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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 4385

03/11/2020 Authored by Demuth, Theis, West and 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 child protection; modifying interview and notice requirements; requiring
1.3 the commissioner of human services to develop certain protocols and training;
1.4 amending Minnesota Statutes 2018, sections 260C.219; 626.556, subdivisions 3d,
1.5 10e, by adding a subdivision; Minnesota Statutes 2019 Supplement, section
1.6 626.556, subdivision 10.

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

1.8 Section 1. Minnesota Statutes 2018, section 260C.219, is amended to read:

1.9 260C.219 AGENCY RESPONSIBILITIES FOR PARENTS AND CHILDREN IN
1.10 PLACEMENT.

1.11 (a) When a child is in foster care, the responsible social services agency shall make
1.12 diligent efforts to identify, locate, and, where appropriate, offer services to both parents of
1.13 the child.

1.14 (1) The responsible social services agency shall assess whether a noncustodial or
1.15 nonadjudicated parent is willing and capable of providing for the day-to-day care of the
1.16 child temporarily or permanently. An assessment under this clause may include, but is not
1.17 limited to, obtaining information under section 260C.209. If after assessment, the responsible
1.18 social services agency determines that a noncustodial or nonadjudicated parent is willing
1.19 and capable of providing day-to-day care of the child, the responsible social services agency
1.20 may seek authority from the custodial parent or the court to have that parent assume
1.21 day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social
1.22 services agency shall require the nonadjudicated parent to cooperate with paternity
1.23 establishment procedures as part of the case plan.

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

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

2.5 (ii) provide a parent who is the subject of a background study under section 260C.209
2.6 15 days' notice that it intends to use the study to recommend against putting the child with
2.7 that parent, and the court shall afford the parent an opportunity to be heard concerning the
2.8 study.

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

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

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

2.22 (b) The responsible social services agency shall give notice to the parent or guardian of
2.23 each child in foster care, other than a child in voluntary foster care for treatment under
2.24 chapter 260D, of the following information:

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

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

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

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

3.3 (5) the first consideration for placement with relatives;

3.4 (6) the benefit to the child in getting the child out of foster care as soon as possible,
3.5 preferably by returning the child home, but if that is not possible, through a permanent legal
3.6 placement of the child away from the parent;

3.7 (7) when safe for the child, the benefits to the child and the parent of maintaining
3.8 visitation with the child as soon as possible in the course of the case and, in any event,
3.9 according to the visitation plan under this section; and

3.10 (8) the financial responsibilities and obligations, if any, of the parent or parents for the
3.11 support of the child during the period the child is in foster care.

3.12 (c) The responsible social services agency shall inform a parent considering voluntary
3.13 placement of a child under section 260C.227 of the following information:

3.14 (1) the parent and the child each has a right to separate legal counsel before signing a
3.15 voluntary placement agreement, but not to counsel appointed at public expense;

3.16 (2) the parent is not required to agree to the voluntary placement, and a parent who enters
3.17 a voluntary placement agreement may at any time request that the agency return the child.
3.18 If the parent so requests, the child must be returned within 24 hours of the receipt of the
3.19 request;

3.20 (3) evidence gathered during the time the child is voluntarily placed may be used at a
3.21 later time as the basis for a petition alleging that the child is in need of protection or services
3.22 or as the basis for a petition seeking termination of parental rights or other permanent
3.23 placement of the child away from the parent;

3.24 (4) if the responsible social services agency files a petition alleging that the child is in
3.25 need of protection or services or a petition seeking the termination of parental rights or other
3.26 permanent placement of the child away from the parent, the parent would have the right to
3.27 appointment of separate legal counsel and the child would have a right to the appointment
3.28 of counsel and a guardian ad litem as provided by law, and that counsel will be appointed
3.29 at public expense if they are unable to afford counsel; and

3.30 (5) the timelines and procedures for review of voluntary placements under section
3.31 260C.212, subdivision 3, and the effect the time spent in voluntary placement on the
3.32 scheduling of a permanent placement determination hearing under sections 260C.503 to
3.33 260C.521.

