** The commissioner may approve alternatives to
138.19 administrative rules if the commissioner determines that appropriate alternative measures
138.20 are in place to protect the health, safety, and rights of enrollees and to assure that services
138.21 are of sufficient quality to produce the outcomes described in the personal support plans.
138.22 Prior approved waivers, if needed by the demonstration project, shall be extended. The
138.23 commissioner shall not waive the rights or procedural protections under sections 245.825;
138.24 245.91 to 245.97; 252.41, subdivision 9; 256B.092, subdivision 10; ~~626.556~~; and 626.557;
138.25 and chapter 260A or procedures for the monitoring of psychotropic medications. Prohibited
138.26 practices as defined in statutes and rules governing service delivery to eligible individuals
138.27 are applicable to services delivered under this demonstration project.

138.28 Sec. 100. Minnesota Statutes 2018, section 256B.85, subdivision 10, is amended to read:

138.29 Subd. 10. **Agency-provider and FMS provider qualifications and duties.** (a)
138.30 Agency-providers identified in subdivision 11 and FMS providers identified in subdivision
138.31 13a shall:

- 139.1 (1) enroll as a medical assistance Minnesota health care programs provider and meet all
139.2 applicable provider standards and requirements;
- 139.3 (2) demonstrate compliance with federal and state laws and policies for CFSS as
139.4 determined by the commissioner;
- 139.5 (3) comply with background study requirements under chapter 245C and maintain
139.6 documentation of background study requests and results;
- 139.7 (4) verify and maintain records of all services and expenditures by the participant,
139.8 including hours worked by support workers;
- 139.9 (5) not engage in any agency-initiated direct contact or marketing in person, by telephone,
139.10 or other electronic means to potential participants, guardians, family members, or participants'
139.11 representatives;
- 139.12 (6) directly provide services and not use a subcontractor or reporting agent;
- 139.13 (7) meet the financial requirements established by the commissioner for financial
139.14 solvency;
- 139.15 (8) have never had a lead agency contract or provider agreement discontinued due to
139.16 fraud, or have never had an owner, board member, or manager fail a state or FBI-based
139.17 criminal background check while enrolled or seeking enrollment as a Minnesota health care
139.18 programs provider; and
- 139.19 (9) have an office located in Minnesota.
- 139.20 (b) In conducting general duties, agency-providers and FMS providers shall:
- 139.21 (1) pay support workers based upon actual hours of services provided;
- 139.22 (2) pay for worker training and development services based upon actual hours of services
139.23 provided or the unit cost of the training session purchased;
- 139.24 (3) withhold and pay all applicable federal and state payroll taxes;
- 139.25 (4) make arrangements and pay unemployment insurance, taxes, workers' compensation,
139.26 liability insurance, and other benefits, if any;
- 139.27 (5) enter into a written agreement with the participant, participant's representative, or
139.28 legal representative that assigns roles and responsibilities to be performed before services,
139.29 supports, or goods are provided;
- 139.30 (6) report maltreatment as required under ~~sections 626.556 and~~ section 626.557 and
139.31 chapter 260A; and

140.1 (7) comply with any data requests from the department consistent with the Minnesota
140.2 Government Data Practices Act under chapter 13.

140.3 Sec. 101. Minnesota Statutes 2018, section 256B.85, subdivision 12a, is amended to read:

140.4 Subd. 12a. **CFSS agency-provider requirements; policies for complaint process and**
140.5 **incident response.** (a) The CFSS agency-provider must establish policies and procedures
140.6 that promote service recipient rights by providing a simple complaint process for participants
140.7 served by the program and their authorized representatives to bring a grievance. The
140.8 complaint process must:

140.9 (1) provide staff assistance with the complaint process when requested;

140.10 (2) allow the participant to bring the complaint to the highest level of authority in the
140.11 program if the grievance cannot be resolved by other staff members, and provide the name,
140.12 address, and telephone number of that person;

140.13 (3) provide the addresses and telephone numbers of outside agencies to assist the
140.14 participant;

140.15 (4) require a prompt response to all complaints affecting a participant's health and safety
140.16 and a timely response to all other complaints;

140.17 (5) require an evaluation of whether:

140.18 (i) related policies and procedures were followed and adequate;

140.19 (ii) there is a need for additional staff training;

140.20 (iii) the complaint is similar to past complaints with the persons, staff, or services
140.21 involved; and

140.22 (iv) there is a need for corrective action by the agency-provider to protect the health and
140.23 safety of participants receiving services;

140.24 (6) provide a written summary of the complaint and a notice of the complaint resolution
140.25 to the participant and, if applicable, case manager or care coordinator; and

140.26 (7) require that the complaint summary and resolution notice be maintained in the
140.27 participant's service record.

140.28 (b) The CFSS agency-provider must establish policies and procedures for responding
140.29 to incidents that occur while services are being provided. When a participant has a legal
140.30 representative or a participant's representative, incidents must be reported to these
140.31 representatives. For the purposes of this paragraph, "incident" means an occurrence that

141.1 involves a participant and requires a response that is not a part of the ordinary provision of
 141.2 the services to that participant, and includes:

141.3 (1) serious injury of a participant as determined by section 245.91, subdivision 6;

141.4 (2) a participant's death;

141.5 (3) any medical emergency, unexpected serious illness, or significant unexpected change
 141.6 in a participant's illness or medical condition that requires a call to 911, physician treatment,
 141.7 or hospitalization;

141.8 (4) any mental health crisis that requires a call to 911 or a mental health crisis intervention
 141.9 team;

141.10 (5) an act or situation involving a participant that requires a call to 911, law enforcement,
 141.11 or the fire department;

141.12 (6) a participant's unexplained absence;

141.13 (7) behavior that creates an imminent risk of harm to the participant or another; and

141.14 (8) a report of alleged or suspected child or vulnerable adult maltreatment under section
 141.15 ~~626.556~~ or ~~626.557~~ or chapter 260A.

141.16 Sec. 102. Minnesota Statutes 2018, section 256E.21, subdivision 5, is amended to read:

141.17 Subd. 5. **Child abuse.** "Child abuse" means sexual abuse, neglect, or physical abuse as
 141.18 defined in section ~~626.556, subdivision 2, paragraphs (g), (k), and (n)~~ 260A.20, subdivisions
 141.19 15, 17, and 20.

141.20 Sec. 103. Minnesota Statutes 2018, section 256F.10, subdivision 1, is amended to read:

141.21 Subdivision 1. **Eligibility.** Persons under 21 years of age who are eligible to receive
 141.22 medical assistance are eligible for child welfare targeted case management services under
 141.23 section 256B.094 and this section if they have received an assessment and have been
 141.24 determined by the local county or tribal social services agency to be:

141.25 (1) at risk of placement or in placement as described in section 260C.212, subdivision
 141.26 1;

141.27 (2) at risk of maltreatment or experiencing maltreatment as defined in section ~~626.556,~~
 141.28 ~~subdivision 10~~ 260A.20, subdivision 12; or

141.29 (3) in need of protection or services as defined in section 260C.007, subdivision 6.

142.1 Sec. 104. Minnesota Statutes 2018, section 256F.10, subdivision 4, is amended to read:

142.2 Subd. 4. **Provider qualifications and certification standards.** The commissioner must
142.3 certify each provider before enrolling it as a child welfare targeted case management provider
142.4 of services under section 256B.094 and this section. The certification process shall examine
142.5 the provider's ability to meet the qualification requirements and certification standards in
142.6 this subdivision and other federal and state requirements of this service. A certified child
142.7 welfare targeted case management provider is an enrolled medical assistance provider who
142.8 is determined by the commissioner to have all of the following:

142.9 (1) the legal authority to provide public welfare under sections 393.01, subdivision 7,
142.10 and 393.07 or a federally recognized Indian tribe;

142.11 (2) the demonstrated capacity and experience to provide the components of case
142.12 management to coordinate and link community resources needed by the eligible population;

142.13 (3) administrative capacity and experience in serving the target population for whom it
142.14 will provide services and in ensuring quality of services under state and federal requirements;

142.15 (4) the legal authority to provide complete investigative and protective services under
142.16 section ~~626.556, subdivision 10~~ 260A.39, and child welfare and foster care services under
142.17 section 393.07, subdivisions 1 and 2, or a federally recognized Indian tribe;

142.18 (5) a financial management system that provides accurate documentation of services
142.19 and costs under state and federal requirements; and

142.20 (6) the capacity to document and maintain individual case records under state and federal
142.21 requirements.

142.22 Sec. 105. Minnesota Statutes 2018, section 256L.07, subdivision 4, is amended to read:

142.23 Subd. 4. **Families with children in need of chemical dependency treatment.** Premiums
142.24 for families with children when a parent has been determined to be in need of chemical
142.25 dependency treatment pursuant to an assessment conducted by the county under section
142.26 ~~626.556, subdivision 10~~ 260A.39, subdivision 1, paragraph (g), or a case plan under section
142.27 260C.201, subdivision 6, or 260C.212, who are eligible for MinnesotaCare under section
142.28 256L.04, subdivision 1, may be paid by the county of residence of the person in need of
142.29 treatment for one year from the date the family is determined to be eligible or if the family
142.30 is currently enrolled in MinnesotaCare from the date the person is determined to be in need
142.31 of chemical dependency treatment. Upon renewal, the family is responsible for any premiums
142.32 owed under section 256L.15. If the family is not currently enrolled in MinnesotaCare, the
142.33 local county human services agency shall determine whether the family appears to meet the

143.1 eligibility requirements and shall assist the family in applying for the MinnesotaCare
143.2 program.

143.3 Sec. 106. Minnesota Statutes 2018, section 256M.10, subdivision 2, is amended to read:

143.4 Subd. 2. **Vulnerable children and adults services.** (a) "Vulnerable children and adults
143.5 services" means services provided or arranged for by county boards for vulnerable children
143.6 under ~~chapter~~ chapters 260C and 260A, ~~and sections 626.556 and 626.5561~~, and adults
143.7 under section 626.557 who experience dependency, abuse, or neglect, as well as services
143.8 for family members to support those individuals. These services may be provided by
143.9 professionals or nonprofessionals, including the person's natural supports in the community.
143.10 For the purpose of this chapter, "vulnerable children" means children and adolescents.

143.11 (b) Vulnerable children and adults services do not include services under the public
143.12 assistance programs known as the Minnesota family investment program, Minnesota
143.13 supplemental aid, medical assistance, general assistance, MinnesotaCare, or community
143.14 health services.

143.15 Sec. 107. Minnesota Statutes 2018, section 256M.40, subdivision 1, is amended to read:

143.16 Subdivision 1. **Formula.** The commissioner shall allocate state funds appropriated under
143.17 this chapter to each county board on a calendar year basis in an amount determined according
143.18 to the formula in paragraphs (a) to (e).

143.19 (a) For calendar years 2011 and 2012, the commissioner shall allocate available funds
143.20 to each county in proportion to that county's share in calendar year 2010.

143.21 (b) For calendar year 2013 and each calendar year thereafter, the commissioner shall
143.22 allocate available funds to each county as follows:

143.23 (1) 75 percent must be distributed on the basis of the county share in calendar year 2012;

143.24 (2) five percent must be distributed on the basis of the number of persons residing in
143.25 the county as determined by the most recent data of the state demographer;

143.26 (3) ten percent must be distributed on the basis of the number of vulnerable children
143.27 that are subjects of reports under ~~chapter~~ chapters 260C and sections 626.556 and 626.5561
143.28 and 260A, and in the county as determined by the most recent data of the commissioner;
143.29 and

(4) ten percent must be distributed on the basis of the number of vulnerable adults that are subjects of reports under section 626.557 in the county as determined by the most recent data of the commissioner.

(c) The commissioner is precluded from changing the formula under this subdivision or recommending a change to the legislature without public review and input.

