

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 2283

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DATE	D-PG	OFFICIAL STATUS
03/11/2019	768	Introduction and first reading Referred to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act

1.2 relating to child protection; amending certain definitions applicable to the reporting

1.3 of maltreatment of minors statute; codifying and directing the commissioner of

1.4 human services to implement certain recommendations from the March 2015

1.5 Governor's Task Force on the Protection of Children Final Report and

1.6 Recommendations; amending Minnesota Statutes 2018, section 626.556,

1.7 subdivisions 2, 3d, 7a, 10, 10e.

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

1.9 Section 1. Minnesota Statutes 2018, section 626.556, subdivision 2, is amended to read:

1.10 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings

1.11 given them unless the specific content indicates otherwise:

1.12 (a) "Abuse" means physical abuse or sexual abuse.

1.13 (b) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence

1.14 or event which:

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

1.16 (2) if occurring while a child is receiving services from a facility, happens when the

1.17 facility and the employee or person providing services in the facility are in compliance with

1.18 the laws and rules relevant to the occurrence or event.

1.19 ~~(b)~~ (c) "Commissioner" means the commissioner of human services.

1.20 ~~(c)~~ (d) "Facility" means:

1.21 (1) a licensed or unlicensed day care facility, certified license-exempt child care center,

1.22 residential facility, agency, hospital, sanitarium, or other facility or institution required to

2.1 be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter
2.2 144H, 245D, or 245H;

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

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

2.7 ~~(d)~~ (e) "Family assessment" means a comprehensive assessment of child safety, risk of
2.8 subsequent child maltreatment, and family strengths and needs that is applied to a child
2.9 maltreatment report that does not allege sexual abuse or substantial child endangerment.
2.10 Family assessment ~~does not include~~ includes a determination as to whether child maltreatment
2.11 occurred ~~but does not determine~~ and determines the need for services to address the safety of
2.12 family members and the risk of subsequent maltreatment.

2.13 ~~(e)~~ (f) "Imminent danger" is a situation in which a child is threatened with immediate
2.14 and present maltreatment as defined in subdivision 10e, paragraph (f), that is life threatening
2.15 or likely to result in abandonment or serious physical injury.

2.16 (g) "Investigation" means fact gathering related to the current safety of a child and the
2.17 risk of subsequent maltreatment that determines whether child maltreatment occurred and
2.18 whether child protective services are needed. An investigation must be used when reports
2.19 involve sexual abuse or substantial child endangerment, and for reports of maltreatment in
2.20 facilities required to be licensed or certified under chapter 245A, 245D, or 245H; under
2.21 sections 144.50 to 144.58 and 241.021; in a school as defined in section 120A.05,
2.22 subdivisions 9, 11, and 13, and chapter 124E; or in a nonlicensed personal care provider
2.23 association as defined in section 256B.0625, subdivision 19a.

2.24 ~~(f)~~ (h) "Mental injury" means an injury to the psychological capacity or emotional
2.25 stability of a child as evidenced by an observable or substantial impairment in the child's
2.26 ability to function within a normal range of performance and behavior with due regard to
2.27 the child's culture.

2.28 ~~(g)~~ (i) "Neglect" means the commission or omission of any of the acts specified under
2.29 clauses (1) to ~~(9)~~ (10), other than by accidental means:

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

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

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

3.9 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
3.10 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
3.11 child with sympathomimetic medications, consistent with section 125A.091, subdivision
3.12 5;

3.13 (5) nothing in this section shall be construed to mean that a child is neglected solely
3.14 because the child's parent, guardian, or other person responsible for the child's care in good
3.15 faith selects and depends upon spiritual means or prayer for treatment or care of disease or
3.16 remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker,
3.17 or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of
3.18 medical care may cause serious danger to the child's health. This section does not impose
3.19 upon persons, not otherwise legally responsible for providing a child with necessary food,
3.20 clothing, shelter, education, or medical care, a duty to provide that care;

3.21 (6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision
3.22 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in
3.23 the child at birth, results of a toxicology test performed on the mother at delivery or the
3.24 child at birth, medical effects or developmental delays during the child's first year of life
3.25 that medically indicate prenatal exposure to a controlled substance, or the presence of a
3.26 fetal alcohol spectrum disorder;

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

3.28 (8) chronic and severe use of alcohol or a controlled substance by a parent or person
3.29 responsible for the care of the child that adversely affects the child's basic needs and safety;
3.30 ~~or~~

3.31 (9) failure by a parent to contact a child on a regular basis with no demonstrated consistent
3.32 interest in the child's well-being, when reasonably able to do so, unless a court has awarded
3.33 physical custody of the child to another person, pursuant to an order, designation, or

4.1 appointment under chapter 257, 257B, 257C, 518, or 524, or pursuant to a mutual agreement
4.2 with the parent; or

4.3 (10) emotional harm from a pattern of behavior which contributes to impaired emotional
4.4 functioning of the child which may be demonstrated by a substantial and observable effect
4.5 in the child's behavior, emotional response, or cognition that is not within the normal range
4.6 for the child's age and stage of development, with due regard to the child's culture.