4.1 (d) When an agency accepts a child for placement, the agency shall determine whether
4.2 the child has had a physical examination by or under the direction of a licensed physician
4.3 within the 12 months immediately preceding the date when the child came into the agency's
4.4 care. If there is documentation that the child has had an examination within the last 12
4.5 months, the agency is responsible for seeing that the child has another physical examination
4.6 within one year of the documented examination and annually in subsequent years. If the
4.7 agency determines that the child has not had a physical examination within the 12 months
4.8 immediately preceding placement, the agency shall ensure that the child has an examination
4.9 within 30 days of coming into the agency's care and once a year in subsequent years.

4.10 (e) Whether under state guardianship or not, if a child leaves foster care by reason of
4.11 having attained the age of majority under state law, the child must be given at no cost a
4.12 copy of the child's social and medical history, as defined in section 259.43, and education
4.13 report.

4.14 (f) When a child is in foster care, the responsible social services agency must interview
4.15 a child who is four years of age or older separately from and prior to interviewing all adults
4.16 residing with the child. This paragraph applies unless there are exceptional documented
4.17 circumstances demonstrating that it would not be in the best interests of the child.

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

4.19 Sec. 2. Minnesota Statutes 2018, section 626.556, subdivision 3d, is amended to read:

4.20 Subd. 3d. **Authority to interview.** (a) The agency responsible for assessing or
4.21 investigating reports of child maltreatment has the authority to interview the child, the
4.22 person or persons responsible for the child's care, the alleged perpetrator, and any other
4.23 person with knowledge of the abuse or neglect for the purpose of gathering the facts,
4.24 assessing safety and risk to the child, and formulating a plan.

4.25 (b) If the responsible agency must interview the child as part of a family assessment or
4.26 investigation, the agency must interview the child separately from and prior to interviewing
4.27 the alleged perpetrator. This paragraph applies unless there are exceptional documented
4.28 circumstances demonstrating that it would not be in the best interests of the child. The
4.29 responsible agency shall report to the commissioner the number of interviews that the agency
4.30 conducted under exceptional circumstances and the specific reasons constituting exceptional
4.31 circumstances.

4.32 (c) The responsible agency shall conduct interviews with children in a trauma-informed,
4.33 culturally sensitive manner.

5.1 **EFFECTIVE DATE.** Paragraph (b) is effective the day following final enactment.

5.2 Paragraph (c) is effective March 1, 2021.

5.3 Sec. 3. Minnesota Statutes 2018, section 626.556, is amended by adding a subdivision to
5.4 read:

5.5 Subd. 3g. **Advance notice prohibited.** The agency responsible for conducting
5.6 assessments and investigations under this section must not provide advance notice to the
5.7 child's caregivers for any initial visit to the child's home, unless there are exceptional
5.8 documented circumstances demonstrating that it would not be in the best interests of the
5.9 child.

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

5.11 Sec. 4. Minnesota Statutes 2019 Supplement, section 626.556, subdivision 10, is amended
5.12 to read:

5.13 Subd. 10. **Duties of local welfare agency and local law enforcement agency upon**
5.14 **receipt of report; mandatory notification between police or sheriff and agency.** (a) The
5.15 police department or the county sheriff shall immediately notify the local welfare agency
5.16 or agency responsible for child protection reports under this section orally and in writing
5.17 when a report is received. The local welfare agency or agency responsible for child protection
5.18 reports shall immediately notify the local police department or the county sheriff orally and
5.19 in writing when a report is received. The county sheriff and the head of every local welfare
5.20 agency, agency responsible for child protection reports, and police department shall each
5.21 designate a person within their agency, department, or office who is responsible for ensuring
5.22 that the notification duties of this paragraph are carried out. When the alleged maltreatment
5.23 occurred on tribal land, the local welfare agency or agency responsible for child protection
5.24 reports and the local police department or the county sheriff shall immediately notify the
5.25 tribe's social services agency and tribal law enforcement orally and in writing when a report
5.26 is received. When a police department or county sheriff determines that a child has been
5.27 the subject of physical abuse, sexual abuse, or neglect by a person licensed by the
5.28 Professional Educator Licensing and Standards Board or the Board of School Administrators,
5.29 the department or sheriff shall, in addition to its other duties under this section, immediately
5.30 inform the licensing board.