Sec. 108. Minnesota Statutes 2018, section 256M.41, subdivision 1, is amended to read:

Subdivision 1. **Formula for county staffing funds.** (a) The commissioner shall allocate state funds appropriated under this section to each county board on a calendar year basis in an amount determined according to the following formula:

(1) 50 percent must be distributed on the basis of the child population residing in the county as determined by the most recent data of the state demographer;

(2) 25 percent must be distributed on the basis of the number of screened-in reports of child maltreatment under ~~sections 626.556 and 626.5561~~ chapter 260A, and in the county as determined by the most recent data of the commissioner; and

(3) 25 percent must be distributed on the basis of the number of open child protection case management cases in the county as determined by the most recent data of the commissioner.

(b) Notwithstanding this subdivision, no county shall be awarded an allocation of less than \$75,000.

Sec. 109. Minnesota Statutes 2018, section 256M.41, subdivision 3, is amended to read:

Subd. 3. **Payments based on performance.** (a) The commissioner shall make payments under this section to each county board on a calendar year basis in an amount determined under paragraph (b).

(b) Calendar year allocations under subdivision 1 shall be paid to counties in the following manner:

(1) 80 percent of the allocation as determined in subdivision 1 must be paid to counties on or before July 10 of each year;

(2) ten percent of the allocation shall be withheld until the commissioner determines if the county has met the performance outcome threshold of 90 percent based on face-to-face contact with alleged child victims. In order to receive the performance allocation, the county child protection workers must have a timely face-to-face contact with at least 90 percent of

all alleged child victims of screened-in maltreatment reports. The standard requires that each initial face-to-face contact occur consistent with timelines defined in section ~~626.556, subdivision 10, paragraph (i)~~ 260A.39, subdivision 2. The commissioner shall make threshold determinations in January of each year and payments to counties meeting the performance outcome threshold shall occur in February of each year. Any withheld funds from this appropriation for counties that do not meet this requirement shall be reallocated by the commissioner to those counties meeting the requirement; and

(3) ten percent of the allocation shall be withheld until the commissioner determines that the county has met the performance outcome threshold of 90 percent based on face-to-face visits by the case manager. In order to receive the performance allocation, the total number of visits made by caseworkers on a monthly basis to children in foster care and children receiving child protection services while residing in their home must be at least 90 percent of the total number of such visits that would occur if every child were visited once per month. The commissioner shall make such determinations in January of each year and payments to counties meeting the performance outcome threshold shall occur in February of each year. Any withheld funds from this appropriation for counties that do not meet this requirement shall be reallocated by the commissioner to those counties meeting the requirement. For 2015, the commissioner shall only apply the standard for monthly foster care visits.

(c) The commissioner shall work with stakeholders and the Human Services Performance Council under section 402A.16 to develop recommendations for specific outcome measures that counties should meet in order to receive funds withheld under paragraph (b), and include in those recommendations a determination as to whether the performance measures under paragraph (b) should be modified or phased out. The commissioner shall report the recommendations to the legislative committees having jurisdiction over child protection issues by January 1, 2018.

Sec. 110. Minnesota Statutes 2018, section 257.0764, is amended to read:

257.0764 COMPLAINTS.

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section ~~626.556, subdivision 4a,~~ 260A.24, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

146.1 Sec. 111. Minnesota Statutes 2018, section 260.012, is amended to read:

146.2 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**
146.3 **REUNIFICATION; REASONABLE EFFORTS.**

146.4 (a) Once a child alleged to be in need of protection or services is under the court's
146.5 jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate
146.6 services, by the social services agency are made to prevent placement or to eliminate the
146.7 need for removal and to reunite the child with the child's family at the earliest possible time,
146.8 and the court must ensure that the responsible social services agency makes reasonable
146.9 efforts to finalize an alternative permanent plan for the child as provided in paragraph (e).
146.10 In determining reasonable efforts to be made with respect to a child and in making those
146.11 reasonable efforts, the child's best interests, health, and safety must be of paramount concern.
146.12 Reasonable efforts to prevent placement and for rehabilitation and reunification are always
146.13 required except upon a determination by the court that a petition has been filed stating a
146.14 prima facie case that:

146.15 (1) the parent has subjected a child to egregious harm as defined in section 260C.007,
146.16 subdivision 14;

146.17 (2) the parental rights of the parent to another child have been terminated involuntarily;

146.18 (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph
146.19 (a), clause (2);

146.20 (4) the parent's custodial rights to another child have been involuntarily transferred to a
146.21 relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d),
146.22 clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction;

146.23 (5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~
146.24 260A.20, against the child or another child of the parent;

146.25 (6) the parent has committed an offense that requires registration as a predatory offender
146.26 under section 243.166, subdivision 1b, paragraph (a) or (b); or

146.27 (7) the provision of services or further services for the purpose of reunification is futile
146.28 and therefore unreasonable under the circumstances.

146.29 (b) When the court makes one of the prima facie determinations under paragraph (a),
146.30 either permanency pleadings under section 260C.505, or a termination of parental rights
146.31 petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under
146.32 sections 260C.503 to 260C.521 must be held within 30 days of this determination.

147.1 (c) In the case of an Indian child, in proceedings under sections 260B.178, 260C.178,
147.2 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, the juvenile court
147.3 must make findings and conclusions consistent with the Indian Child Welfare Act of 1978,
147.4 United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In
147.5 cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section
147.6 1901, the responsible social services agency must provide active efforts as required under
147.7 United States Code, title 25, section 1911(d).

147.8 (d) "Reasonable efforts to prevent placement" means:

147.9 (1) the agency has made reasonable efforts to prevent the placement of the child in foster
147.10 care by working with the family to develop and implement a safety plan; or

147.11 (2) given the particular circumstances of the child and family at the time of the child's
147.12 removal, there are no services or efforts available which could allow the child to safely
147.13 remain in the home.

147.14 (e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence
147.15 by the responsible social services agency to:

147.16 (1) reunify the child with the parent or guardian from whom the child was removed;

147.17 (2) assess a noncustodial parent's ability to provide day-to-day care for the child and,
147.18 where appropriate, provide services necessary to enable the noncustodial parent to safely
147.19 provide the care, as required by section 260C.219;

147.20 (3) conduct a relative search to identify and provide notice to adult relatives as required
147.21 under section 260C.221;

147.22 (4) place siblings removed from their home in the same home for foster care or adoption,
147.23 or transfer permanent legal and physical custody to a relative. Visitation between siblings
147.24 who are not in the same foster care, adoption, or custodial placement or facility shall be
147.25 consistent with section 260C.212, subdivision 2; and

147.26 (5) when the child cannot return to the parent or guardian from whom the child was
147.27 removed, to plan for and finalize a safe and legally permanent alternative home for the child,
147.28 and considers permanent alternative homes for the child inside or outside of the state,
147.29 preferably through adoption or transfer of permanent legal and physical custody of the child.

147.30 (f) Reasonable efforts are made upon the exercise of due diligence by the responsible
147.31 social services agency to use culturally appropriate and available services to meet the needs
147.32 of the child and the child's family. Services may include those provided by the responsible
147.33 social services agency and other culturally appropriate services available in the community.

148.1 At each stage of the proceedings where the court is required to review the appropriateness
148.2 of the responsible social services agency's reasonable efforts as described in paragraphs (a),
148.3 (d), and (e), the social services agency has the burden of demonstrating that:

148.4 (1) it has made reasonable efforts to prevent placement of the child in foster care;

148.5 (2) it has made reasonable efforts to eliminate the need for removal of the child from
148.6 the child's home and to reunify the child with the child's family at the earliest possible time;

148.7 (3) it has made reasonable efforts to finalize an alternative permanent home for the child,
148.8 and considers permanent alternative homes for the child inside or outside of the state; or

148.9 (4) reasonable efforts to prevent placement and to reunify the child with the parent or
148.10 guardian are not required. The agency may meet this burden by stating facts in a sworn
148.11 petition filed under section 260C.141, by filing an affidavit summarizing the agency's
148.12 reasonable efforts or facts the agency believes demonstrate there is no need for reasonable
148.13 efforts to reunify the parent and child, or through testimony or a certified report required
148.14 under juvenile court rules.

148.15 (g) Once the court determines that reasonable efforts for reunification are not required
148.16 because the court has made one of the prima facie determinations under paragraph (a), the
148.17 court may only require reasonable efforts for reunification after a hearing according to
148.18 section 260C.163, where the court finds there is not clear and convincing evidence of the
148.19 facts upon which the court based its prima facie determination. In this case when there is
148.20 clear and convincing evidence that the child is in need of protection or services, the court
148.21 may find the child in need of protection or services and order any of the dispositions available
148.22 under section 260C.201, subdivision 1. Reunification of a child with a parent is not required
148.23 if the parent has been convicted of:

148.24 (1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185
148.25 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

148.26 (2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the child;

148.27 (3) a violation of, or an attempt or conspiracy to commit a violation of, United States
148.28 Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

148.29 (4) committing sexual abuse as defined in section ~~626.556, subdivision 2~~ 260A.20,
148.30 against the child or another child of the parent; or

148.31 (5) an offense that requires registration as a predatory offender under section 243.166,
148.32 subdivision 1b, paragraph (a) or (b).

(h) The juvenile court, in proceedings under sections 260B.178, 260C.178, 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court.

150.1 When the agency discloses its decision to proceed on both plans for reunification and
150.2 permanent placement away from the parent, the court's review of the agency's reasonable
150.3 efforts shall include the agency's efforts under both plans.

150.4 Sec. 112. Minnesota Statutes 2018, section 260.761, subdivision 2, is amended to read:

150.5 Subd. 2. **Agency and court notice to tribes.** (a) When a local social services agency
150.6 has information that a family assessment or investigation being conducted may involve an
150.7 Indian child, the local social services agency shall notify the Indian child's tribe of the family
150.8 assessment or investigation according to section ~~626.556, subdivision 10, paragraph (a),~~
150.9 ~~clause (5)~~ 260A.37. Initial notice shall be provided by telephone and by e-mail or facsimile.
150.10 The local social services agency shall request that the tribe or a designated tribal
150.11 representative participate in evaluating the family circumstances, identifying family and
150.12 tribal community resources, and developing case plans.

150.13 (b) When a local social services agency has information that a child receiving services
150.14 may be an Indian child, the local social services agency shall notify the tribe by telephone
150.15 and by e-mail or facsimile of the child's full name and date of birth, the full names and dates
150.16 of birth of the child's biological parents, and, if known, the full names and dates of birth of
150.17 the child's grandparents and of the child's Indian custodian. This notification must be provided
150.18 so the tribe can determine if the child is enrolled in the tribe or eligible for membership,
150.19 and must be provided within seven days. If information regarding the child's grandparents
150.20 or Indian custodian is not available within the seven-day period, the local social services
150.21 agency shall continue to request this information and shall notify the tribe when it is received.
150.22 Notice shall be provided to all tribes to which the child may have any tribal lineage. If the
150.23 identity or location of the child's parent or Indian custodian and tribe cannot be determined,
150.24 the local social services agency shall provide the notice required in this paragraph to the
150.25 United States secretary of the interior.

150.26 (c) In accordance with sections 260C.151 and 260C.152, when a court has reason to
150.27 believe that a child placed in emergency protective care is an Indian child, the court
150.28 administrator or a designee shall, as soon as possible and before a hearing takes place, notify
150.29 the tribal social services agency by telephone and by e-mail or facsimile of the date, time,
150.30 and location of the emergency protective case hearing. The court shall make efforts to allow
150.31 appearances by telephone for tribal representatives, parents, and Indian custodians.