4.7 ~~(h)~~ (j) "Nonmaltreatment mistake" means:

4.8 (1) at the time of the incident, the individual was performing duties identified in the
4.9 center's child care program plan required under Minnesota Rules, part 9503.0045;

4.10 (2) the individual has not been determined responsible for a similar incident that resulted
4.11 in a finding of maltreatment for at least seven years;

4.12 (3) the individual has not been determined to have committed a similar nonmaltreatment
4.13 mistake under this paragraph for at least four years;

4.14 (4) any injury to a child resulting from the incident, if treated, is treated only with
4.15 remedies that are available over the counter, whether ordered by a medical professional or
4.16 not; and

4.17 (5) except for the period when the incident occurred, the facility and the individual
4.18 providing services were both in compliance with all licensing requirements relevant to the
4.19 incident.

4.20 This definition only applies to child care centers licensed under Minnesota Rules, chapter
4.21 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated
4.22 maltreatment by the individual, the commissioner of human services shall determine that a
4.23 nonmaltreatment mistake was made by the individual.

4.24 ~~(i)~~ (k) "Operator" means an operator or agency as defined in section 245A.02.

4.25 ~~(j)~~ (l) "Person responsible for the child's care" means (1) an individual functioning within
4.26 the family unit and having responsibilities for the care of the child such as a parent, guardian,
4.27 or other person having similar care responsibilities, or (2) an individual functioning outside
4.28 the family unit and having responsibilities for the care of the child such as a teacher, school
4.29 administrator, other school employees or agents, or other lawful custodian of a child having
4.30 either full-time or short-term care responsibilities including, but not limited to, day care,
4.31 babysitting whether paid or unpaid, counseling, teaching, and coaching.

5.1 ~~(k)~~ (m) "Physical abuse" means any physical injury, mental injury, or threatened injury,
5.2 inflicted by a person responsible for the child's care on a child other than by accidental
5.3 means, or any physical or mental injury that cannot reasonably be explained by the child's
5.4 history of injuries, or any aversive or deprivation procedures, or regulated interventions,
5.5 that have not been authorized under section 125A.0942 or 245.825.

5.6 Physical abuse does not include reasonable and moderate physical discipline of a child
5.7 administered by a parent or legal guardian which does not result in an injury. Physical abuse
5.8 does not include the use of reasonable force by a teacher, principal, or school employee as
5.9 allowed by section 121A.582. Actions which are not reasonable and moderate include, but
5.10 are not limited to, any of the following:

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

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

5.13 (3) shaking a child under age three;

5.14 (4) striking or other actions which result in any nonaccidental injury to a child under 18
5.15 months of age;

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

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

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

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

5.21 (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
5.22 substances which were not prescribed for the child by a practitioner, in order to control or
5.23 punish the child; or other substances that substantially affect the child's behavior, motor
5.24 coordination, or judgment or that results in sickness or internal injury, or subjects the child
5.25 to medical procedures that would be unnecessary if the child were not exposed to the
5.26 substances;

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

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

6.1 ~~(h)~~ (n) "Practice of social services," for the purposes of subdivision 3, includes but is not
6.2 limited to employee assistance counseling and the provision of guardian ad litem and
6.3 parenting time expeditor services.

6.4 ~~(m)~~ (o) "Report" means any communication received by the local welfare agency, police
6.5 department, county sheriff, or agency responsible for child protection pursuant to this section
6.6 that describes neglect or physical or sexual abuse of a child and contains sufficient content
6.7 to identify the child and any person believed to be responsible for the neglect or abuse, if
6.8 known.