5.31 (b) Upon receipt of a report, the local welfare agency shall determine whether to conduct
5.32 a family assessment or an investigation as appropriate to prevent or provide a remedy for
5.33 child maltreatment. The local welfare agency:

6.1 (1) shall conduct an investigation on reports involving sexual abuse or substantial child
6.2 endangerment;

6.3 (2) shall begin an immediate investigation if, at any time when it is using a family
6.4 assessment response, it determines that there is reason to believe that sexual abuse or
6.5 substantial child endangerment or a serious threat to the child's safety exists;

6.6 (3) shall follow standard fact-finding protocol under paragraph (m) for reports that do
6.7 not allege sexual abuse or substantial child endangerment prior to assigning the case to an
6.8 investigation or family assessment;

6.9 ~~(3)~~ (4) may conduct a family assessment for reports that do not allege sexual abuse or
6.10 substantial child endangerment. In determining that a family assessment is appropriate, the
6.11 local welfare agency may consider issues of child safety, parental cooperation, and the need
6.12 for an immediate response;

6.13 ~~(4)~~ (5) may conduct a family assessment on a report that was initially screened and
6.14 assigned for an investigation. In determining that a complete investigation is not required,
6.15 the local welfare agency must document the reason for terminating the investigation and
6.16 notify the local law enforcement agency if the local law enforcement agency is conducting
6.17 a joint investigation; and

6.18 ~~(5)~~ (6) shall provide immediate notice, according to section 260.761, subdivision 2, to
6.19 an Indian child's tribe when the agency has reason to believe the family assessment or
6.20 investigation may involve an Indian child. For purposes of this clause, "immediate notice"
6.21 means notice provided within 24 hours.

6.22 If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or
6.23 individual functioning within the family unit as a person responsible for the child's care, or
6.24 sexual abuse by a person with a significant relationship to the child when that person resides
6.25 in the child's household or by a sibling, the local welfare agency shall immediately conduct
6.26 a family assessment or investigation as identified in clauses (1) to (4). In conducting a family
6.27 assessment or investigation, the local welfare agency shall follow standard fact-finding
6.28 protocol under paragraph (m), gather information on the existence of substance abuse and
6.29 domestic violence and offer services for purposes of preventing future child maltreatment,
6.30 safeguarding and enhancing the welfare of the abused or neglected minor, and supporting
6.31 and preserving family life whenever possible. If the report alleges a violation of a criminal
6.32 statute involving sexual abuse, physical abuse, or neglect or endangerment, under section
6.33 609.378, the local law enforcement agency and local welfare agency shall coordinate the
6.34 planning and execution of their respective investigation and assessment efforts to avoid a

7.1 duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a
7.2 separate report of the results of its investigation or assessment. In cases of alleged child
7.3 maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a
7.4 law enforcement investigation to make a determination of whether or not maltreatment
7.5 occurred. When necessary the local welfare agency shall seek authority to remove the child
7.6 from the custody of a parent, guardian, or adult with whom the child is living. In performing
7.7 any of these duties, the local welfare agency shall maintain appropriate records.

7.8 If the family assessment or investigation indicates there is a potential for abuse of alcohol
7.9 or other drugs by the parent, guardian, or person responsible for the child's care, the local
7.10 welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part
7.11 9530.6615.

7.12 (c) When a local agency receives a report or otherwise has information indicating that
7.13 a child who is a client, as defined in section 245.91, has been the subject of physical abuse,
7.14 sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it
7.15 shall, in addition to its other duties under this section, immediately inform the ombudsman
7.16 established under sections 245.91 to 245.97. The commissioner of education shall inform
7.17 the ombudsman established under sections 245.91 to 245.97 of reports regarding a child
7.18 defined as a client in section 245.91 that maltreatment occurred at a school as defined in
7.19 section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

7.20 (d) Authority of the local welfare agency responsible for assessing or investigating the
7.21 child abuse or neglect report, the agency responsible for assessing or investigating the report,
7.22 and of the local law enforcement agency for investigating the alleged abuse or neglect
7.23 includes, but is not limited to, authority to interview, without parental consent, the alleged
7.24 victim and any other minors who currently reside with or who have resided with the alleged
7.25 offender. The agency shall interview the alleged victim separately from and prior to
7.26 interviewing the alleged offender, unless there are exceptional documented circumstances
7.27 demonstrating that it would not be in the best interests of the child. The interview may take
7.28 place at school or at any facility or other place where the alleged victim or other minors
7.29 might be found or the child may be transported to, and the interview conducted at, a place
7.30 appropriate for the interview of a child designated by the local welfare agency or law
7.31 enforcement agency. The interview may take place outside the presence of the alleged
7.32 offender or parent, legal custodian, guardian, or school official. For family assessments, it
7.33 is the preferred practice to request a parent or guardian's permission to interview the child
7.34 prior to conducting the child interview, unless doing so would compromise the safety
7.35 assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian

8.1 shall be notified by the responsible local welfare or law enforcement agency no later than
8.2 the conclusion of the investigation or assessment that this interview has occurred.