150.32 (d) A local social services agency must provide the notices required under this subdivision
150.33 at the earliest possible time to facilitate involvement of the Indian child's tribe. Nothing in
150.34 this subdivision is intended to hinder the ability of the local social services agency and the

151.1 court to respond to an emergency situation. Lack of participation by a tribe shall not prevent
151.2 the tribe from intervening in services and proceedings at a later date. A tribe may participate
151.3 at any time. At any stage of the local social services agency's involvement with an Indian
151.4 child, the agency shall provide full cooperation to the tribal social services agency, including
151.5 disclosure of all data concerning the Indian child. Nothing in this subdivision relieves the
151.6 local social services agency of satisfying the notice requirements in the Indian Child Welfare
151.7 Act.

151.8 Sec. 113. Minnesota Statutes 2018, section 260B.171, subdivision 6, is amended to read:

151.9 Subd. 6. **Attorney access to records.** An attorney representing a child, parent, or guardian
151.10 ad litem in a proceeding under this chapter shall be given access to records, local social
151.11 services agency files, and reports which form the basis of any recommendation made to the
151.12 court. An attorney does not have access under this subdivision to the identity of a person
151.13 who made a report under ~~section 626.556~~ chapter 260A. The court may issue protective
151.14 orders to prohibit an attorney from sharing a specified record or portion of a record with a
151.15 client other than a guardian ad litem.

151.16 Sec. 114. Minnesota Statutes 2018, section 260B.198, subdivision 1, is amended to read:

151.17 Subdivision 1. **Court order, findings, remedies, treatment.** If the court finds that the
151.18 child is delinquent, it shall enter an order making any of the following dispositions of the
151.19 case which are deemed necessary to the rehabilitation of the child:

151.20 (1) counsel the child or the parents, guardian, or custodian;

151.21 (2) place the child under the supervision of a probation officer or other suitable person
151.22 in the child's own home under conditions prescribed by the court including reasonable rules
151.23 for the child's conduct and the conduct of the child's parents, guardian, or custodian, designed
151.24 for the physical, mental, and moral well-being and behavior of the child, or with the consent
151.25 of the commissioner of corrections, in a group foster care facility which is under the
151.26 management and supervision of said commissioner;

151.27 (3) if the court determines that the child is a danger to self or others, subject to the
151.28 supervision of the court, transfer legal custody of the child to one of the following:

151.29 (i) a child-placing agency; or

151.30 (ii) the local social services agency; or

152.1 (iii) a reputable individual of good moral character. No person may receive custody of
152.2 two or more unrelated children unless licensed as a residential facility pursuant to sections
152.3 245A.01 to 245A.16; or

152.4 (iv) a county home school, if the county maintains a home school or enters into an
152.5 agreement with a county home school; or

152.6 (v) a county probation officer for placement in a group foster home established under
152.7 the direction of the juvenile court and licensed pursuant to section 241.021;

152.8 (4) transfer legal custody by commitment to the commissioner of corrections;

152.9 (5) if the child is found to have violated a state or local law or ordinance which has
152.10 resulted in damage to the person or property of another, the court may order the child to
152.11 make reasonable restitution for such damage;

152.12 (6) require the child to pay a fine of up to \$1,000. The court shall order payment of the
152.13 fine in accordance with a time payment schedule which shall not impose an undue financial
152.14 hardship on the child;

152.15 (7) if the child is in need of special treatment and care for reasons of physical or mental
152.16 health, the court may order the child's parent, guardian, or custodian to provide it. If the
152.17 parent, guardian, or custodian fails to provide this treatment or care, the court may order it
152.18 provided;

152.19 (8) if the court believes that it is in the best interests of the child and of public safety
152.20 that the driver's license of the child be canceled until the child's 18th birthday, the court
152.21 may recommend to the commissioner of public safety the cancellation of the child's license
152.22 for any period up to the child's 18th birthday, and the commissioner is hereby authorized
152.23 to cancel such license without a hearing. At any time before the termination of the period
152.24 of cancellation, the court may, for good cause, recommend to the commissioner of public
152.25 safety that the child be authorized to apply for a new license, and the commissioner may so
152.26 authorize;

152.27 (9) if the court believes that it is in the best interest of the child and of public safety that
152.28 the child is enrolled in school, the court may require the child to remain enrolled in a public
152.29 school until the child reaches the age of 18 or completes all requirements needed to graduate
152.30 from high school. Any child enrolled in a public school under this clause is subject to the
152.31 provisions of the Pupil Fair Dismissal Act in chapter 127;

152.32 (10) if the child is petitioned and found by the court to have committed a controlled
152.33 substance offense under sections 152.021 to 152.027, the court shall determine whether the

153.1 child unlawfully possessed or sold the controlled substance while driving a motor vehicle.
153.2 If so, the court shall notify the commissioner of public safety of its determination and order
153.3 the commissioner to revoke the child's driver's license for the applicable time period specified
153.4 in section 152.0271. If the child does not have a driver's license or if the child's driver's
153.5 license is suspended or revoked at the time of the delinquency finding, the commissioner
153.6 shall, upon the child's application for driver's license issuance or reinstatement, delay the
153.7 issuance or reinstatement of the child's driver's license for the applicable time period specified
153.8 in section 152.0271. Upon receipt of the court's order, the commissioner is authorized to
153.9 take the licensing action without a hearing;

153.10 (11) if the child is petitioned and found by the court to have committed or attempted to
153.11 commit an act in violation of section 609.342; 609.343; 609.344; 609.345; 609.3451;
153.12 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a delinquency
153.13 petition based on one or more of those sections, the court shall order an independent
153.14 professional assessment of the child's need for sex offender treatment. An assessor providing
153.15 an assessment for the court must be experienced in the evaluation and treatment of juvenile
153.16 sex offenders. If the assessment indicates that the child is in need of and amenable to sex
153.17 offender treatment, the court shall include in its disposition order a requirement that the
153.18 child undergo treatment. Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, or
153.19 260B.171, ~~or 626.556,~~ or chapter 260A, the assessor has access to the following private or
153.20 confidential data on the child if access is relevant and necessary for the assessment:

- 153.21 (i) medical data under section 13.384;
153.22 (ii) corrections and detention data under section 13.85;
153.23 (iii) health records under sections 144.291 to 144.298;
153.24 (iv) juvenile court records under section 260B.171; and
153.25 (v) local welfare agency records under ~~section 626.556~~ chapter 260A.

153.26 Data disclosed under this clause may be used only for purposes of the assessment and
153.27 may not be further disclosed to any other person, except as authorized by law;

153.28 (12) if the child is found delinquent due to the commission of an offense that would be
153.29 a felony if committed by an adult, the court shall make a specific finding on the record
153.30 regarding the juvenile's mental health and chemical dependency treatment needs;

153.31 (13) any order for a disposition authorized under this section shall contain written findings
153.32 of fact to support the disposition ordered and shall also set forth in writing the following
153.33 information:

154.1 (i) why the best interests of the child are served by the disposition ordered; and

154.2 (ii) what alternative dispositions were considered by the court and why such dispositions
154.3 were not appropriate in the instant case. Item (i) does not apply to a disposition under
154.4 subdivision 1a.

154.5 Sec. 115. Minnesota Statutes 2018, section 260C.007, subdivision 3, is amended to read:

154.6 Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child
154.7 and parent or guardian, or, when reunification is not required, the child alone, that is
154.8 developed according to the requirements of section 245.4871, subdivision 19 or 21; 245.492,
154.9 subdivision 16; 256B.092; 260C.212, subdivision 1; or ~~626.556, subdivision 10~~ 260A.45.

154.10 Sec. 116. Minnesota Statutes 2018, section 260C.007, subdivision 5, is amended to read:

154.11 Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim that
154.12 constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322,
154.13 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or that is physical
154.14 or sexual abuse as defined in section ~~626.556, subdivision 2~~ 260A.20, or an act committed
154.15 in another state that involves a minor victim and would constitute a violation of one of these
154.16 sections if committed in this state.

154.17 Sec. 117. Minnesota Statutes 2018, section 260C.007, subdivision 6, is amended to read:

154.18 Subd. 6. **Child in need of protection or services.** "Child in need of protection or
154.19 services" means a child who is in need of protection or services because the child:

154.20 (1) is abandoned or without parent, guardian, or custodian;

154.21 (2)(i) has been a victim of physical or sexual abuse as defined in section ~~626.556,~~
154.22 ~~subdivision 2~~ 260A.20, subdivision 17 or 20, (ii) resides with or has resided with a victim
154.23 of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision
154.24 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined
154.25 in subdivision 13 or child abuse as defined in subdivision 5 or 13, or (iv) is a victim of
154.26 emotional maltreatment as defined in subdivision 15;

154.27 (3) is without necessary food, clothing, shelter, education, or other required care for the
154.28 child's physical or mental health or morals because the child's parent, guardian, or custodian
154.29 is unable or unwilling to provide that care;

155.1 (4) is without the special care made necessary by a physical, mental, or emotional
155.2 condition because the child's parent, guardian, or custodian is unable or unwilling to provide
155.3 that care;

155.4 (5) is medically neglected, which includes, but is not limited to, the withholding of
155.5 medically indicated treatment from an infant with a disability with a life-threatening
155.6 condition. The term "withholding of medically indicated treatment" means the failure to
155.7 respond to the infant's life-threatening conditions by providing treatment, including
155.8 appropriate nutrition, hydration, and medication which, in the treating physician's or advanced
155.9 practice registered nurse's reasonable medical judgment, will be most likely to be effective
155.10 in ameliorating or correcting all conditions, except that the term does not include the failure
155.11 to provide treatment other than appropriate nutrition, hydration, or medication to an infant
155.12 when, in the treating physician's or advanced practice registered nurse's reasonable medical
155.13 judgment:

155.14 (i) the infant is chronically and irreversibly comatose;

155.15 (ii) the provision of the treatment would merely prolong dying, not be effective in
155.16 ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be
155.17 futile in terms of the survival of the infant; or

155.18 (iii) the provision of the treatment would be virtually futile in terms of the survival of
155.19 the infant and the treatment itself under the circumstances would be inhumane;

155.20 (6) is one whose parent, guardian, or other custodian for good cause desires to be relieved
155.21 of the child's care and custody, including a child who entered foster care under a voluntary
155.22 placement agreement between the parent and the responsible social services agency under
155.23 section 260C.227;

155.24 (7) has been placed for adoption or care in violation of law;

155.25 (8) is without proper parental care because of the emotional, mental, or physical disability,
155.26 or state of immaturity of the child's parent, guardian, or other custodian;

155.27 (9) is one whose behavior, condition, or environment is such as to be injurious or
155.28 dangerous to the child or others. An injurious or dangerous environment may include, but
155.29 is not limited to, the exposure of a child to criminal activity in the child's home;

155.30 (10) is experiencing growth delays, which may be referred to as failure to thrive, that
155.31 have been diagnosed by a physician and are due to parental neglect;

155.32 (11) is a sexually exploited youth;

156.1 (12) has committed a delinquent act or a juvenile petty offense before becoming ten
156.2 years old;

156.3 (13) is a runaway;

156.4 (14) is a habitual truant;

156.5 (15) has been found incompetent to proceed or has been found not guilty by reason of
156.6 mental illness or mental deficiency in connection with a delinquency proceeding, a
156.7 certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a
156.8 proceeding involving a juvenile petty offense; or

156.9 (16) has a parent whose parental rights to one or more other children were involuntarily
156.10 terminated or whose custodial rights to another child have been involuntarily transferred to
156.11 a relative and there is a case plan prepared by the responsible social services agency
156.12 documenting a compelling reason why filing the termination of parental rights petition under
156.13 section 260C.503, subdivision 2, is not in the best interests of the child.

156.14 Sec. 118. Minnesota Statutes 2018, section 260C.007, subdivision 13, is amended to read:

156.15 Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

156.16 (1) any physical injury to a minor family or household member inflicted by an adult
156.17 family or household member other than by accidental means;

156.18 (2) subjection of a minor family or household member by an adult family or household
156.19 member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342,
156.20 609.343, 609.344, 609.345, or 617.246; or

156.21 (3) physical or sexual abuse as defined in section ~~626.556, subdivision 2~~ 260A.20,
156.22 subdivision 17 or 20.