6.9 ~~(n)~~ (p) "Sexual abuse" means the subjection of a child by a person responsible for the
6.10 child's care, by a person who has a significant relationship to the child, as defined in section
6.11 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision
6.12 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in
6.13 the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal
6.14 sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree),
6.15 or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any
6.16 act which involves a minor which constitutes a violation of prostitution offenses under
6.17 sections 609.321 to 609.324 or 617.246. Effective May 29, 2017, sexual abuse includes all
6.18 reports of known or suspected child sex trafficking involving a child who is identified as a
6.19 victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section
6.20 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse which
6.21 includes the status of a parent or household member who has committed a violation which
6.22 requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or
6.23 (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

6.24 ~~(o)~~ (q) "Substantial child endangerment" means a person responsible for a child's care,
6.25 by act or omission, commits or attempts to commit an act against a child under their care
6.26 that constitutes any of the following:

6.27 (1) egregious harm as defined in section 260C.007, subdivision 14, which includes
6.28 infliction of bodily harm on a child or neglect of a child that demonstrates a grossly
6.29 inadequate ability to provide minimally adequate parental care;

6.30 (2) abandonment ~~under section 260C.301, subdivision 2~~ when the child is an infant
6.31 under two years of age and has been deserted by a parent under circumstances that show
6.32 an intent not to return to care for the child;

7.1 (3) neglect as defined in paragraph ~~(g)~~ (i), clause (2), that substantially endangers the
 7.2 child's physical or mental health, including a growth delay, which may be referred to as
 7.3 failure to thrive, that ~~has been diagnosed by a physician and~~ is due to parental neglect;

7.4 (4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

7.5 (5) manslaughter in the first or second degree under section 609.20 or 609.205;

7.6 (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

7.7 (7) physical abuse, as defined in paragraph (m), of a child:

7.8 (i) under the age of six that causes injury to the child's face, head, back, or abdomen;

7.9 (ii) under the age of three that causes bruising to the buttocks; or

7.10 (iii) under the age of one or a nonmobile child that causes an injury;

7.11 (8) solicitation, inducement, and promotion of prostitution under section 609.322;

7.12 ~~(8)~~ (9) criminal sexual conduct under sections 609.342 to 609.3451;

7.13 ~~(9)~~ (10) solicitation of children to engage in sexual conduct under section 609.352;

7.14 ~~(10)~~ (11) malicious punishment or neglect or endangerment of a child under section
 7.15 609.377 or 609.378;

7.16 ~~(11)~~ (12) use of a minor in sexual performance under section 617.246; ~~or~~

7.17 (13) withholding a medically indicated treatment from a child with a life-threatening
 7.18 condition unless exempted under section 260C.007, subdivision 6, clause (5);

7.19 ~~(12)~~ (14) parental behavior, status, or condition which mandates that the county attorney
 7.20 file a termination of parental rights petition under section 260C.503, subdivision 2-; or

7.21 (15) imminent danger as defined in paragraph (f).

7.22 For purposes of clause (7), "bruising" means an area of discolored skin caused by a blow
 7.23 or impact that ruptures underlying blood vessels.

7.24 ~~(p)~~ (r) "Threatened injury" means a statement, overt act, condition, or status that represents
 7.25 a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes,
 7.26 but is not limited to, exposing a child to a person responsible for the child's care, as defined
 7.27 in paragraph ~~(j)~~ (l), clause (1), who has:

7.28 (1) subjected a child to, or failed to protect a child from, an overt act or condition that
 7.29 constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law
 7.30 of another jurisdiction;

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

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

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

8.9 A child is the subject of a report of threatened injury when the responsible social services
8.10 agency receives birth match data under paragraph ~~(q)~~ (r) from the Department of Human
8.11 Services.

8.12 ~~(q)~~ (s) Upon receiving data under section 144.225, subdivision 2b, contained in a birth
8.13 record or recognition of parentage identifying a child who is subject to threatened injury
8.14 under paragraph ~~(p)~~ (r), the Department of Human Services shall send the data to the
8.15 responsible social services agency. The data is known as "birth match" data. Unless the
8.16 responsible social services agency has already begun an investigation or assessment of the
8.17 report due to the birth of the child or execution of the recognition of parentage and the
8.18 parent's previous history with child protection, the agency shall accept the birth match data
8.19 as a report under this section. The agency may use either a family assessment or investigation
8.20 to determine whether the child is safe. All of the provisions of this section apply. If the child
8.21 is determined to be safe, the agency shall consult with the county attorney to determine the
8.22 appropriateness of filing a petition alleging the child is in need of protection or services
8.23 under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If
8.24 the child is determined not to be safe, the agency and the county attorney shall take
8.25 appropriate action as required under section 260C.503, subdivision 2.

8.26 ~~(r)~~ (t) Persons who conduct assessments or investigations under this section shall take
8.27 into account accepted child-rearing practices of the culture in which a child participates and
8.28 accepted teacher discipline practices, which are not injurious to the child's health, welfare,
8.29 and safety.