8.3 Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts, the
8.4 juvenile court may, after hearing on an ex parte motion by the local welfare agency, order
8.5 that, where reasonable cause exists, the agency withhold notification of this interview from
8.6 the parent, legal custodian, or guardian. If the interview took place or is to take place on
8.7 school property, the order shall specify that school officials may not disclose to the parent,
8.8 legal custodian, or guardian the contents of the notification of intent to interview the child
8.9 on school property, as provided under this paragraph, and any other related information
8.10 regarding the interview that may be a part of the child's school record. A copy of the order
8.11 shall be sent by the local welfare or law enforcement agency to the appropriate school
8.12 official.

8.13 (e) When the local welfare, local law enforcement agency, or the agency responsible
8.14 for assessing or investigating a report of maltreatment determines that an interview should
8.15 take place on school property, written notification of intent to interview the child on school
8.16 property must be received by school officials prior to the interview. The notification shall
8.17 include the name of the child to be interviewed, the purpose of the interview, and a reference
8.18 to the statutory authority to conduct an interview on school property. For interviews
8.19 conducted by the local welfare agency, the notification shall be signed by the chair of the
8.20 local social services agency or the chair's designee. The notification shall be private data
8.21 on individuals subject to the provisions of this paragraph. School officials may not disclose
8.22 to the parent, legal custodian, or guardian the contents of the notification or any other related
8.23 information regarding the interview until notified in writing by the local welfare or law
8.24 enforcement agency that the investigation or assessment has been concluded, unless a school
8.25 employee or agent is alleged to have maltreated the child. Until that time, the local welfare
8.26 or law enforcement agency or the agency responsible for assessing or investigating a report
8.27 of maltreatment shall be solely responsible for any disclosures regarding the nature of the
8.28 assessment or investigation.

8.29 Except where the alleged offender is believed to be a school official or employee, the
8.30 time and place, and manner of the interview on school premises shall be within the discretion
8.31 of school officials, but the local welfare or law enforcement agency shall have the exclusive
8.32 authority to determine who may attend the interview. The conditions as to time, place, and
8.33 manner of the interview set by the school officials shall be reasonable and the interview
8.34 shall be conducted not more than 24 hours after the receipt of the notification unless another
8.35 time is considered necessary by agreement between the school officials and the local welfare

9.1 or law enforcement agency. Where the school fails to comply with the provisions of this
9.2 paragraph, the juvenile court may order the school to comply. Every effort must be made
9.3 to reduce the disruption of the educational program of the child, other students, or school
9.4 staff when an interview is conducted on school premises.

9.5 (f) Where the alleged offender or a person responsible for the care of the alleged victim
9.6 or other minor prevents access to the victim or other minor by the local welfare agency, the
9.7 juvenile court may order the parents, legal custodian, or guardian to produce the alleged
9.8 victim or other minor for questioning by the local welfare agency or the local law
9.9 enforcement agency outside the presence of the alleged offender or any person responsible
9.10 for the child's care at reasonable places and times as specified by court order.

9.11 (g) Before making an order under paragraph (f), the court shall issue an order to show
9.12 cause, either upon its own motion or upon a verified petition, specifying the basis for the
9.13 requested interviews and fixing the time and place of the hearing. The order to show cause
9.14 shall be served personally and shall be heard in the same manner as provided in other cases
9.15 in the juvenile court. The court shall consider the need for appointment of a guardian ad
9.16 litem to protect the best interests of the child. If appointed, the guardian ad litem shall be
9.17 present at the hearing on the order to show cause.

