

A bill for an act

relating to human services; changing child welfare, placement, and licensing provisions; amending Minnesota Statutes 2006, sections 245A.035; 245A.16, subdivisions 1, 3; 245C.02, by adding a subdivision; 245C.04, subdivision 1; 245C.05, subdivisions 1, 4, 5, 7, by adding a subdivision; 245C.08, subdivisions 1, 2; 245C.10, by adding a subdivision; 245C.11, subdivisions 1, 2; 245C.12; 245C.16, subdivision 1; 245C.17, by adding a subdivision; 245C.21, by adding a subdivision; 245C.23, subdivision 2; 256.01, subdivision 2; 259.20, subdivision 2; 259.24, subdivision 3; 259.29, subdivision 1; 259.41; 259.53, subdivisions 1, 2; 259.57, subdivisions 1, 2; 259.67, subdivision 7; 259.75, subdivision 8; 260.012; 260.755, subdivisions 12, 20; 260.761, subdivision 7; 260.765, subdivision 5; 260.771, subdivisions 1, 2; 260C.152, subdivision 5; 260C.163, subdivision 1; 260C.201, subdivision 11; 260C.209; 260C.212, subdivisions 1, 2, 4; 260C.317, subdivision 3; 260C.331, subdivision 1; 626.556, subdivisions 10, 10a, 10f, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapters 245C; 260; repealing Laws 1997, chapter 8, section 1; Minnesota Rules, part 9560.0102, subpart 2, item C.

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

ARTICLE 1

CHILD PLACEMENT AND WELFARE

Section 1. Minnesota Statutes 2006, section 256.01, subdivision 2, is amended to read:

Subd. 2. **Specific powers.** Subject to the provisions of section 241.021, subdivision 2, the commissioner of human services shall carry out the specific duties in paragraphs (a) through (cc):

(a) Administer and supervise all forms of public assistance provided for by state law and other welfare activities or services as are vested in the commissioner. Administration and supervision of human services activities or services includes, but is not limited to, assuring timely and accurate distribution of benefits, completeness of service, and quality

program management. In addition to administering and supervising human services activities vested by law in the department, the commissioner shall have the authority to:

(1) require county agency participation in training and technical assistance programs to promote compliance with statutes, rules, federal laws, regulations, and policies governing human services;

(2) monitor, on an ongoing basis, the performance of county agencies in the operation and administration of human services, enforce compliance with statutes, rules, federal laws, regulations, and policies governing welfare services and promote excellence of administration and program operation;

(3) develop a quality control program or other monitoring program to review county performance and accuracy of benefit determinations;

(4) require county agencies to make an adjustment to the public assistance benefits issued to any individual consistent with federal law and regulation and state law and rule and to issue or recover benefits as appropriate;

(5) delay or deny payment of all or part of the state and federal share of benefits and administrative reimbursement according to the procedures set forth in section 256.017;

(6) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using appropriated funds; and

(7) enter into contractual agreements with federally recognized Indian tribes with a reservation in Minnesota to the extent necessary for the tribe to operate a federally approved family assistance program or any other program under the supervision of the commissioner. The commissioner shall consult with the affected county or counties in the contractual agreement negotiations, if the county or counties wish to be included, in order to avoid the duplication of county and tribal assistance program services. The commissioner may establish necessary accounts for the purposes of receiving and disbursing funds as necessary for the operation of the programs.

(b) Inform county agencies, on a timely basis, of changes in statute, rule, federal law, regulation, and policy necessary to county agency administration of the programs.

(c) Administer and supervise all child welfare activities; promote the enforcement of laws protecting disabled, dependent, neglected and delinquent children, and children born to mothers who were not married to the children's fathers at the times of the conception nor at the births of the children; license and supervise child-caring and child-placing agencies and institutions; supervise the care of children in boarding and foster homes or in private institutions; and generally perform all functions relating to the field of child welfare now vested in the State Board of Control.

(d) Administer and supervise all noninstitutional service to disabled persons, including those who are visually impaired, hearing impaired, or physically impaired or otherwise disabled. The commissioner may provide and contract for the care and treatment of qualified indigent children in facilities other than those located and available at state hospitals when it is not feasible to provide the service in state hospitals.

(e) Assist and actively cooperate with other departments, agencies and institutions, local, state, and federal, by performing services in conformity with the purposes of Laws 1939, chapter 431.