8.30 **EFFECTIVE DATE.** This section is effective the day following final enactment, with
8.31 the exception that the amendments to the second sentence of paragraph (e) are effective
8.32 March 1, 2020.

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

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

9.7 (b) If the responsible agency determines that the child must be interviewed as part of a
9.8 family assessment or investigation, the responsible agency must interview the child separately
9.9 from and prior to interviewing the alleged perpetrator. This requirement does not apply only
9.10 if the responsible agency determines that rare and exceptional circumstances exist. The
9.11 responsible agency shall document the rare and exceptional circumstances. The county shall
9.12 report to the commissioner the number of interviews conducted under rare and exceptional
9.13 circumstances and the reasons constituting rare and exceptional circumstances, and any
9.14 other relevant collateral contacts under subdivision 10, paragraph (i), clause (3).

9.15 (c) Interviews with children shall be conducted in a trauma-informed, culturally sensitive
9.16 manner.

9.17 **EFFECTIVE DATE.** Paragraph (b) is effective the day following final enactment.
9.18 Paragraph (c) is effective March 1, 2020.

9.19 Sec. 3. Minnesota Statutes 2018, section 626.556, subdivision 7a, is amended to read:

9.20 Subd. 7a. **Guidance for screening reports.** (a) Child protection staff, supervisors, and
9.21 others involved in child protection screening shall follow the guidance provided in the ~~child~~
9.22 ~~maltreatment screening guidelines~~ child protection and foster care guidelines issued by the
9.23 commissioner of human services ~~and~~, for all processes in the child welfare continuum of
9.24 services including but not limited to screening maltreatment reports, assigning screened-in
9.25 reports to an investigation or a family assessment, fact-finding, determining whether
9.26 maltreatment occurred, determining whether to pursue a petition for a child in need of
9.27 protection or services under section 260C.141, determining when allowing children to
9.28 remain at home and receive in-home services is consistent with child safety and well-being,
9.29 determining when to remove children to out-of-home care and when to return children to
9.30 their home, determining when to pursue termination of parental rights, and determining
9.31 when cases may be closed consistent with child safety and well-being. When notified by
9.32 the commissioner, counties shall immediately implement updated procedures and protocols.

10.1 (b) Any modifications to ~~the screening~~ these guidelines must be preapproved by the
 10.2 commissioner of human services and must not be less protective of children than is mandated
 10.3 by statute. The county agency must consult with the county attorney before proposing
 10.4 modifications to the commissioner. The guidelines may provide additional protections for
 10.5 children but must not limit reports that are screened in or provide additional limits on
 10.6 consideration of reports that were screened out in making screening determinations.

10.7 **EFFECTIVE DATE.** This section is effective March 1, 2020.

10.8 Sec. 4. Minnesota Statutes 2018, section 626.556, subdivision 10, is amended to read:

10.9 Subd. 10. **Duties of local welfare agency and local law enforcement agency upon**
 10.10 **receipt of report; mandatory notification between police or sheriff and agency.** (a) The
 10.11 police department or the county sheriff shall immediately notify the local welfare agency
 10.12 or agency responsible for child protection reports under this section orally and in writing
 10.13 when a report is received. The local welfare agency or agency responsible for child protection
 10.14 reports shall immediately notify the local police department or the county sheriff orally and
 10.15 in writing when a report is received. The county sheriff and the head of every local welfare
 10.16 agency, agency responsible for child protection reports, and police department shall each
 10.17 designate a person within their agency, department, or office who is responsible for ensuring
 10.18 that the notification duties of this paragraph are carried out. When the alleged maltreatment
 10.19 occurred on tribal land, the local welfare agency or agency responsible for child protection
 10.20 reports and the local police department or the county sheriff shall immediately notify the
 10.21 tribe's social services agency and tribal law enforcement orally and in writing when a report
 10.22 is received.