9.18 (h) The commissioner of human services, the ombudsman for mental health and
9.19 developmental disabilities, the local welfare agencies responsible for investigating reports,
9.20 the commissioner of education, and the local law enforcement agencies have the right to
9.21 enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,
9.22 including medical records, as part of the investigation. Notwithstanding the provisions of
9.23 chapter 13, they also have the right to inform the facility under investigation that they are
9.24 conducting an investigation, to disclose to the facility the names of the individuals under
9.25 investigation for abusing or neglecting a child, and to provide the facility with a copy of
9.26 the report and the investigative findings.

9.27 (i) The local welfare agency responsible for conducting a family assessment or
9.28 investigation shall follow standard fact-finding protocol under paragraph (m) to collect
9.29 available and relevant information to determine child safety, risk of subsequent child
9.30 maltreatment, and family strengths and needs and share not public information with an
9.31 Indian's tribal social services agency without violating any law of the state that may otherwise
9.32 impose duties of confidentiality on the local welfare agency in order to implement the tribal
9.33 state agreement. The local welfare agency or the agency responsible for assessing or
9.34 investigating the report shall collect available and relevant information to ascertain whether
9.35 maltreatment occurred and whether protective services are needed. Information collected

10.1 includes, when relevant, information with regard to the person reporting the alleged
10.2 maltreatment, including the nature of the reporter's relationship to the child and to the alleged
10.3 offender, and the basis of the reporter's knowledge for the report; the child allegedly being
10.4 maltreated; the alleged offender; the child's caretaker; and other collateral sources having
10.5 relevant information related to the alleged maltreatment. The local welfare agency or the
10.6 agency responsible for assessing or investigating the report may make a determination of
10.7 no maltreatment early in an assessment or investigation, and close the case and retain
10.8 immunity, if the collected information shows no basis for a full assessment or investigation.

10.9 Information relevant to the assessment or investigation must be asked for, and may
10.10 include:

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

10.16 (2) the alleged offender's age, a record check for prior reports of maltreatment, and
10.17 criminal charges and convictions. The local welfare agency or the agency responsible for
10.18 assessing or investigating the report must provide the alleged offender with an opportunity
10.19 to make a statement. The alleged offender may submit supporting documentation relevant
10.20 to the assessment or investigation;

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

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

10.31 Nothing in this paragraph precludes the local welfare agency, the local law enforcement
10.32 agency, or the agency responsible for assessing or investigating the report from collecting
10.33 other relevant information necessary to conduct the assessment or investigation.

10.34 Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access

11.1 to medical data and records for purposes of clause (3). Notwithstanding the data's
11.2 classification in the possession of any other agency, data acquired by the local welfare
11.3 agency or the agency responsible for assessing or investigating the report during the course
11.4 of the assessment or investigation are private data on individuals and must be maintained
11.5 in accordance with subdivision 11. Data of the commissioner of education collected or
11.6 maintained during and for the purpose of an investigation of alleged maltreatment in a school
11.7 are governed by this section, notwithstanding the data's classification as educational,
11.8 licensing, or personnel data under chapter 13.

11.9 In conducting an assessment or investigation involving a school facility as defined in
11.10 subdivision 2, paragraph (c), the commissioner of education shall collect investigative
11.11 reports and data that are relevant to a report of maltreatment and are from local law
11.12 enforcement and the school facility.

11.13 (j) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact
11.14 with the child reported to be maltreated and with the child's primary caregiver sufficient to
11.15 complete a safety assessment and ensure the immediate safety of the child. The face-to-face
11.16 contact with the child and primary caregiver shall occur immediately if sexual abuse or
11.17 substantial child endangerment is alleged and within five calendar days for all other reports.
11.18 If the alleged offender was not already interviewed as the primary caregiver, the local welfare
11.19 agency shall also conduct a face-to-face interview with the alleged offender in the early
11.20 stages of the assessment or investigation. At the initial contact, the local child welfare agency
11.21 or the agency responsible for assessing or investigating the report must inform the alleged
11.22 offender of the complaints or allegations made against the individual in a manner consistent
11.23 with laws protecting the rights of the person who made the report. The interview with the
11.24 alleged offender may be postponed if it would jeopardize an active law enforcement
11.25 investigation. The agency shall interview the child reported to be maltreated separately from
11.26 and prior to interviewing the alleged offender, including when the alleged offender is the
11.27 child's primary caregiver, unless there are exceptional documented circumstances
11.28 demonstrating that it would not be in the best interests of the child.