156.23 Sec. 119. Minnesota Statutes 2018, section 260C.139, subdivision 3, is amended to read:

156.24 Subd. 3. **Status of child.** For purposes of proceedings under this chapter and adoption
156.25 proceedings, a newborn left at a safe place, pursuant to subdivision 3 and section 145.902,
156.26 is considered an abandoned child under section ~~626.556, subdivision 2, paragraph (o), clause~~
156.27 ~~(2)~~ 260A.20, subdivision 22, clause (2). The child is abandoned under sections 260C.007,
156.28 subdivision 6, clause (1), and 260C.301, subdivision 1, paragraph (b), clause (1).

157.1 Sec. 120. Minnesota Statutes 2018, section 260C.150, subdivision 3, is amended to read:

157.2 Subd. 3. **Identifying parents of child; diligent efforts; data.** (a) The responsible social
157.3 services agency shall make diligent efforts to identify and locate both parents of any child
157.4 who is the subject of proceedings under this chapter. Diligent efforts include:

157.5 (1) asking the custodial or known parent to identify any nonresident parent of the child
157.6 and provide information that can be used to verify the nonresident parent's identity including
157.7 the dates and locations of marriages and divorces; dates and locations of any legal
157.8 proceedings regarding paternity; date and place of the child's birth; nonresident parent's full
157.9 legal name; nonresident parent's date of birth, or if the nonresident parent's date of birth is
157.10 unknown, an approximate age; the nonresident parent's Social Security number; the
157.11 nonresident parent's whereabouts including last known whereabouts; and the whereabouts
157.12 of relatives of the nonresident parent. For purposes of this subdivision, "nonresident parent"
157.13 means a parent who does not reside in the same household as the child or did not reside in
157.14 the same household as the child at the time the child was removed when the child is in foster
157.15 care;

157.16 (2) obtaining information that will identify and locate the nonresident parent from the
157.17 county and state of Minnesota child support enforcement information system;

157.18 (3) requesting a search of the Minnesota Fathers' Adoption Registry 30 days after the
157.19 child's birth; and

157.20 (4) using any other reasonable means to identify and locate the nonresident parent.

157.21 (b) The agency may disclose data which is otherwise private under section 13.46 or
157.22 ~~626.556~~ chapter 260A in order to carry out its duties under this subdivision.

157.23 (c) Upon the filing of a petition alleging the child to be in need of protection or services,
157.24 the responsible social services agency may contact a putative father who registered with
157.25 the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth. The
157.26 social service agency may consider a putative father for the day-to-day care of the child
157.27 under section 260C.219 if the putative father cooperates with genetic testing and there is a
157.28 positive test result under section 257.62, subdivision 5. Nothing in this paragraph:

157.29 (1) relieves a putative father who registered with the Minnesota Fathers' Adoption
157.30 Registry more than 30 days after the child's birth of the duty to cooperate with paternity
157.31 establishment proceedings under section 260C.219;

157.32 (2) gives a putative father who registered with the Minnesota Fathers' Adoption Registry
157.33 more than 30 days after the child's birth the right to notice under section 260C.151 unless

158.1 the putative father is entitled to notice under sections 259.24 and 259.49, subdivision 1,
158.2 paragraph (a) or (b), clauses (1) to (7); or

158.3 (3) establishes a right to assert an interest in the child in a termination of parental rights
158.4 proceeding contrary to section 259.52, subdivision 6, unless the putative father is entitled
158.5 to notice under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1)
158.6 to (7).

158.7 Sec. 121. Minnesota Statutes 2018, section 260C.171, subdivision 3, is amended to read:

158.8 Subd. 3. **Attorney access to records.** An attorney representing a child, parent, or guardian
158.9 ad litem in a proceeding under this chapter shall be given access to records, responsible
158.10 social services agency files, and reports which form the basis of any recommendation made
158.11 to the court. An attorney does not have access under this subdivision to the identity of a
158.12 person who made a report under ~~section 626.556~~ chapter 260A. The court may issue
158.13 protective orders to prohibit an attorney from sharing a specified record or portion of a
158.14 record with a client other than a guardian ad litem.

158.15 Sec. 122. Minnesota Statutes 2018, section 260C.177, is amended to read:

158.16 **260C.177 PARENTAL AND LAW ENFORCEMENT NOTIFICATION.**

158.17 An emergency shelter and its agents, employees, and volunteers must comply with court
158.18 orders, ~~section 626.556~~, this chapter, chapter 260A, and all other applicable laws. In any
158.19 event, unless other legal requirements require earlier or different notification or actions, an
158.20 emergency shelter must attempt to notify a runaway's parent or legal guardian of the
158.21 runaway's location and status within 72 hours. The notification must include a description
158.22 of the runaway's physical and emotional condition and the circumstances surrounding the
158.23 runaway's admission to the emergency shelter, unless there are compelling reasons not to
158.24 provide the parent or legal guardian with this information. Compelling reasons may include
158.25 circumstances in which the runaway is or has been exposed to domestic violence or a victim
158.26 of abuse, neglect, or abandonment.

158.27 Sec. 123. Minnesota Statutes 2018, section 260C.178, subdivision 1, is amended to read:

158.28 Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody
158.29 under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a
158.30 hearing within 72 hours of the time the child was taken into custody, excluding Saturdays,
158.31 Sundays, and holidays, to determine whether the child should continue in custody.

159.1 (b) Unless there is reason to believe that the child would endanger self or others or not
159.2 return for a court hearing, or that the child's health or welfare would be immediately
159.3 endangered, the child shall be released to the custody of a parent, guardian, custodian, or
159.4 other suitable person, subject to reasonable conditions of release including, but not limited
159.5 to, a requirement that the child undergo a chemical use assessment as provided in section
159.6 260C.157, subdivision 1.

159.7 (c) If the court determines there is reason to believe that the child would endanger self
159.8 or others or not return for a court hearing, or that the child's health or welfare would be
159.9 immediately endangered if returned to the care of the parent or guardian who has custody
159.10 and from whom the child was removed, the court shall order the child into foster care under
159.11 the legal responsibility of the responsible social services agency or responsible probation
159.12 or corrections agency for the purposes of protective care as that term is used in the juvenile
159.13 court rules or into the home of a noncustodial parent and order the noncustodial parent to
159.14 comply with any conditions the court determines to be appropriate to the safety and care of
159.15 the child, including cooperating with paternity establishment proceedings in the case of a
159.16 man who has not been adjudicated the child's father. The court shall not give the responsible
159.17 social services legal custody and order a trial home visit at any time prior to adjudication
159.18 and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may
159.19 order the child returned to the care of the parent or guardian who has custody and from
159.20 whom the child was removed and order the parent or guardian to comply with any conditions
159.21 the court determines to be appropriate to meet the safety, health, and welfare of the child.

159.22 (d) In determining whether the child's health or welfare would be immediately
159.23 endangered, the court shall consider whether the child would reside with a perpetrator of
159.24 domestic child abuse.

159.25 (e) The court, before determining whether a child should be placed in or continue in
159.26 foster care under the protective care of the responsible agency, shall also make a
159.27 determination, consistent with section 260.012 as to whether reasonable efforts were made
159.28 to prevent placement or whether reasonable efforts to prevent placement are not required.
159.29 In the case of an Indian child, the court shall determine whether active efforts, according
159.30 to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25,
159.31 section 1912(d), were made to prevent placement. The court shall enter a finding that the
159.32 responsible social services agency has made reasonable efforts to prevent placement when
159.33 the agency establishes either:

(1) that it has actually provided services or made efforts in an attempt to prevent the child's removal but that such services or efforts have not proven sufficient to permit the child to safely remain in the home; or

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. When reasonable efforts to prevent placement are required and there are services or other efforts that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(f) The court may not order or continue the foster care placement of the child unless the court makes explicit, individualized findings that continued custody of the child by the parent or guardian would be contrary to the welfare of the child and that placement is in the best interest of the child.

(g) At the emergency removal hearing, or at any time during the course of the proceeding, and upon notice and request of the county attorney, the court shall determine whether a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been involuntarily terminated;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parents' custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e), clause (1); section 260C.515, subdivision 4; or a similar law of another jurisdiction;

(5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~ 260A.20, against the child or another child of the parent;

161.1 (6) the parent has committed an offense that requires registration as a predatory offender
161.2 under section 243.166, subdivision 1b, paragraph (a) or (b); or

161.3 (7) the provision of services or further services for the purpose of reunification is futile
161.4 and therefore unreasonable.

161.5 (h) When a petition to terminate parental rights is required under section 260C.301,
161.6 subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to
161.7 proceed with a termination of parental rights petition, and has instead filed a petition to
161.8 transfer permanent legal and physical custody to a relative under section 260C.507, the
161.9 court shall schedule a permanency hearing within 30 days of the filing of the petition.

161.10 (i) If the county attorney has filed a petition under section 260C.307, the court shall
161.11 schedule a trial under section 260C.163 within 90 days of the filing of the petition except
161.12 when the county attorney determines that the criminal case shall proceed to trial first under
161.13 section 260C.503, subdivision 2, paragraph (c).

161.14 (j) If the court determines the child should be ordered into foster care and the child's
161.15 parent refuses to give information to the responsible social services agency regarding the
161.16 child's father or relatives of the child, the court may order the parent to disclose the names,
161.17 addresses, telephone numbers, and other identifying information to the responsible social
161.18 services agency for the purpose of complying with sections 260C.151, 260C.212, 260C.215,
161.19 and 260C.221.

161.20 (k) If a child ordered into foster care has siblings, whether full, half, or step, who are
161.21 also ordered into foster care, the court shall inquire of the responsible social services agency
161.22 of the efforts to place the children together as required by section 260C.212, subdivision 2,
161.23 paragraph (d), if placement together is in each child's best interests, unless a child is in
161.24 placement for treatment or a child is placed with a previously noncustodial parent who is
161.25 not a parent to all siblings. If the children are not placed together at the time of the hearing,
161.26 the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place
161.27 the siblings together, as required under section 260.012. If any sibling is not placed with
161.28 another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing
161.29 contact among the siblings as required under section 260C.212, subdivision 1, unless it is
161.30 contrary to the safety or well-being of any of the siblings to do so.

161.31 (l) When the court has ordered the child into foster care or into the home of a noncustodial
161.32 parent, the court may order a chemical dependency evaluation, mental health evaluation,
161.33 medical examination, and parenting assessment for the parent as necessary to support the
161.34 development of a plan for reunification required under subdivision 7 and section 260C.212,

162.1 subdivision 1, or the child protective services plan under section ~~626.556, subdivision 10~~
162.2 260A.45, and Minnesota Rules, part 9560.0228.

162.3 Sec. 124. Minnesota Statutes 2018, section 260C.201, subdivision 6, is amended to read:

162.4 Subd. 6. **Case plan.** (a) For each disposition ordered where the child is placed away
162.5 from a parent or guardian, the court shall order the responsible social services agency to
162.6 prepare a written out-of-home placement plan according to the requirements of section
162.7 260C.212, subdivision 1.

162.8 (b) In cases where the child is not placed out of the home or is ordered into the home of
162.9 a noncustodial parent, the responsible social services agency shall prepare a plan for delivery
162.10 of social services to the child and custodial parent under section ~~626.556, subdivision 10~~
162.11 260A.45, or any other case plan required to meet the needs of the child. The plan shall be
162.12 designed to safely maintain the child in the home or to reunite the child with the custodial
162.13 parent.

162.14 (c) The court may approve the case plan as presented or modify it after hearing from
162.15 the parties. Once the plan is approved, the court shall order all parties to comply with it. A
162.16 copy of the approved case plan shall be attached to the court's order and incorporated into
162.17 it by reference.

162.18 (d) A party has a right to request a court review of the reasonableness of the case plan
162.19 upon a showing of a substantial change of circumstances.