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

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

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

10.31 (3) may conduct a family assessment for reports that do not allege sexual abuse or
 10.32 substantial child endangerment. In determining that a family assessment is appropriate, the

11.1 local welfare agency may consider issues of child safety, parental cooperation, and the need
11.2 for an immediate response;

11.3 (4) may conduct a family assessment on a report that was initially screened and assigned
11.4 for an investigation. In determining that a complete investigation is not required, the local
11.5 welfare agency must document the reason for terminating the investigation and notify the
11.6 local law enforcement agency if the local law enforcement agency is conducting a joint
11.7 investigation; and

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

11.12 If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or
11.13 individual functioning within the family unit as a person responsible for the child's care, or
11.14 sexual abuse by a person with a significant relationship to the child when that person resides
11.15 in the child's household or by a sibling, the local welfare agency shall immediately conduct
11.16 a family assessment or investigation as identified in clauses (1) to (4). In conducting a family
11.17 assessment or investigation, the local welfare agency shall follow standard fact-finding
11.18 protocol as developed by the commissioner in accordance with paragraph (m), gather
11.19 information on the existence of substance abuse and domestic violence₂ and offer services
11.20 for purposes of preventing future child maltreatment, safeguarding and enhancing the welfare
11.21 of the abused or neglected minor, and supporting and preserving family life whenever
11.22 possible.

11.23 If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse,
11.24 or neglect or endangerment, under section 609.378, the local law enforcement agency and
11.25 local welfare agency shall coordinate the planning and execution of their respective
11.26 investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple
11.27 interviews. Each agency shall prepare a separate report of the results of its investigation or
11.28 assessment. In cases of alleged child maltreatment resulting in death, the local agency may
11.29 rely on the fact-finding efforts of a law enforcement investigation to make a determination
11.30 of whether or not maltreatment occurred. When necessary the local welfare agency shall
11.31 seek authority to remove the child from the custody of a parent, guardian, or adult with
11.32 whom the child is living. In performing any of these duties, the local welfare agency shall
11.33 maintain appropriate records.

12.1 If the family assessment or investigation indicates there is a potential for abuse of alcohol
12.2 or other drugs by the parent, guardian, or person responsible for the child's care, the local
12.3 welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part
12.4 9530.6615.

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

12.13 (d) Authority of the local welfare agency responsible for assessing or investigating the
12.14 child abuse or neglect report, the agency responsible for assessing or investigating the report,
12.15 and of the local law enforcement agency for investigating the alleged abuse or neglect
12.16 includes, but is not limited to, authority to interview, without parental consent, the alleged
12.17 victim and any other minors who currently reside with or who have resided with the alleged
12.18 offender. If the responsible agency determines that the alleged victim must be interviewed,
12.19 absent rare and exceptional circumstances, the alleged victim shall be interviewed separately
12.20 from and prior to the alleged offender, and any other relevant collateral contacts under
12.21 paragraph (i), clause (3). The interview may take place at school or at any facility or other
12.22 place where the alleged victim or other minors might be found or the child may be transported
12.23 to, and the interview conducted at, a place appropriate for the interview of a child designated
12.24 by the local welfare agency or law enforcement agency. The interview may take place
12.25 outside the presence of the alleged offender or parent, legal custodian, guardian, or school
12.26 official. For family assessments, it is the preferred practice to request a parent or guardian's
12.27 permission to interview the child prior to conducting the child interview, unless doing so
12.28 would compromise the safety assessment. Except as provided in this paragraph, the parent,
12.29 legal custodian, or guardian shall be notified by the responsible local welfare or law
12.30 enforcement agency no later than the conclusion of the investigation or assessment that this
12.31 interview has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for
12.32 Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local
12.33 welfare agency, order that, where reasonable cause exists, the agency withhold notification
12.34 of this interview from the parent, legal custodian, or guardian. If the interview took place
12.35 or is to take place on school property, the order shall specify that school officials may not

13.1 disclose to the parent, legal custodian, or guardian the contents of the notification of intent
13.2 to interview the child on school property, as provided under this paragraph, and any other
13.3 related information regarding the interview that may be a part of the child's school record.
13.4 A copy of the order shall be sent by the local welfare or law enforcement agency to the
13.5 appropriate school official.

13.6 (e) When the local welfare, local law enforcement agency, or the agency responsible
13.7 for assessing or investigating a report of maltreatment determines that an interview should
13.8 take place on school property, written notification of intent to interview the child on school
13.9 property must be received by school officials prior to the interview. The notification shall
13.10 include the name of the child to be interviewed, the purpose of the interview, and a reference
13.11 to the statutory authority to conduct an interview on school property. For interviews
13.12 conducted by the local welfare agency, the notification shall be signed by the chair of the
13.13 local social services agency or the chair's designee. The notification shall be private data
13.14 on individuals subject to the provisions of this paragraph. School officials may not disclose
13.15 to the parent, legal custodian, or guardian the contents of the notification or any other related
13.16 information regarding the interview until notified in writing by the local welfare or law
13.17 enforcement agency that the investigation or assessment has been concluded, unless a school
13.18 employee or agent is alleged to have maltreated the child. Until that time, the local welfare
13.19 or law enforcement agency or the agency responsible for assessing or investigating a report
13.20 of maltreatment shall be solely responsible for any disclosures regarding the nature of the
13.21 assessment or investigation.