(f) Act as the agent of and cooperate with the federal government in matters of mutual concern relative to and in conformity with the provisions of Laws 1939, chapter 431, including the administration of any federal funds granted to the state to aid in the performance of any functions of the commissioner as specified in Laws 1939, chapter 431, and including the promulgation of rules making uniformly available medical care benefits to all recipients of public assistance, at such times as the federal government increases its participation in assistance expenditures for medical care to recipients of public assistance, the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

(g) Establish and maintain any administrative units reasonably necessary for the performance of administrative functions common to all divisions of the department.

(h) Act as designated guardian of both the estate and the person of all the wards of the state of Minnesota, whether by operation of law or by an order of court, without any further act or proceeding whatever, except as to persons committed as developmentally disabled. For children under the guardianship of the commissioner or a tribe in Minnesota recognized by the Secretary of the Interior whose interests would be best served by adoptive placement, the commissioner may contract with a licensed child-placing agency or a Minnesota tribal social services agency to provide adoption services. A contract with a licensed child-placing agency must be designed to supplement existing county efforts and may not replace existing county programs or tribal social services, unless the replacement is agreed to by the county board and the appropriate exclusive bargaining representative, tribal governing body, or the commissioner has evidence that child placements of the county continue to be substantially below that of other counties. Funds encumbered and obligated under an agreement for a specific child shall remain available until the terms of the agreement are fulfilled or the agreement is terminated.

(i) Act as coordinating referral and informational center on requests for service for newly arrived immigrants coming to Minnesota.

(j) The specific enumeration of powers and duties as hereinabove set forth shall in no way be construed to be a limitation upon the general transfer of powers herein contained.

(k) Establish county, regional, or statewide schedules of maximum fees and charges which may be paid by county agencies for medical, dental, surgical, hospital, nursing and nursing home care and medicine and medical supplies under all programs of medical care provided by the state and for congregate living care under the income maintenance programs.

(l) Have the authority to conduct and administer experimental projects to test methods and procedures of administering assistance and services to recipients or potential recipients of public welfare. To carry out such experimental projects, it is further provided that the commissioner of human services is authorized to waive the enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The order establishing the waiver shall provide alternative methods and procedures of administration, shall not be in conflict with the basic purposes, coverage, or benefits provided by law, and in no event shall the duration of a project exceed four years. It is further provided that no order establishing an experimental project as authorized by the provisions of this section shall become effective until the following conditions have been met:

(1) the secretary of health and human services of the United States has agreed, for the same project, to waive state plan requirements relative to statewide uniformity; and

(2) a comprehensive plan, including estimated project costs, shall be approved by the Legislative Advisory Commission and filed with the commissioner of administration.

(m) According to federal requirements, establish procedures to be followed by local welfare boards in creating citizen advisory committees, including procedures for selection of committee members.

(n) Allocate federal fiscal disallowances or sanctions which are based on quality control error rates for the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, medical assistance, or food stamp program in the following manner:

(1) one-half of the total amount of the disallowance shall be borne by the county boards responsible for administering the programs. For the medical assistance and the AFDC program formerly codified in sections 256.72 to 256.87, disallowances shall be shared by each county board in the same proportion as that county's expenditures for the sanctioned program are to the total of all counties' expenditures for the AFDC program formerly codified in sections 256.72 to 256.87, and medical assistance programs. For the food stamp program, sanctions shall be shared by each county board, with 50 percent of the sanction being distributed to each county in the same proportion as that county's administrative costs for food stamps are to the total of all food stamp administrative costs

for all counties, and 50 percent of the sanctions being distributed to each county in the same proportion as that county's value of food stamp benefits issued are to the total of all benefits issued for all counties. Each county shall pay its share of the disallowance to the state of Minnesota. When a county fails to pay the amount due hereunder, the commissioner may deduct the amount from reimbursement otherwise due the county, or the attorney general, upon the request of the commissioner, may institute civil action to recover the amount due; and

(2) notwithstanding the provisions of clause (1), if the disallowance results from knowing noncompliance by one or more counties with a specific program instruction, and that knowing noncompliance is a matter of official county board record, the commissioner may require payment or recover from the county or counties, in the manner prescribed in clause (1), an amount equal to the portion of the total disallowance which resulted from the noncompliance, and may distribute the balance of the disallowance according to clause (1).

(o) Develop and implement special projects that maximize reimbursements and result in the recovery of money to the state. For the purpose of recovering state money, the commissioner may enter into contracts with third parties. Any recoveries that result from projects or contracts entered into under this paragraph shall be deposited in the state treasury and credited to a special account until the balance in the account reaches \$1,000,000. When the balance in the account exceeds \$1,000,000, the excess shall be transferred and credited to the general fund. All money in the account is appropriated to the commissioner for the purposes of this paragraph.