162.20 Sec. 125. Minnesota Statutes 2018, section 260C.209, subdivision 2, is amended to read:

162.21 Subd. 2. **General procedures.** (a) When accessing information under subdivision 1, the
162.22 agency shall require the individual being assessed to provide sufficient information to ensure
162.23 an accurate assessment under this section, including:

162.24 (1) the individual's first, middle, and last name and all other names by which the
162.25 individual has been known;

162.26 (2) home address, zip code, city, county, and state of residence for the past five years;

162.27 (3) sex;

162.28 (4) date of birth; and

162.29 (5) driver's license number or state identification number.

162.30 (b) When notified by the responsible social services agency that it is accessing information
162.31 under subdivision 1, the Bureau of Criminal Apprehension, commissioners of health and

163.1 human services, law enforcement, and county agencies must provide the responsible social
163.2 services agency or county attorney with the following information on the individual being
163.3 assessed: criminal history data, local law enforcement data about the household, reports
163.4 about the maltreatment of adults substantiated under section 626.557, and reports of
163.5 maltreatment of minors substantiated under ~~section 626.556~~ chapter 260A.

163.6 Sec. 126. Minnesota Statutes 2018, section 260C.212, subdivision 12, is amended to read:

163.7 Subd. 12. **Fair hearing review.** Any person whose claim for foster care payment pursuant
163.8 to the placement of a child resulting from a child protection assessment under ~~section 626.556~~
163.9 chapter 260A is denied or not acted upon with reasonable promptness may appeal the
163.10 decision under section 256.045, subdivision 3.

163.11 Sec. 127. Minnesota Statutes 2018, section 260C.221, is amended to read:

163.12 **260C.221 RELATIVE SEARCH.**

163.13 (a) The responsible social services agency shall exercise due diligence to identify and
163.14 notify adult relatives prior to placement or within 30 days after the child's removal from the
163.15 parent. The county agency shall consider placement with a relative under this section without
163.16 delay and whenever the child must move from or be returned to foster care. The relative
163.17 search required by this section shall be comprehensive in scope. After a finding that the
163.18 agency has made reasonable efforts to conduct the relative search under this paragraph, the
163.19 agency has the continuing responsibility to appropriately involve relatives, who have
163.20 responded to the notice required under this paragraph, in planning for the child and to
163.21 continue to consider relatives according to the requirements of section 260C.212, subdivision
163.22 2. At any time during the course of juvenile protection proceedings, the court may order
163.23 the agency to reopen its search for relatives when it is in the child's best interest to do so.

163.24 (b) The relative search required by this section shall include both maternal and paternal
163.25 adult relatives of the child; all adult grandparents; all legal parents, guardians, or custodians
163.26 of the child's siblings; and any other adult relatives suggested by the child's parents, subject
163.27 to the exceptions due to family violence in paragraph (c). The search shall also include
163.28 getting information from the child in an age-appropriate manner about who the child
163.29 considers to be family members and important friends with whom the child has resided or
163.30 had significant contact. The relative search required under this section must fulfill the
163.31 agency's duties under the Indian Child Welfare Act regarding active efforts to prevent the
163.32 breakup of the Indian family under United States Code, title 25, section 1912(d), and to

164.1 meet placement preferences under United States Code, title 25, section 1915. The relatives
164.2 must be notified:

164.3 (1) of the need for a foster home for the child, the option to become a placement resource
164.4 for the child, and the possibility of the need for a permanent placement for the child;

164.5 (2) of their responsibility to keep the responsible social services agency and the court
164.6 informed of their current address in order to receive notice in the event that a permanent
164.7 placement is sought for the child and to receive notice of the permanency progress review
164.8 hearing under section 260C.204. A relative who fails to provide a current address to the
164.9 responsible social services agency and the court forfeits the right to receive notice of the
164.10 possibility of permanent placement and of the permanency progress review hearing under
164.11 section 260C.204. A decision by a relative not to be identified as a potential permanent
164.12 placement resource or participate in planning for the child at the beginning of the case shall
164.13 not affect whether the relative is considered for placement of the child with that relative
164.14 later;

164.15 (3) that the relative may participate in the care and planning for the child, including that
164.16 the opportunity for such participation may be lost by failing to respond to the notice sent
164.17 under this subdivision. "Participate in the care and planning" includes, but is not limited to,
164.18 participation in case planning for the parent and child, identifying the strengths and needs
164.19 of the parent and child, supervising visits, providing respite and vacation visits for the child,
164.20 providing transportation to appointments, suggesting other relatives who might be able to
164.21 help support the case plan, and to the extent possible, helping to maintain the child's familiar
164.22 and regular activities and contact with friends and relatives;

164.23 (4) of the family foster care licensing requirements, including how to complete an
164.24 application and how to request a variance from licensing standards that do not present a
164.25 safety or health risk to the child in the home under section 245A.04 and supports that are
164.26 available for relatives and children who reside in a family foster home; and

164.27 (5) of the relatives' right to ask to be notified of any court proceedings regarding the
164.28 child, to attend the hearings, and of a relative's right or opportunity to be heard by the court
164.29 as required under section 260C.152, subdivision 5.

164.30 (c) A responsible social services agency may disclose private data, as defined in ~~sections~~
164.31 section 13.02 and 626.556 chapter 260A, to relatives of the child for the purpose of locating
164.32 and assessing a suitable placement and may use any reasonable means of identifying and
164.33 locating relatives including the Internet or other electronic means of conducting a search.
164.34 The agency shall disclose data that is necessary to facilitate possible placement with relatives

165.1 and to ensure that the relative is informed of the needs of the child so the relative can
165.2 participate in planning for the child and be supportive of services to the child and family.
165.3 If the child's parent refuses to give the responsible social services agency information
165.4 sufficient to identify the maternal and paternal relatives of the child, the agency shall ask
165.5 the juvenile court to order the parent to provide the necessary information. If a parent makes
165.6 an explicit request that a specific relative not be contacted or considered for placement due
165.7 to safety reasons including past family or domestic violence, the agency shall bring the
165.8 parent's request to the attention of the court to determine whether the parent's request is
165.9 consistent with the best interests of the child and the agency shall not contact the specific
165.10 relative when the juvenile court finds that contacting the specific relative would endanger
165.11 the parent, guardian, child, sibling, or any family member.

165.12 (d) At a regularly scheduled hearing not later than three months after the child's placement
165.13 in foster care and as required in section 260C.202, the agency shall report to the court:

165.14 (1) its efforts to identify maternal and paternal relatives of the child and to engage the
165.15 relatives in providing support for the child and family, and document that the relatives have
165.16 been provided the notice required under paragraph (a); and

165.17 (2) its decision regarding placing the child with a relative as required under section
165.18 260C.212, subdivision 2, and to ask relatives to visit or maintain contact with the child in
165.19 order to support family connections for the child, when placement with a relative is not
165.20 possible or appropriate.

165.21 (e) Notwithstanding chapter 13, the agency shall disclose data about particular relatives
165.22 identified, searched for, and contacted for the purposes of the court's review of the agency's
165.23 due diligence.

165.24 (f) When the court is satisfied that the agency has exercised due diligence to identify
165.25 relatives and provide the notice required in paragraph (a), the court may find that reasonable
165.26 efforts have been made to conduct a relative search to identify and provide notice to adult
165.27 relatives as required under section 260.012, paragraph (e), clause (3). If the court is not
165.28 satisfied that the agency has exercised due diligence to identify relatives and provide the
165.29 notice required in paragraph (a), the court may order the agency to continue its search and
165.30 notice efforts and to report back to the court.

165.31 (g) When the placing agency determines that permanent placement proceedings are
165.32 necessary because there is a likelihood that the child will not return to a parent's care, the
165.33 agency must send the notice provided in paragraph (h), may ask the court to modify the
165.34 duty of the agency to send the notice required in paragraph (h), or may ask the court to

166.1 completely relieve the agency of the requirements of paragraph (h). The relative notification
166.2 requirements of paragraph (h) do not apply when the child is placed with an appropriate
166.3 relative or a foster home that has committed to adopting the child or taking permanent legal
166.4 and physical custody of the child and the agency approves of that foster home for permanent
166.5 placement of the child. The actions ordered by the court under this section must be consistent
166.6 with the best interests, safety, permanency, and welfare of the child.

166.7 (h) Unless required under the Indian Child Welfare Act or relieved of this duty by the
166.8 court under paragraph (f), when the agency determines that it is necessary to prepare for
166.9 permanent placement determination proceedings, or in anticipation of filing a termination
166.10 of parental rights petition, the agency shall send notice to the relatives, any adult with whom
166.11 the child is currently residing, any adult with whom the child has resided for one year or
166.12 longer in the past, and any adults who have maintained a relationship or exercised visitation
166.13 with the child as identified in the agency case plan. The notice must state that a permanent
166.14 home is sought for the child and that the individuals receiving the notice may indicate to
166.15 the agency their interest in providing a permanent home. The notice must state that within
166.16 30 days of receipt of the notice an individual receiving the notice must indicate to the agency
166.17 the individual's interest in providing a permanent home for the child or that the individual
166.18 may lose the opportunity to be considered for a permanent placement.

166.19 Sec. 128. Minnesota Statutes 2018, section 260C.503, subdivision 2, is amended to read:

166.20 Subd. 2. **Termination of parental rights.** (a) The responsible social services agency
166.21 must ask the county attorney to immediately file a termination of parental rights petition
166.22 when:

166.23 (1) the child has been subjected to egregious harm as defined in section 260C.007,
166.24 subdivision 14;

166.25 (2) the child is determined to be the sibling of a child who was subjected to egregious
166.26 harm;

166.27 (3) the child is an abandoned infant as defined in section 260C.301, subdivision 2,
166.28 paragraph (a), clause (2);

166.29 (4) the child's parent has lost parental rights to another child through an order involuntarily
166.30 terminating the parent's rights;

166.31 (5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~
166.32 260A.20, against the child or another child of the parent;

167.1 (6) the parent has committed an offense that requires registration as a predatory offender
167.2 under section 243.166, subdivision 1b, paragraph (a) or (b); or

167.3 (7) another child of the parent is the subject of an order involuntarily transferring
167.4 permanent legal and physical custody of the child to a relative under this chapter or a similar
167.5 law of another jurisdiction;

167.6 The county attorney shall file a termination of parental rights petition unless the conditions
167.7 of paragraph (d) are met.

167.8 (b) When the termination of parental rights petition is filed under this subdivision, the
167.9 responsible social services agency shall identify, recruit, and approve an adoptive family
167.10 for the child. If a termination of parental rights petition has been filed by another party, the
167.11 responsible social services agency shall be joined as a party to the petition.

167.12 (c) If criminal charges have been filed against a parent arising out of the conduct alleged
167.13 to constitute egregious harm, the county attorney shall determine which matter should
167.14 proceed to trial first, consistent with the best interests of the child and subject to the
167.15 defendant's right to a speedy trial.

167.16 (d) The requirement of paragraph (a) does not apply if the responsible social services
167.17 agency and the county attorney determine and file with the court:

167.18 (1) a petition for transfer of permanent legal and physical custody to a relative under
167.19 sections 260C.505 and 260C.515, subdivision 3, including a determination that adoption is
167.20 not in the child's best interests and that transfer of permanent legal and physical custody is
167.21 in the child's best interests; or

167.22 (2) a petition under section 260C.141 alleging the child, and where appropriate, the
167.23 child's siblings, to be in need of protection or services accompanied by a case plan prepared
167.24 by the responsible social services agency documenting a compelling reason why filing a
167.25 termination of parental rights petition would not be in the best interests of the child.

167.26 Sec. 129. Minnesota Statutes 2018, section 260D.01, is amended to read:

167.27 **260D.01 CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

167.28 (a) Sections 260D.01 to 260D.10, may be cited as the "child in voluntary foster care for
167.29 treatment" provisions of the Juvenile Court Act.