13.22 Except where the alleged offender is believed to be a school official or employee, the
13.23 time and place, and manner of the interview on school premises shall be within the discretion
13.24 of school officials, but the local welfare or law enforcement agency shall have the exclusive
13.25 authority to determine who may attend the interview. The conditions as to time, place, and
13.26 manner of the interview set by the school officials shall be reasonable and the interview
13.27 shall be conducted not more than 24 hours after the receipt of the notification unless another
13.28 time is considered necessary by agreement between the school officials and the local welfare
13.29 or law enforcement agency. Where the school fails to comply with the provisions of this
13.30 paragraph, the juvenile court may order the school to comply. Every effort must be made
13.31 to reduce the disruption of the educational program of the child, other students, or school
13.32 staff when an interview is conducted on school premises.

13.33 (f) Where the alleged offender or a person responsible for the care of the alleged victim
13.34 or other minor prevents access to the victim or other minor by the local welfare agency, the
13.35 juvenile court may order the parents, legal custodian, or guardian to produce the alleged

14.1 victim or other minor for questioning by the local welfare agency or the local law
14.2 enforcement agency outside the presence of the alleged offender or any person responsible
14.3 for the child's care at reasonable places and times as specified by court order.

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

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

14.20 (i) The local welfare agency responsible for conducting a family assessment or
14.21 investigation shall follow standard fact-finding protocol as developed by the commissioner
14.22 in accordance with paragraph (m), to collect available and relevant information to determine
14.23 child safety, risk of subsequent child maltreatment, and family strengths and needs and
14.24 share not public information with an Indian's tribal social services agency without violating
14.25 any law of the state that may otherwise impose duties of confidentiality on the local welfare
14.26 agency in order to implement the tribal state agreement. The local welfare agency or the
14.27 agency responsible for assessing or investigating the report shall collect available and
14.28 relevant information to ascertain whether maltreatment occurred and whether protective
14.29 services are needed. Information collected includes, when relevant, information with regard
14.30 to the person reporting the alleged maltreatment, including the nature of the reporter's
14.31 relationship to the child and to the alleged offender, and the basis of the reporter's knowledge
14.32 for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker;
14.33 and other collateral sources having relevant information related to the alleged maltreatment.
14.34 The local welfare agency or the agency responsible for assessing or investigating the report
14.35 may make a determination of no maltreatment early in an assessment or investigation, and

15.1 close the case and retain immunity, if the collected information shows no basis for a full
15.2 assessment or investigation.

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

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

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

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

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

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

15.28 Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access
15.29 to medical data and records for purposes of clause (3). Notwithstanding the data's
15.30 classification in the possession of any other agency, data acquired by the local welfare
15.31 agency or the agency responsible for assessing or investigating the report during the course
15.32 of the assessment or investigation are private data on individuals and must be maintained
15.33 in accordance with subdivision 11. Data of the commissioner of education collected or
15.34 maintained during and for the purpose of an investigation of alleged maltreatment in a school

16.1 are governed by this section, notwithstanding the data's classification as educational,
16.2 licensing, or personnel data under chapter 13.

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

16.7 (j) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact
16.8 with the child reported to be maltreated and with the child's primary caregiver sufficient to
16.9 complete a safety assessment and ensure the immediate safety of the child. The face-to-face
16.10 contact with the child and primary caregiver shall occur immediately if sexual abuse or
16.11 substantial child endangerment is alleged and within five calendar days for all other reports.
16.12 If the alleged offender was not already interviewed as the primary caregiver, the local welfare
16.13 agency shall also conduct a face-to-face interview with the alleged offender in the early
16.14 stages of the assessment or investigation. At the initial contact, the local child welfare agency
16.15 or the agency responsible for assessing or investigating the report must inform the alleged
16.16 offender of the complaints or allegations made against the individual in a manner consistent
16.17 with laws protecting the rights of the person who made the report. The interview with the
16.18 alleged offender may be postponed if it would jeopardize an active law enforcement
16.19 investigation. Absent rare and exceptional circumstances, the child reported to be maltreated
16.20 shall be interviewed separately from and prior to the alleged offender, including when the
16.21 alleged offender is the primary caregiver.