(p) Have the authority to make direct payments to facilities providing shelter to women and their children according to section 256D.05, subdivision 3. Upon the written request of a shelter facility that has been denied payments under section 256D.05, subdivision 3, the commissioner shall review all relevant evidence and make a determination within 30 days of the request for review regarding issuance of direct payments to the shelter facility. Failure to act within 30 days shall be considered a determination not to issue direct payments.

(q) Have the authority to establish and enforce the following county reporting requirements:

(1) the commissioner shall establish fiscal and statistical reporting requirements necessary to account for the expenditure of funds allocated to counties for human services programs. When establishing financial and statistical reporting requirements, the commissioner shall evaluate all reports, in consultation with the counties, to determine if the reports can be simplified or the number of reports can be reduced;

(2) the county board shall submit monthly or quarterly reports to the department as required by the commissioner. Monthly reports are due no later than 15 working days after the end of the month. Quarterly reports are due no later than 30 calendar days after the end of the quarter, unless the commissioner determines that the deadline must be shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines or risking a loss of federal funding. Only reports that are complete, legible, and in the required format shall be accepted by the commissioner;

(3) if the required reports are not received by the deadlines established in clause (2), the commissioner may delay payments and withhold funds from the county board until the next reporting period. When the report is needed to account for the use of federal funds and the late report results in a reduction in federal funding, the commissioner shall withhold from the county boards with late reports an amount equal to the reduction in federal funding until full federal funding is received;

(4) a county board that submits reports that are late, illegible, incomplete, or not in the required format for two out of three consecutive reporting periods is considered noncompliant. When a county board is found to be noncompliant, the commissioner shall notify the county board of the reason the county board is considered noncompliant and request that the county board develop a corrective action plan stating how the county board plans to correct the problem. The corrective action plan must be submitted to the commissioner within 45 days after the date the county board received notice of noncompliance;

(5) the final deadline for fiscal reports or amendments to fiscal reports is one year after the date the report was originally due. If the commissioner does not receive a report by the final deadline, the county board forfeits the funding associated with the report for that reporting period and the county board must repay any funds associated with the report received for that reporting period;

(6) the commissioner may not delay payments, withhold funds, or require repayment under clause (3) or (5) if the county demonstrates that the commissioner failed to provide appropriate forms, guidelines, and technical assistance to enable the county to comply with the requirements. If the county board disagrees with an action taken by the commissioner under clause (3) or (5), the county board may appeal the action according to sections 14.57 to 14.69; and

(7) counties subject to withholding of funds under clause (3) or forfeiture or repayment of funds under clause (5) shall not reduce or withhold benefits or services to clients to cover costs incurred due to actions taken by the commissioner under clause (3) or (5).

(r) Allocate federal fiscal disallowances or sanctions for audit exceptions when federal fiscal disallowances or sanctions are based on a statewide random sample for the foster care program under title IV-E of the Social Security Act, United States Code, title 42, in direct proportion to each county's title IV-E foster care maintenance claim for that period.

(s) Be responsible for ensuring the detection, prevention, investigation, and resolution of fraudulent activities or behavior by applicants, recipients, and other participants in the human services programs administered by the department.

(t) Require county agencies to identify overpayments, establish claims, and utilize all available and cost-beneficial methodologies to collect and recover these overpayments in the human services programs administered by the department.

(u) Have the authority to administer a drug rebate program for drugs purchased pursuant to the prescription drug program established under section 256.955 after the beneficiary's satisfaction of any deductible established in the program. The commissioner shall require a rebate agreement from all manufacturers of covered drugs as defined in section 256B.0625, subdivision 13. Rebate agreements for prescription drugs delivered on or after July 1, 2002, must include rebates for individuals covered under the prescription drug program who are under 65 years of age. For each drug, the amount of the rebate shall be equal to the rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8. The manufacturers must provide full payment within 30 days of receipt of the state invoice for the rebate within the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act. The manufacturers must provide the commissioner with any information necessary to verify the rebate determined per drug. The rebate program shall utilize the terms and conditions used for the federal rebate program established pursuant to section 1927 of title XIX of the Social Security Act.

(v) Have the authority to administer the federal drug rebate program for drugs purchased under the medical assistance program as allowed by section 1927 of title XIX of the Social Security Act and according to the terms and conditions of section 1927. Rebates shall be collected for all drugs that have been dispensed or administered in an outpatient setting and that are from manufacturers who have signed a rebate agreement with the United States Department of Health and Human Services.