11.29 (k) When conducting an assessment or investigation, the local welfare agency shall use
11.30 a question and answer interviewing format with questioning as nondirective as possible to
11.31 elicit spontaneous responses. For investigations only, the following interviewing methods
11.32 and procedures must be used whenever possible when collecting information:

11.33 (1) audio recordings of all interviews with witnesses and collateral sources; and

12.1 (2) in cases of alleged sexual abuse, audio-video recordings of each interview with the
12.2 alleged victim and child witnesses.

12.3 (l) In conducting an assessment or investigation involving a school facility as defined
12.4 in subdivision 2, paragraph (c), the commissioner of education shall collect available and
12.5 relevant information and use the procedures in paragraphs (j) and (k), and subdivision 3d,
12.6 except that the requirement for face-to-face observation of the child and face-to-face interview
12.7 of the alleged offender is to occur in the initial stages of the assessment or investigation
12.8 provided that the commissioner may also base the assessment or investigation on investigative
12.9 reports and data received from the school facility and local law enforcement, to the extent
12.10 those investigations satisfy the requirements of paragraphs (j) and (k), and subdivision 3d.

12.11 (m) Standard fact-finding protocol shall include gathering available and relevant details
12.12 from the alleged victim, the alleged perpetrator, and other relevant collateral contacts under
12.13 paragraph (i), clause (3), regarding at least the following information:

12.14 (1) concerning the reported allegation, who was involved, what occurred, when it
12.15 occurred, where it occurred, and how it occurred;

12.16 (2) the recentness, frequency, duration, and severity of any patterns of behavior that
12.17 present a risk to a child;

12.18 (3) the existence and impact of past and present harm to the child;

12.19 (4) the parents' protective capacities including their knowledge of parenting and child
12.20 development, nurturing and attachment, parental resilience, social and emotional competence,
12.21 supports in times of need, and social connections;

12.22 (5) the child's vulnerability factors including the child's age and whether the child has
12.23 a disability;

12.24 (6) the characteristics of the child's family members that promote resiliency; and

12.25 (7) the instances within the family when the child is safe as a starting point for additional
12.26 safety planning or services.

12.27 **EFFECTIVE DATE.** This section is effective the day following final enactment, with
12.28 the exception that the amendments to paragraph (b), the first sentence of paragraph (i), and
12.29 paragraph (m), are effective March 1, 2021.

12.30 Sec. 5. Minnesota Statutes 2018, section 626.556, subdivision 10e, is amended to read:

12.31 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family
12.32 assessment or the investigation within 45 days of the receipt of a report. The conclusion of

13.1 the assessment or investigation may be extended to permit the completion of a criminal
13.2 investigation or the receipt of expert information requested within 45 days of the receipt of
13.3 the report.

13.4 (b) After conducting a family assessment, the local welfare agency shall determine
13.5 whether services are needed to address the safety of the child and other family members
13.6 and the risk of subsequent maltreatment. The local welfare agency shall include a description
13.7 of findings from the family assessment in the Social Services Information System case
13.8 record with sufficient specificity that a worker assigned to any future report will understand
13.9 what occurred. The description must include information about the relationships between
13.10 each adult in the household and each child and the events each child experienced.

13.11 (c) After conducting an investigation, the local welfare agency shall make two
13.12 determinations: first, whether maltreatment has occurred; and second, whether child
13.13 protective services are needed. No determination of maltreatment shall be made when the
13.14 alleged perpetrator is a child under the age of ten.

13.15 (d) If the commissioner of education conducts an assessment or investigation, the
13.16 commissioner shall determine whether maltreatment occurred and what corrective or
13.17 protective action was taken by the school facility. If a determination is made that
13.18 maltreatment has occurred, the commissioner shall report to the employer, the school board,
13.19 and any appropriate licensing entity the determination that maltreatment occurred and what
13.20 corrective or protective action was taken by the school facility. In all other cases, the
13.21 commissioner shall inform the school board or employer that a report was received, the
13.22 subject of the report, the date of the initial report, the category of maltreatment alleged as
13.23 defined in paragraph (f), the fact that maltreatment was not determined, and a summary of
13.24 the specific reasons for the determination.