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

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

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

16.29 (l) In conducting an assessment or investigation involving a school facility as defined
16.30 in subdivision 2, paragraph (c), the commissioner of education shall collect available and
16.31 relevant information and use the procedures in paragraphs (j) and (k), and subdivision 3d,
16.32 except that the requirement for face-to-face observation of the child and face-to-face interview
16.33 of the alleged offender is to occur in the initial stages of the assessment or investigation
16.34 provided that the commissioner may also base the assessment or investigation on investigative

17.1 reports and data received from the school facility and local law enforcement, to the extent
17.2 those investigations satisfy the requirements of paragraphs (j) and (k), and subdivision 3d.

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

17.6 (1) who, what, when, where, and how regarding the reported allegation;

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

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

17.10 (4) protective parental capacities including knowledge of parenting and child
17.11 development, nurturing and attachment, parental resilience, social and emotional competence,
17.12 concrete supports in times of need, and social connections;

17.13 (5) child vulnerability factors including age and whether the child has a disability;

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

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

17.17 **EFFECTIVE DATE.** This section is effective the day following final enactment, with
17.18 the exception that the amendments to paragraph (b), the first sentence of paragraph (i), and
17.19 paragraph (m), are effective March 1, 2020.

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

17.21 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family
17.22 assessment or the investigation within 45 days of the receipt of a report. The conclusion of
17.23 the assessment or investigation may be extended to permit the completion of a criminal
17.24 investigation or the receipt of expert information requested within 45 days of the receipt of
17.25 the report.

17.26 (b) After conducting a family assessment, the local welfare agency shall ~~determine~~ make
17.27 two determinations: first, whether maltreatment has occurred; and second, whether services
17.28 are needed to address the safety of the child and other family members and the risk of
17.29 subsequent maltreatment. The local welfare agency shall enter a determination of
17.30 maltreatment, the facts supporting the determination, and the identity of the alleged
17.31 perpetrator into the state Social Service Information System.

18.1 (c) After conducting an investigation, the local welfare agency shall make two
18.2 determinations: first, whether maltreatment has occurred; and second, whether child
18.3 protective services are needed. No determination of maltreatment shall be made when the
18.4 alleged perpetrator is a child under the age of ten. The local welfare agency shall enter a
18.5 determination of maltreatment, the facts supporting the determination, and the identity of
18.6 the alleged perpetrator into the state Social Service Information System.

18.7 (d) If the commissioner of education conducts an assessment or investigation, the
18.8 commissioner shall determine whether maltreatment occurred and what corrective or
18.9 protective action was taken by the school facility. If a determination is made that
18.10 maltreatment has occurred, the commissioner shall report to the employer, the school board,
18.11 and any appropriate licensing entity the determination that maltreatment occurred and what
18.12 corrective or protective action was taken by the school facility. In all other cases, the
18.13 commissioner shall inform the school board or employer that a report was received, the
18.14 subject of the report, the date of the initial report, the category of maltreatment alleged as
18.15 defined in paragraph (f), the fact that maltreatment was not determined, and a summary of
18.16 the specific reasons for the determination.

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

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

18.25 (1) physical abuse as defined in subdivision 2, paragraph ~~(k)~~ (m);

18.26 (2) neglect as defined in subdivision 2, paragraph ~~(g)~~ (i);

18.27 (3) sexual abuse as defined in subdivision 2, paragraph ~~(n)~~ (p);

18.28 (4) mental injury as defined in subdivision 2, paragraph ~~(f)~~ (h); or

18.29 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph ~~(e)~~ (d).

18.30 (g) For the purposes of this subdivision, a determination that child protective services
18.31 are needed means that the local welfare agency has documented conditions during the
18.32 assessment or investigation sufficient to cause a child protection worker, as defined in
18.33 section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment

19.1 if protective intervention is not provided and that the individuals responsible for the child's
19.2 care have not taken or are not likely to take actions to protect the child from maltreatment
19.3 or risk of maltreatment.

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

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

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

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

19.24 (3) whether the facility or individual followed professional standards in exercising
19.25 professional judgment.

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

19.31 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been
19.32 committed by an individual who is also the facility license or certification holder, both the
19.33 individual and the facility must be determined responsible for the maltreatment, and both
19.34 the background study disqualification standards under section 245C.15, subdivision 4, and

20.1 the licensing or certification actions under section 245A.06, 245A.07, 245H.06, or 245H.07
20.2 apply.

20.3 EFFECTIVE DATE. This section is effective the day following final enactment, with
20.4 the exception that the amendments to paragraph (b) are effective March 1, 2020.