(w) Have the authority to administer a supplemental drug rebate program for drugs purchased under the medical assistance program. The commissioner may enter into supplemental rebate contracts with pharmaceutical manufacturers and may require prior authorization for drugs that are from manufacturers that have not signed a supplemental

8.1 rebate contract. Prior authorization of drugs shall be subject to the provisions of section
8.2 256B.0625, subdivision 13.

8.3 (x) Operate the department's communication systems account established in Laws
8.4 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared
8.5 communication costs necessary for the operation of the programs the commissioner
8.6 supervises. A communications account may also be established for each regional
8.7 treatment center which operates communications systems. Each account must be used
8.8 to manage shared communication costs necessary for the operations of the programs the
8.9 commissioner supervises. The commissioner may distribute the costs of operating and
8.10 maintaining communication systems to participants in a manner that reflects actual usage.
8.11 Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and
8.12 other costs as determined by the commissioner. Nonprofit organizations and state, county,
8.13 and local government agencies involved in the operation of programs the commissioner
8.14 supervises may participate in the use of the department's communications technology and
8.15 share in the cost of operation. The commissioner may accept on behalf of the state any
8.16 gift, bequest, devise or personal property of any kind, or money tendered to the state for
8.17 any lawful purpose pertaining to the communication activities of the department. Any
8.18 money received for this purpose must be deposited in the department's communication
8.19 systems accounts. Money collected by the commissioner for the use of communication
8.20 systems must be deposited in the state communication systems account and is appropriated
8.21 to the commissioner for purposes of this section.

8.22 (y) Receive any federal matching money that is made available through the medical
8.23 assistance program for the consumer satisfaction survey. Any federal money received for
8.24 the survey is appropriated to the commissioner for this purpose. The commissioner may
8.25 expend the federal money received for the consumer satisfaction survey in either year of
8.26 the biennium.

8.27 (z) Designate community information and referral call centers and incorporate
8.28 cost reimbursement claims from the designated community information and referral
8.29 call centers into the federal cost reimbursement claiming processes of the department
8.30 according to federal law, rule, and regulations. Existing information and referral centers
8.31 provided by Greater Twin Cities United Way or existing call centers for which Greater
8.32 Twin Cities United Way has legal authority to represent, shall be included in these
8.33 designations upon review by the commissioner and assurance that these services are
8.34 accredited and in compliance with national standards. Any reimbursement is appropriated
8.35 to the commissioner and all designated information and referral centers shall receive
8.36 payments according to normal department schedules established by the commissioner

upon final approval of allocation methodologies from the United States Department of Health and Human Services Division of Cost Allocation or other appropriate authorities.

(aa) Develop recommended standards for foster care homes that address the components of specialized therapeutic services to be provided by foster care homes with those services.

(bb) Authorize the method of payment to or from the department as part of the human services programs administered by the department. This authorization includes the receipt or disbursement of funds held by the department in a fiduciary capacity as part of the human services programs administered by the department.

(cc) Have the authority to administer a drug rebate program for drugs purchased for persons eligible for general assistance medical care under section 256D.03, subdivision 3. For manufacturers that agree to participate in the general assistance medical care rebate program, the commissioner shall enter into a rebate agreement for covered drugs as defined in section 256B.0625, subdivisions 13 and 13d. For each drug, the amount of the rebate shall be equal to the rebate as defined for purposes of the federal rebate program in United States Code, title 42, section 1396r-8. The manufacturers must provide payment within the terms and conditions used for the federal rebate program established under section 1927 of title XIX of the Social Security Act. The rebate program shall utilize the terms and conditions used for the federal rebate program established under section 1927 of title XIX of the Social Security Act.

Effective January 1, 2006, drug coverage under general assistance medical care shall be limited to those prescription drugs that:

(1) are covered under the medical assistance program as described in section 256B.0625, subdivisions 13 and 13d; and

(2) are provided by manufacturers that have fully executed general assistance medical care rebate agreements with the commissioner and comply with such agreements. Prescription drug coverage under general assistance medical care shall conform to coverage under the medical assistance program according to section 256B.0625, subdivisions 13 to 13g.

The rebate revenues collected under the drug rebate program are deposited in the general fund.