13.25 (e) When maltreatment is determined in an investigation involving a facility, the
13.26 investigating agency shall also determine whether the facility or individual was responsible,
13.27 or whether both the facility and the individual were responsible for the maltreatment using
13.28 the mitigating factors in paragraph (i). Determinations under this subdivision must be made
13.29 based on a preponderance of the evidence and are private data on individuals or nonpublic
13.30 data as maintained by the commissioner of education.

13.31 (f) For the purposes of this subdivision, "maltreatment" means any of the following acts
13.32 or omissions:

13.33 (1) physical abuse as defined in subdivision 2, paragraph (k);

13.34 (2) neglect as defined in subdivision 2, paragraph (g);

14.1 (3) sexual abuse as defined in subdivision 2, paragraph (n);

14.2 (4) mental injury as defined in subdivision 2, paragraph (f); or

14.3 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (c).

14.4 (g) For the purposes of this subdivision, a determination that child protective services
14.5 are needed means that the local welfare agency has documented conditions during the
14.6 assessment or investigation sufficient to cause a child protection worker, as defined in
14.7 section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment
14.8 if protective intervention is not provided and that the individuals responsible for the child's
14.9 care have not taken or are not likely to take actions to protect the child from maltreatment
14.10 or risk of maltreatment.

14.11 (h) This subdivision does not mean that maltreatment has occurred solely because the
14.12 child's parent, guardian, or other person responsible for the child's care in good faith selects
14.13 and depends upon spiritual means or prayer for treatment or care of disease or remedial care
14.14 of the child, in lieu of medical care. However, if lack of medical care may result in serious
14.15 danger to the child's health, the local welfare agency may ensure that necessary medical
14.16 services are provided to the child.

14.17 (i) When determining whether the facility or individual is the responsible party, or
14.18 whether both the facility and the individual are responsible for determined maltreatment in
14.19 a facility, the investigating agency shall consider at least the following mitigating factors:

14.20 (1) whether the actions of the facility or the individual caregivers were according to,
14.21 and followed the terms of, an erroneous physician order, prescription, individual care plan,
14.22 or directive; however, this is not a mitigating factor when the facility or caregiver was
14.23 responsible for the issuance of the erroneous order, prescription, individual care plan, or
14.24 directive or knew or should have known of the errors and took no reasonable measures to
14.25 correct the defect before administering care;

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

14.31 (3) whether the facility or individual followed professional standards in exercising
14.32 professional judgment.

15.1 The evaluation of the facility's responsibility under clause (2) must not be based on the
15.2 completeness of the risk assessment or risk reduction plan required under section 245A.66,
15.3 but must be based on the facility's compliance with the regulatory standards for policies
15.4 and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota
15.5 Rules.

15.6 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been
15.7 committed by an individual who is also the facility license or certification holder, both the
15.8 individual and the facility must be determined responsible for the maltreatment, and both
15.9 the background study disqualification standards under section 245C.15, subdivision 4, and
15.10 the licensing or certification actions under section 245A.06, 245A.07, 245H.06, or 245H.07
15.11 apply.

15.12 **EFFECTIVE DATE.** This section is effective the day following final enactment, with
15.13 the exception that the amendments to paragraph (b) are effective March 1, 2021.

15.14 Sec. 6. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES.**

15.15 (a) By March 1, 2021, the commissioner of human services shall, in consultation with
15.16 content experts, counties, and leaders in communities of color and tribes, develop, publish,
15.17 distribute, and ensure that child protection workers have received training to ensure that the
15.18 agency conducts interviews with children under Minnesota Statutes, sections 626.556 and
15.19 626.561, in a trauma-informed, culturally sensitive manner. The commissioner shall
15.20 periodically review the implementation of this training and its effect on child interview
15.21 practices to identify any patterns of disparate treatment of children and take corrective action
15.22 as needed. This training shall be in addition to the child protection worker training under
15.23 Minnesota Statutes, section 626.5591.

15.24 (b) By March 1, 2021, the commissioner of human services shall develop, publish,
15.25 distribute, and ensure that child protection workers have received training about standard
15.26 fact-finding protocol as described under Minnesota Statutes, section 626.556, subdivision
15.27 10, paragraph (m). This training shall be in addition to the child protection worker training
15.28 under Minnesota Statutes, section 626.5591.

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