20.5 Sec. 6. DIRECTION TO COMMISSIONER OF HUMAN SERVICES.

20.6 (a) By September 1, 2019, the commissioner of human services shall produce and display
20.7 on the Department of Human Services' monthly child welfare data dashboard reports of the
20.8 following information by county:

20.9 (1) the total number of maltreatment reports;

20.10 (2) the number and percentage of maltreatment reports screened in and screened out;

20.11 (3) the number and percentage of screened-in maltreatment reports assigned to family
20.12 assessment and to traditional investigations;

20.13 (4) the number of times children have been the subject of a report within the past five
20.14 years, including whether the reports were screened in or screened out;

20.15 (5) the number of family assessments closed due to nonparticipation; and

20.16 (6) the number and percentage of cases moved from a family assessment to a traditional
20.17 investigation.

20.18 (b) By October 1, 2019, the commissioner shall report to the legislative task force on
20.19 child protection and the chairs and ranking minority members of the legislative committees
20.20 with jurisdiction over child protection regarding a plan for implementation by March 1,
20.21 2020, a method for local child welfare agencies to make a determination of whether
20.22 maltreatment has occurred after a family assessment under Minnesota Statutes, section
20.23 626.556, subdivision 10e, paragraph (b).

20.24 (c) By March 1, 2020, the commissioner shall identify existing materials or create new
20.25 materials as needed to develop, publish, distribute, and ensure that child protection workers
20.26 have received training on child protection and foster care guidelines for child protection
20.27 staff, supervisors, and others involved in child protection screening to follow for all processes
20.28 in the child welfare continuum of services described in Minnesota Statutes, section 626.556,
20.29 subdivision 7a.

20.30 (d) By March 1, 2020, the commissioner shall, in consultation with content experts,
20.31 counties, and leaders in communities of color and tribes, develop, publish, distribute, and
20.32 ensure that child protection workers have received training to ensure that interviews with

21.1 children under Minnesota Statutes, sections 626.556 and 626.561, are conducted in a
 21.2 trauma-informed, culturally sensitive manner. The commissioner shall periodically review
 21.3 the implementation of this training and its effect on child interview practices to identify any
 21.4 patterns of disparate treatment and take corrective action as needed. This training shall be
 21.5 in addition to the child protection worker training under Minnesota Statutes, section 626.5591.

21.6 (e) By March 1, 2020, the commissioner shall develop, publish, distribute, and ensure
 21.7 that child protection workers have received training on standard fact-finding protocol as
 21.8 described under Minnesota Statutes, section 626.556, subdivision 10, paragraph (m). This
 21.9 training shall be in addition to the child protection worker training under Minnesota Statutes,
 21.10 section 626.5591.

21.11 (f) By March 1, 2020, the commissioner of human services shall research models for
 21.12 continuous quality improvement of the state child welfare system and report to the legislative
 21.13 task force on child protection and the legislative committees with jurisdiction over child
 21.14 protection a recommendation for implementing a model for continuous quality improvement
 21.15 of the state child welfare system. The recommended model shall include at least the following
 21.16 features:

21.17 (1) key process measures such as monthly visits by caseworkers;

21.18 (2) key quality measures such as whether case plans have been implemented;

21.19 (3) key outcome measures such as whether children are improving in terms of trauma,
 21.20 cognitive and physical development, and behavioral or mental health concerns;

21.21 (4) implementation at all levels of the child welfare system through reviews by child
 21.22 protection workers, peers, supervisors, and managers; and

21.23 (5) a quarterly report of the results of the continuous quality improvement model at the
 21.24 unit, county, and state levels.

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

21.26 **Sec. 7. APPROPRIATION.**

21.27 (a) \$..... in fiscal year 2020 and \$..... in fiscal year 2021 are appropriated from the
 21.28 general fund to the commissioner of human services for producing monthly county reports
 21.29 and displaying them on the Department of Human Services child welfare data dashboard.

21.30 (b) \$..... is appropriated in fiscal year 2020 from the general fund to the commissioner
 21.31 of human services for: developing a plan for implementing a method for local child welfare
 21.32 agencies to make a determination of whether maltreatment occurred as part of a family

- 22.1 assessment; developing child protection and foster care guidelines for child protection
- 22.2 workers regarding the continuum of child welfare services; developing a training curriculum
- 22.3 for child protection workers to engage in a standard fact-finding protocol; developing a
- 22.4 training curriculum for child protection workers to conduct trauma-informed, culturally
- 22.5 sensitive child interviews; and researching and recommending a continuous quality
- 22.6 improvement model for the state child welfare system. This is a onetime appropriation.