167.30 (b) The juvenile court has original and exclusive jurisdiction over a child in voluntary
167.31 foster care for treatment upon the filing of a report or petition required under this chapter.
167.32 All obligations of the agency to a child and family in foster care contained in chapter 260C

168.1 not inconsistent with this chapter are also obligations of the agency with regard to a child
168.2 in foster care for treatment under this chapter.

168.3 (c) This chapter shall be construed consistently with the mission of the children's mental
168.4 health service system as set out in section 245.487, subdivision 3, and the duties of an agency
168.5 under sections 256B.092 and 260C.157 and Minnesota Rules, parts 9525.0004 to 9525.0016,
168.6 to meet the needs of a child with a developmental disability or related condition. This
168.7 chapter:

168.8 (1) establishes voluntary foster care through a voluntary foster care agreement as the
168.9 means for an agency and a parent to provide needed treatment when the child must be in
168.10 foster care to receive necessary treatment for an emotional disturbance or developmental
168.11 disability or related condition;

168.12 (2) establishes court review requirements for a child in voluntary foster care for treatment
168.13 due to emotional disturbance or developmental disability or a related condition;

168.14 (3) establishes the ongoing responsibility of the parent as legal custodian to visit the
168.15 child, to plan together with the agency for the child's treatment needs, to be available and
168.16 accessible to the agency to make treatment decisions, and to obtain necessary medical,
168.17 dental, and other care for the child; and

168.18 (4) applies to voluntary foster care when the child's parent and the agency agree that the
168.19 child's treatment needs require foster care either:

168.20 (i) due to a level of care determination by the agency's screening team informed by the
168.21 diagnostic and functional assessment under section 245.4885; or

168.22 (ii) due to a determination regarding the level of services needed by the responsible
168.23 social services' screening team under section 256B.092, and Minnesota Rules, parts
168.24 9525.0004 to 9525.0016.

168.25 (d) This chapter does not apply when there is a current determination under ~~section~~
168.26 ~~626.556~~ chapter 260A that the child requires child protective services or when the child is
168.27 in foster care for any reason other than treatment for the child's emotional disturbance or
168.28 developmental disability or related condition. When there is a determination under ~~section~~
168.29 ~~626.556~~ chapter 260A that the child requires child protective services based on an assessment
168.30 that there are safety and risk issues for the child that have not been mitigated through the
168.31 parent's engagement in services or otherwise, or when the child is in foster care for any
168.32 reason other than the child's emotional disturbance or developmental disability or related
168.33 condition, the provisions of chapter 260C apply.

169.1 (e) The paramount consideration in all proceedings concerning a child in voluntary foster
169.2 care for treatment is the safety, health, and the best interests of the child. The purpose of
169.3 this chapter is:

169.4 (1) to ensure a child with a disability is provided the services necessary to treat or
169.5 ameliorate the symptoms of the child's disability;

169.6 (2) to preserve and strengthen the child's family ties whenever possible and in the child's
169.7 best interests, approving the child's placement away from the child's parents only when the
169.8 child's need for care or treatment requires it and the child cannot be maintained in the home
169.9 of the parent; and

169.10 (3) to ensure the child's parent retains legal custody of the child and associated
169.11 decision-making authority unless the child's parent willfully fails or is unable to make
169.12 decisions that meet the child's safety, health, and best interests. The court may not find that
169.13 the parent willfully fails or is unable to make decisions that meet the child's needs solely
169.14 because the parent disagrees with the agency's choice of foster care facility, unless the
169.15 agency files a petition under chapter 260C, and establishes by clear and convincing evidence
169.16 that the child is in need of protection or services.

169.17 (f) The legal parent-child relationship shall be supported under this chapter by maintaining
169.18 the parent's legal authority and responsibility for ongoing planning for the child and by the
169.19 agency's assisting the parent, where necessary, to exercise the parent's ongoing right and
169.20 obligation to visit or to have reasonable contact with the child. Ongoing planning means:

169.21 (1) actively participating in the planning and provision of educational services, medical,
169.22 and dental care for the child;

169.23 (2) actively planning and participating with the agency and the foster care facility for
169.24 the child's treatment needs; and

169.25 (3) planning to meet the child's need for safety, stability, and permanency, and the child's
169.26 need to stay connected to the child's family and community.

169.27 (g) The provisions of section 260.012 to ensure placement prevention, family
169.28 reunification, and all active and reasonable effort requirements of that section apply. This
169.29 chapter shall be construed consistently with the requirements of the Indian Child Welfare
169.30 Act of 1978, United States Code, title 25, section 1901, et al., and the provisions of the
169.31 Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

170.1 Sec. 130. Minnesota Statutes 2018, section 260D.02, subdivision 3, is amended to read:

170.2 Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child
170.3 and parent, or when reunification is not required, the child alone, that is developed according
170.4 to the requirements of sections 245.4871, subdivision 19 or 21; 245.492, subdivision 16;
170.5 256B.092; and 260C.212, subdivision 1; ~~626.556, subdivision 10;~~ and Minnesota Rules,
170.6 parts 9525.0004 to 9525.0016.

170.7 Sec. 131. Minnesota Statutes 2018, section 260D.02, subdivision 5, is amended to read:

170.8 Subd. 5. **Child in voluntary foster care for treatment.** "Child in voluntary foster care
170.9 for treatment" means a child who is emotionally disturbed or developmentally disabled or
170.10 has a related condition and is in foster care under a voluntary foster care agreement between
170.11 the child's parent and the agency due to concurrence between the agency and the parent
170.12 when it is determined that foster care is medically necessary:

170.13 (1) due to a determination by the agency's screening team based on its review of the
170.14 diagnostic and functional assessment under section 245.4885; or

170.15 (2) due to a determination by the agency's screening team under section 256B.092 and
170.16 Minnesota Rules, parts 9525.0004 to 9525.0016.

170.17 A child is not in voluntary foster care for treatment under this chapter when there is a
170.18 current determination under ~~section 626.556~~ chapter 260A that the child requires child
170.19 protective services or when the child is in foster care for any reason other than the child's
170.20 emotional or developmental disability or related condition.

170.21 Sec. 132. Minnesota Statutes 2018, section 299C.093, is amended to read:

170.22 **299C.093 DATABASE OF REGISTERED PREDATORY OFFENDERS.**

170.23 The superintendent of the Bureau of Criminal Apprehension shall maintain a
170.24 computerized data system relating to individuals required to register as predatory offenders
170.25 under section 243.166. To the degree feasible, the system must include the data required to
170.26 be provided under section 243.166, subdivisions 4 and 4a, and indicate the time period that
170.27 the person is required to register. The superintendent shall maintain this data in a manner
170.28 that ensures that it is readily available to law enforcement agencies. This data is private data
170.29 on individuals under section 13.02, subdivision 12, but may be used for law enforcement
170.30 and corrections purposes. Law enforcement may disclose the status of an individual as a
170.31 predatory offender to a child protection worker with a local welfare agency for purposes of
170.32 doing a family assessment under ~~section 626.556~~ chapter 260A. The commissioner of human

171.1 services has access to the data for state-operated services, as defined in section 246.014,
171.2 for the purposes described in section 246.13, subdivision 2, paragraph (b), and for purposes
171.3 of conducting background studies under chapter 245C.

171.4 Sec. 133. Minnesota Statutes 2018, section 388.051, subdivision 2, is amended to read:

171.5 Subd. 2. **Special provisions.** (a) In Anoka, Carver, Dakota, Hennepin, Scott, and
171.6 Washington Counties, only the county attorney shall prosecute gross misdemeanor violations
171.7 of sections 289A.63, subdivisions 1, 2, 4, and 6; 297B.10; 609.255, subdivision 3; 609.377;
171.8 609.378; 609.41; and 617.247.

171.9 (b) In Ramsey County, only the county attorney shall prosecute gross misdemeanor
171.10 violations of sections 609.255, subdivision 3; 609.377; and 609.378.

171.11 (c) The county attorney shall prosecute failure to report physical or sexual child abuse
171.12 or neglect as provided under section ~~626.556, subdivision 6~~, 260A.25, paragraphs (a), (b),
171.13 and (c), violations of fifth-degree criminal sexual conduct under section 609.3451, and
171.14 environmental law violations under sections 115.071, 299F.098, and 609.671.

171.15 (d) Except in Hennepin and Ramsey Counties, only the county attorney shall prosecute
171.16 gross misdemeanor violations of section 152.025.

171.17 Sec. 134. Minnesota Statutes 2018, section 518.165, subdivision 2, is amended to read:

171.18 Subd. 2. **Required appointment of guardian ad litem.** In all proceedings for child
171.19 custody or for marriage dissolution or legal separation in which custody or parenting time
171.20 with a minor child is an issue, if the court has reason to believe that the minor child is a
171.21 victim of domestic child abuse or neglect, as those terms are defined in ~~sections~~ section
171.22 260C.007 and ~~626.556~~ chapter 260A, respectively, the court shall appoint a guardian ad
171.23 litem. The guardian ad litem shall represent the interests of the child and advise the court
171.24 with respect to custody and parenting time. If the child is represented by a guardian ad litem
171.25 in any other pending proceeding, the court may appoint that guardian to represent the child
171.26 in the custody or parenting time proceeding. No guardian ad litem need be appointed if the
171.27 alleged domestic child abuse or neglect is before the court on a juvenile dependency and
171.28 neglect petition. Nothing in this subdivision requires the court to appoint a guardian ad litem
171.29 in any proceeding for child custody, marriage dissolution, or legal separation in which an
171.30 allegation of domestic child abuse or neglect has not been made.

Sec. 135. Minnesota Statutes 2018, section 518.165, subdivision 5, is amended to read:

Subd. 5. Procedure, criminal history, and maltreatment records background

study. (a) When the court requests a background study under subdivision 4, paragraph (a), the request shall be submitted to the Department of Human Services through the department's electronic online background study system.

(b) When the court requests a search of the National Criminal Records Repository, the court must provide a set of classifiable fingerprints of the subject of the study on a fingerprint card provided by the commissioner of human services.

(c) The commissioner of human services shall provide the court with criminal history data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department of Public Safety, other criminal history data held by the commissioner of human services, and data regarding substantiated maltreatment of a minor under ~~section 626.556~~ chapter 260A, and substantiated maltreatment of a vulnerable adult under section 626.557, within 15 working days of receipt of a request. If the subject of the study has been determined by the Department of Human Services or the Department of Health to be the perpetrator of substantiated maltreatment of a minor or vulnerable adult in a licensed facility, the response must include a copy of the public portion of the investigation memorandum under section ~~626.556, subdivision 10f~~ 260A.52, or the public portion of the investigation memorandum under section 626.557, subdivision 12b. When the background study shows that the subject has been determined by a county adult protection or child protection agency to have been responsible for maltreatment, the court shall be informed of the county, the date of the finding, and the nature of the maltreatment that was substantiated. The commissioner shall provide the court with information from the National Criminal Records Repository within three working days of the commissioner's receipt of the data. When the commissioner finds no criminal history or substantiated maltreatment on a background study subject, the commissioner shall make these results available to the court electronically through the secure online background study system.

(d) Notwithstanding ~~section 626.556, subdivision 10f~~, 260A.52 or 626.557, subdivision 12b, if the commissioner or county lead agency or lead investigative agency has information that a person on whom a background study was previously done under this section has been determined to be a perpetrator of maltreatment of a minor or vulnerable adult, the commissioner or the county may provide this information to the court that requested the background study.

173.1 Sec. 136. Minnesota Statutes 2018, section 524.5-118, subdivision 2, is amended to read:

173.2 Subd. 2. **Procedure; criminal history and maltreatment records background**

173.3 **check.** (a) The court shall request the commissioner of human services to complete a
173.4 background study under section 245C.32. The request must be accompanied by the applicable
173.5 fee and the signed consent of the subject of the study authorizing the release of the data
173.6 obtained to the court. If the court is requesting a search of the National Criminal Records
173.7 Repository, the request must be accompanied by a set of classifiable fingerprints of the
173.8 subject of the study. The fingerprints must be recorded on a fingerprint card provided by
173.9 the commissioner of human services.

173.10 (b) The commissioner of human services shall provide the court with criminal history
173.11 data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department
173.12 of Public Safety, other criminal history data held by the commissioner of human services,
173.13 and data regarding substantiated maltreatment of vulnerable adults under section 626.557
173.14 and substantiated maltreatment of minors under ~~section 626.556~~ chapter 260A within 15
173.15 working days of receipt of a request. If the subject of the study has been the perpetrator of
173.16 substantiated maltreatment of a vulnerable adult or minor, the response must include a copy
173.17 of the public portion of the investigation memorandum under section 626.557, subdivision
173.18 12b, or the public portion of the investigation memorandum under ~~section 626.556,~~
173.19 ~~subdivision 10f of 260A.52.~~ If the court did not request a search of the National Criminal
173.20 Records Repository and information from the Bureau of Criminal Apprehension indicates
173.21 that the subject is a multistate offender or that multistate offender status is undetermined,
173.22 the response must include this information. The commissioner shall provide the court with
173.23 information from the National Criminal Records Repository within three working days of
173.24 the commissioner's receipt of the data.

173.25 (c) Notwithstanding section 260A.52 or 626.557, subdivision 12b, ~~or 626.556, subdivision~~
173.26 ~~10f,~~ if the commissioner of human services or a county lead agency or lead investigative
173.27 agency has information that a person on whom a background study was previously done
173.28 under this section has been determined to be a perpetrator of maltreatment of a vulnerable
173.29 adult or minor, the commissioner or the county may provide this information to the court
173.30 that requested the background study. The commissioner may also provide the court with
173.31 additional criminal history or substantiated maltreatment information that becomes available
173.32 after the background study is done.

174.1 Sec. 137. Minnesota Statutes 2018, section 595.02, subdivision 1, is amended to read:

174.2 Subdivision 1. **Competency of witnesses.** Every person of sufficient understanding,
174.3 including a party, may testify in any action or proceeding, civil or criminal, in court or
174.4 before any person who has authority to receive evidence, except as provided in this
174.5 subdivision:

174.6 (a) A husband cannot be examined for or against his wife without her consent, nor a
174.7 wife for or against her husband without his consent, nor can either, during the marriage or
174.8 afterwards, without the consent of the other, be examined as to any communication made
174.9 by one to the other during the marriage. This exception does not apply to a civil action or
174.10 proceeding by one against the other, nor to a criminal action or proceeding for a crime
174.11 committed by one against the other or against a child of either or against a child under the
174.12 care of either spouse, nor to a criminal action or proceeding in which one is charged with
174.13 homicide or an attempt to commit homicide and the date of the marriage of the defendant
174.14 is subsequent to the date of the offense, nor to an action or proceeding for nonsupport,
174.15 neglect, dependency, or termination of parental rights.

174.16 (b) An attorney cannot, without the consent of the attorney's client, be examined as to
174.17 any communication made by the client to the attorney or the attorney's advice given thereon
174.18 in the course of professional duty; nor can any employee of the attorney be examined as to
174.19 the communication or advice, without the client's consent.

174.20 (c) A member of the clergy or other minister of any religion shall not, without the consent
174.21 of the party making the confession, be allowed to disclose a confession made to the member
174.22 of the clergy or other minister in a professional character, in the course of discipline enjoined
174.23 by the rules or practice of the religious body to which the member of the clergy or other
174.24 minister belongs; nor shall a member of the clergy or other minister of any religion be
174.25 examined as to any communication made to the member of the clergy or other minister by
174.26 any person seeking religious or spiritual advice, aid, or comfort or advice given thereon in
174.27 the course of the member of the clergy's or other minister's professional character, without
174.28 the consent of the person.

174.29 (d) A licensed physician or surgeon, dentist, or chiropractor shall not, without the consent
174.30 of the patient, be allowed to disclose any information or any opinion based thereon which
174.31 the professional acquired in attending the patient in a professional capacity, and which was
174.32 necessary to enable the professional to act in that capacity; after the decease of the patient,
174.33 in an action to recover insurance benefits, where the insurance has been in existence two
174.34 years or more, the beneficiaries shall be deemed to be the personal representatives of the

175.1 deceased person for the purpose of waiving this privilege, and no oral or written waiver of
175.2 the privilege shall have any binding force or effect except when made upon the trial or
175.3 examination where the evidence is offered or received.

175.4 (e) A public officer shall not be allowed to disclose communications made to the officer
175.5 in official confidence when the public interest would suffer by the disclosure.

175.6 (f) Persons of unsound mind and persons intoxicated at the time of their production for
175.7 examination are not competent witnesses if they lack capacity to remember or to relate
175.8 truthfully facts respecting which they are examined.

175.9 (g) A registered nurse, psychologist, consulting psychologist, or licensed social worker
175.10 engaged in a psychological or social assessment or treatment of an individual at the
175.11 individual's request shall not, without the consent of the professional's client, be allowed to
175.12 disclose any information or opinion based thereon which the professional has acquired in
175.13 attending the client in a professional capacity, and which was necessary to enable the
175.14 professional to act in that capacity. Nothing in this clause exempts licensed social workers
175.15 from compliance with the provisions of ~~sections 626.556 and~~ section 626.557 and chapter
175.16 260A.

175.17 (h) An interpreter for a person disabled in communication shall not, without the consent
175.18 of the person, be allowed to disclose any communication if the communication would, if
175.19 the interpreter were not present, be privileged. For purposes of this section, a "person disabled
175.20 in communication" means a person who, because of a hearing, speech or other communication
175.21 disorder, or because of the inability to speak or comprehend the English language, is unable
175.22 to understand the proceedings in which the person is required to participate. The presence
175.23 of an interpreter as an aid to communication does not destroy an otherwise existing privilege.

175.24 (i) Licensed chemical dependency counselors shall not disclose information or an opinion
175.25 based on the information which they acquire from persons consulting them in their
175.26 professional capacities, and which was necessary to enable them to act in that capacity,
175.27 except that they may do so:

175.28 (1) when informed consent has been obtained in writing, except in those circumstances
175.29 in which not to do so would violate the law or would result in clear and imminent danger
175.30 to the client or others;

175.31 (2) when the communications reveal the contemplation or ongoing commission of a
175.32 crime; or

(3) when the consulting person waives the privilege by bringing suit or filing charges against the licensed professional whom that person consulted.

(j) A parent or the parent's minor child may not be examined as to any communication made in confidence by the minor to the minor's parent. A communication is confidential if made out of the presence of persons not members of the child's immediate family living in the same household. This exception may be waived by express consent to disclosure by a parent entitled to claim the privilege or by the child who made the communication or by failure of the child or parent to object when the contents of a communication are demanded. This exception does not apply to a civil action or proceeding by one spouse against the other or by a parent or child against the other, nor to a proceeding to commit either the child or parent to whom the communication was made or to place the person or property or either under the control of another because of an alleged mental or physical condition, nor to a criminal action or proceeding in which the parent is charged with a crime committed against the person or property of the communicating child, the parent's spouse, or a child of either the parent or the parent's spouse, or in which a child is charged with a crime or act of delinquency committed against the person or property of a parent or a child of a parent, nor to an action or proceeding for termination of parental rights, nor any other action or proceeding on a petition alleging child abuse, child neglect, abandonment or nonsupport by a parent.

(k) Sexual assault counselors may not be allowed to disclose any opinion or information received from or about the victim without the consent of the victim. However, a counselor may be compelled to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause exists. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of ~~sections 626.556 and~~ section 626.557 and chapter 260A.

"Sexual assault counselor" for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or assistance to victims of sexual assault.

(l) A domestic abuse advocate may not be compelled to disclose any opinion or information received from or about the victim without the consent of the victim unless ordered by the court. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the relationship

177.1 between the victim and domestic abuse advocate, and the services if disclosure occurs.
177.2 Nothing in this paragraph exempts domestic abuse advocates from compliance with the
177.3 provisions of ~~sections 626.556 and~~ section 626.557 and chapter 260A.

177.4 For the purposes of this section, "domestic abuse advocate" means an employee or
177.5 supervised volunteer from a community-based battered women's shelter and domestic abuse
177.6 program eligible to receive grants under section 611A.32; that provides information,
177.7 advocacy, crisis intervention, emergency shelter, or support to victims of domestic abuse
177.8 and who is not employed by or under the direct supervision of a law enforcement agency,
177.9 a prosecutor's office, or by a city, county, or state agency.

177.10 (m) A person cannot be examined as to any communication or document, including
177.11 work notes, made or used in the course of or because of mediation pursuant to an agreement
177.12 to mediate or a collaborative law process pursuant to an agreement to participate in
177.13 collaborative law. This does not apply to the parties in the dispute in an application to a
177.14 court by a party to have a mediated settlement agreement or a stipulated agreement resulting
177.15 from the collaborative law process set aside or reformed. A communication or document
177.16 otherwise not privileged does not become privileged because of this paragraph. This
177.17 paragraph is not intended to limit the privilege accorded to communication during mediation
177.18 or collaborative law by the common law.

177.19 (n) A child under ten years of age is a competent witness unless the court finds that the
177.20 child lacks the capacity to remember or to relate truthfully facts respecting which the child
177.21 is examined. A child describing any act or event may use language appropriate for a child
177.22 of that age.

177.23 (o) A communication assistant for a telecommunications relay system for persons who
177.24 have communication disabilities shall not, without the consent of the person making the
177.25 communication, be allowed to disclose communications made to the communication assistant
177.26 for the purpose of relaying.

177.27 Sec. 138. Minnesota Statutes 2018, section 595.02, subdivision 2, is amended to read:

177.28 Subd. 2. **Exceptions.** (a) The exception provided by paragraphs (d) and (g) of subdivision
177.29 1 shall not apply to any testimony, records, or other evidence relating to the abuse or neglect
177.30 of a minor in any proceeding under chapter 260 or any proceeding under section 245A.08,
177.31 to revoke a day care or foster care license, arising out of the neglect or physical or sexual
177.32 abuse of a minor, as defined in section ~~626.556, subdivision 2~~ 260A.20.

178.1 (b) The exception provided by paragraphs (d) and (g) of subdivision 1 shall not apply
178.2 to criminal proceedings arising out of the neglect or physical or sexual abuse of a minor,
178.3 as defined in section ~~626.556, subdivision 2~~ 260A.20, if the court finds that:

178.4 (1) there is a reasonable likelihood that the records in question will disclose material
178.5 information or evidence of substantial value in connection with the investigation or
178.6 prosecution; and

178.7 (2) there is no other practicable way of obtaining the information or evidence. This
178.8 clause shall not be construed to prohibit disclosure of the patient record when it supports
178.9 the otherwise uncorroborated statements of any material fact by a minor alleged to have
178.10 been abused or neglected by the patient; and

178.11 (3) the actual or potential injury to the patient-health professional relationship in the
178.12 treatment program affected, and the actual or potential harm to the ability of the program
178.13 to attract and retain patients, is outweighed by the public interest in authorizing the disclosure
178.14 sought.

178.15 No records may be disclosed under this paragraph other than the records of the specific
178.16 patient suspected of the neglect or abuse of a minor. Disclosure and dissemination of any
178.17 information from a patient record shall be limited under the terms of the order to assure that
178.18 no information will be disclosed unnecessarily and that dissemination will be no wider than
178.19 necessary for purposes of the investigation or prosecution.

178.20 Sec. 139. Minnesota Statutes 2018, section 609.26, subdivision 7, is amended to read:

178.21 Subd. 7. **Reporting of deprivation of parental rights.** Any violation of this section
178.22 shall be reported pursuant to section ~~626.556, subdivision 3a~~ 260A.28, subdivision 2.

178.23 Sec. 140. Minnesota Statutes 2018, section 609.3457, subdivision 2, is amended to read:

178.24 Subd. 2. **Access to data.** Notwithstanding sections 13.384, 13.85, 144.291 to 144.298,
178.25 260B.171, 260C.171, or 626.556, the assessor has access to the following private or
178.26 confidential data on the person if access is relevant and necessary for the assessment:

178.27 (1) medical data under section 13.384;

178.28 (2) corrections and detention data under section 13.85;

178.29 (3) health records under sections 144.291 to 144.298;

178.30 (4) juvenile court records under sections 260B.171 and 260C.171; and

178.31 (5) local welfare agency records under ~~section 626.556~~ chapter 260A.

179.1 Data disclosed under this section may be used only for purposes of the assessment and
179.2 may not be further disclosed to any other person, except as authorized by law.

179.3 Sec. 141. Minnesota Statutes 2018, section 609.379, subdivision 2, is amended to read:

179.4 Subd. 2. **Applicability.** This section applies to sections 260B.425, 260C.425, 609.255,
179.5 609.376, and 609.378, and ~~626.556~~ and chapter 260A.

179.6 Sec. 142. Minnesota Statutes 2018, section 609.507, is amended to read:

179.7 **609.507 FALSELY REPORTING CHILD ABUSE.**

179.8 A person is guilty of a misdemeanor who:

179.9 (1) informs another person that a person has committed sexual abuse, physical abuse,
179.10 or neglect of a child, as defined in section ~~626.556, subdivision 2~~ 260A.20;

179.11 (2) knows that the allegation is false or is without reason to believe that the alleged
179.12 abuser committed the abuse or neglect; and

179.13 (3) has the intent that the information influence a child custody hearing.

179.14 Sec. 143. Minnesota Statutes 2018, section 609.7495, subdivision 1, is amended to read:

179.15 Subdivision 1. **Definitions.** For the purposes of this section, the following terms have
179.16 the meanings given them.

179.17 (a) "Facility" means any of the following:

179.18 (1) a hospital or other health institution licensed under sections 144.50 to 144.56;

179.19 (2) a medical facility as defined in section 144.561;

179.20 (3) an agency, clinic, or office operated under the direction of or under contract with the
179.21 commissioner of health or a community health board, as defined in section 145A.02;

179.22 (4) a facility providing counseling regarding options for medical services or recovery
179.23 from an addiction;

179.24 (5) a facility providing emergency shelter services for battered women, as defined in
179.25 section 611A.31, subdivision 3, or a facility providing transitional housing for battered
179.26 women and their children;

179.27 (6) a facility as defined in section ~~626.556, subdivision 2, paragraph (e)~~ 260A.20,
179.28 subdivision 6;

180.1 (7) a facility as defined in section 626.5572, subdivision 6, where the services described
180.2 in that paragraph are provided;

180.3 (8) a place to or from which ambulance service, as defined in section 144E.001, is
180.4 provided or sought to be provided; and

180.5 (9) a hospice provider licensed under section 144A.753.

180.6 (b) "Aggrieved party" means a person whose access to or egress from a facility is
180.7 obstructed in violation of subdivision 2, or the facility.

180.8 Sec. 144. Minnesota Statutes 2018, section 611A.203, subdivision 4, is amended to read:

180.9 Subd. 4. **Duties; access to data.** (a) The domestic fatality review team shall collect,
180.10 review, and analyze death certificates and death data, including investigative reports, medical
180.11 and counseling records, victim service records, employment records, child abuse reports,
180.12 or other information concerning domestic violence deaths, survivor interviews and surveys,
180.13 and other information deemed by the team as necessary and appropriate concerning the
180.14 causes and manner of domestic violence deaths.

180.15 (b) The review team has access to the following not public data, as defined in section
180.16 13.02, subdivision 8a, relating to a case being reviewed by the team: inactive law enforcement
180.17 investigative data under section 13.82; autopsy records and coroner or medical examiner
180.18 investigative data under section 13.83; hospital, public health, or other medical records of
180.19 the victim under section 13.384; records under section 13.46, created by social service
180.20 agencies that provided services to the victim, the alleged perpetrator, or another victim who
180.21 experienced or was threatened with domestic abuse by the perpetrator; and child maltreatment
180.22 records under ~~section 626.556~~ chapter 260A, relating to the victim or a family or household
180.23 member of the victim. Access to medical records under this paragraph also includes records
180.24 governed by sections 144.291 to 144.298. The review team has access to corrections and
180.25 detention data as provided in section 13.85.

180.26 (c) As part of any review, the domestic fatality review team may compel the production
180.27 of other records by applying to the district court for a subpoena, which will be effective
180.28 throughout the state according to the Rules of Civil Procedure.

180.29 Sec. 145. Minnesota Statutes 2018, section 611A.90, subdivision 1, is amended to read:

180.30 Subdivision 1. **Definition.** For purposes of this section, "physical abuse" and "sexual
180.31 abuse" have the meanings given in section ~~626.556, subdivision 2~~ 260A.20, except that

181.1 abuse is not limited to acts by a person responsible for the child's care or in a significant
181.2 relationship with the child or position of authority.

181.3 Sec. 146. Minnesota Statutes 2018, section 626.557, subdivision 9d, is amended to read:

181.4 Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under
181.5 paragraph (e), any individual or facility which a lead investigative agency determines has
181.6 maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf
181.7 of the vulnerable adult, regardless of the lead investigative agency's determination, who
181.8 contests the lead investigative agency's final disposition of an allegation of maltreatment,
181.9 may request the lead investigative agency to reconsider its final disposition. The request
181.10 for reconsideration must be submitted in writing to the lead investigative agency within 15
181.11 calendar days after receipt of notice of final disposition or, if the request is made by an
181.12 interested person who is not entitled to notice, within 15 days after receipt of the notice by
181.13 the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the
181.14 request for reconsideration must be postmarked and sent to the lead investigative agency
181.15 within 15 calendar days of the individual's or facility's receipt of the final disposition. If the
181.16 request for reconsideration is made by personal service, it must be received by the lead
181.17 investigative agency within 15 calendar days of the individual's or facility's receipt of the
181.18 final disposition. An individual who was determined to have maltreated a vulnerable adult
181.19 under this section and who was disqualified on the basis of serious or recurring maltreatment
181.20 under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment
181.21 determination and the disqualification. The request for reconsideration of the maltreatment
181.22 determination and the disqualification must be submitted in writing within 30 calendar days
181.23 of the individual's receipt of the notice of disqualification under sections 245C.16 and
181.24 245C.17. If mailed, the request for reconsideration of the maltreatment determination and
181.25 the disqualification must be postmarked and sent to the lead investigative agency within 30
181.26 calendar days of the individual's receipt of the notice of disqualification. If the request for
181.27 reconsideration is made by personal service, it must be received by the lead investigative
181.28 agency within 30 calendar days after the individual's receipt of the notice of disqualification.

181.29 (b) Except as provided under paragraphs (e) and (f), if the lead investigative agency
181.30 denies the request or fails to act upon the request within 15 working days after receiving
181.31 the request for reconsideration, the person or facility entitled to a fair hearing under section
181.32 256.045, may submit to the commissioner of human services a written request for a hearing
181.33 under that statute. The vulnerable adult, or an interested person acting on behalf of the
181.34 vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel
181.35 under section 256.021 if the lead investigative agency denies the request or fails to act upon

182.1 the request, or if the vulnerable adult or interested person contests a reconsidered disposition.
182.2 The lead investigative agency shall notify persons who request reconsideration of their
182.3 rights under this paragraph. The request must be submitted in writing to the review panel
182.4 and a copy sent to the lead investigative agency within 30 calendar days of receipt of notice
182.5 of a denial of a request for reconsideration or of a reconsidered disposition. The request
182.6 must specifically identify the aspects of the lead investigative agency determination with
182.7 which the person is dissatisfied.

182.8 (c) If, as a result of a reconsideration or review, the lead investigative agency changes
182.9 the final disposition, it shall notify the parties specified in subdivision 9c, paragraph (f).

182.10 (d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable
182.11 adult" means a person designated in writing by the vulnerable adult to act on behalf of the
182.12 vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy
182.13 or health care agent appointed under chapter 145B or 145C, or an individual who is related
182.14 to the vulnerable adult, as defined in section 245A.02, subdivision 13.

182.15 (e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis
182.16 of a determination of maltreatment, which was serious or recurring, and the individual has
182.17 requested reconsideration of the maltreatment determination under paragraph (a) and
182.18 reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration
182.19 of the maltreatment determination and requested reconsideration of the disqualification
182.20 shall be consolidated into a single reconsideration. If reconsideration of the maltreatment
182.21 determination is denied and the individual remains disqualified following a reconsideration
182.22 decision, the individual may request a fair hearing under section 256.045. If an individual
182.23 requests a fair hearing on the maltreatment determination and the disqualification, the scope
182.24 of the fair hearing shall include both the maltreatment determination and the disqualification.

182.25 (f) If a maltreatment determination or a disqualification based on serious or recurring
182.26 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing
182.27 sanction under section 245A.07, the license holder has the right to a contested case hearing
182.28 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for
182.29 under section 245A.08, the scope of the contested case hearing must include the maltreatment
182.30 determination, disqualification, and licensing sanction or denial of a license. In such cases,
182.31 a fair hearing must not be conducted under section 256.045. Except for family child care
182.32 and child foster care, reconsideration of a maltreatment determination under this subdivision,
182.33 and reconsideration of a disqualification under section 245C.22, must not be conducted
182.34 when:

(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,~~ 260A.85 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,~~ 260A.85, 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) Until August 1, 2002, an individual or facility that was determined by the commissioner of human services or the commissioner of health to be responsible for neglect under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001, that believes that the finding of neglect does not meet an amended definition of neglect may request a reconsideration of the determination of neglect. The commissioner of human services or the commissioner of health shall mail a notice to the last known address of individuals who are eligible to seek this reconsideration. The request for reconsideration must state how the established findings no longer meet the elements of the definition of neglect. The commissioner shall review the request for reconsideration and make a determination within 15 calendar days. The commissioner's decision on this reconsideration is the final agency action.

(1) For purposes of compliance with the data destruction schedule under subdivision 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, the date of the original finding of a substantiated maltreatment must be used to calculate the destruction date.

184.1 (2) For purposes of any background studies under chapter 245C, when a determination
184.2 of substantiated maltreatment has been changed as a result of a reconsideration under this
184.3 paragraph, any prior disqualification of the individual under chapter 245C that was based
184.4 on this determination of maltreatment shall be rescinded, and for future background studies
184.5 under chapter 245C the commissioner must not use the previous determination of
184.6 substantiated maltreatment as a basis for disqualification or as a basis for referring the
184.7 individual's maltreatment history to a health-related licensing board under section 245C.31.

184.8 Sec. 147. **REVISOR INSTRUCTION.**

184.9 The revisor of statutes shall renumber Minnesota Statutes, sections 260A.01 to 260A.07,
184.10 as Minnesota Statutes, sections 260E.01 to 260E.07, and shall make necessary cross-reference
184.11 changes in Minnesota Statutes consistent with the renumbering.

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.

(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

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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;

(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.

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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.

(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 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), or 609.3451 (criminal sexual conduct in

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the fifth degree). 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. Effective May 29, 2017, 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.

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

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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.

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

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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. Effective May 29, 2017, 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.

(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.

(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

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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.

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.

(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 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.

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(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.

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.

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(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;

(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.

(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.

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. 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.

(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 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

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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:

(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.

(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 necessary and relevant information to the licensing entity to enable the entity to fulfill its statutory duties. 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 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.

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(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:

(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.

(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.

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 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 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;

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(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.

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.