Sec. 2. Minnesota Statutes 2006, section 259.24, subdivision 3, is amended to read:

Subd. 3. **Child.** When the child to be adopted is over 14 years of age, the child's written consent to adoption by a particular person is also ~~shall be~~ necessary. A child of any age who is under the guardianship of the commissioner and is legally available

10.1 for adoption may not refuse or waive the commissioner's agent's exhaustive efforts to
10.2 recruit, identify, and place the child in an adoptive home required under section 260C.317,
10.3 subdivision 3, paragraph (b), or sign a document relieving county social services agencies
10.4 of all recruitment efforts on the child's behalf.

10.5 Sec. 3. Minnesota Statutes 2006, section 259.53, subdivision 1, is amended to read:

10.6 Subdivision 1. **Notice to commissioner; referral for postplacement assessment.**

10.7 (a) Upon the filing of a petition for adoption of a child who is:

10.8 (1) under the guardianship of the commissioner or a licensed child-placing agency
10.9 according to section 260C.201, subdivision 11, or 260C.317;

10.10 (2) placed by the commissioner, commissioner's agent, or licensed child-placing
10.11 agency after a consent to adopt according to section 259.24 or under an agreement
10.12 conferring authority to place for adoption according to section 259.25; or

10.13 (3) placed by preadoptive custody order for a direct adoptive placement ordered
10.14 by the district court under section 259.47,

10.15 the court administrator shall immediately transmit a copy of the petition to the
10.16 commissioner of human services.

10.17 (b) The court shall immediately refer the petition to the agency specified below for
10.18 completion of a postplacement assessment and report as required by subdivision 2.

10.19 (1) If the child to be adopted has been committed to the guardianship of the
10.20 commissioner or an agency under section 260C.317 or an agency has been given authority
10.21 to place the child under section 259.25, the court shall refer the petition to that agency,
10.22 unless another agency is supervising the placement, in which case the court shall refer the
10.23 petition to the supervising agency.

10.24 (2) If the child to be adopted has been placed in the petitioner's home by a direct
10.25 adoptive placement, the court shall refer the petition to the agency supervising the
10.26 placement under section 259.47, subdivision 3, paragraph (a), clause (6).

10.27 (3) If the child is to be adopted by an individual who is related to the child as defined
10.28 by section 245A.02, subdivision 13, and in all other instances not described in clause (1)
10.29 or (2), the court shall refer the petition to the local social services agency of the county in
10.30 which the prospective adoptive parent lives.

10.31 Sec. 4. Minnesota Statutes 2006, section 259.57, subdivision 1, is amended to read:

10.32 Subdivision 1. **Findings; orders.** Upon the hearing,

10.33 (a) if the court finds that it is in the best interests of the child that the petition
10.34 be granted, a decree of adoption shall be made and recorded in the office of the court

11.1 administrator, ordering that henceforth the child shall be the child of the petitioner. In the
11.2 decree the court may change the name of the child if desired. After the decree is granted
11.3 for a child who is:

11.4 (1) under the guardianship of the commissioner or a licensed child-placing agency
11.5 according to section 260C.201, subdivision 11, or 260C.317;

11.6 (2) placed by the commissioner, commissioner's agent, or licensed child-placing
11.7 agency after a consent to adopt according to section 259.24 or under an agreement
11.8 conferring authority to place for adoption according to section 259.25; or

11.9 (3) adopted after a direct adoptive placement ordered by the district court under
11.10 section 259.47,

11.11 the court administrator shall immediately mail a copy of the recorded decree to the
11.12 commissioner of human services;

11.13 (b) if the court is not satisfied that the proposed adoption is in the best interests
11.14 of the child, the court shall deny the petition, and shall order the child returned to the
11.15 custody of the person or agency legally vested with permanent custody or certify the
11.16 case for appropriate action and disposition to the court having jurisdiction to determine
11.17 the custody and guardianship of the child.

11.18 Sec. 5. Minnesota Statutes 2006, section 259.67, subdivision 7, is amended to read:

11.19 Subd. 7. **Reimbursement of costs.** (a) Subject to rules of the commissioner, and
11.20 the provisions of this subdivision a child-placing agency licensed in Minnesota or any
11.21 other state, or local or tribal social services agency shall receive a reimbursement from the
11.22 commissioner equal to 100 percent of the reasonable and appropriate cost of providing
11.23 adoption services ~~for a child certified as eligible for adoption assistance under subdivision~~
11.24 ~~4. Such assistance.~~ Adoption services under this subdivision may include adoptive family
11.25 recruitment, counseling, and special training when needed.

11.26 (b) An eligible child must have a goal of adoption, which may include an adoption
11.27 in accordance with tribal law, and meet one of the following criteria:

11.28 (1) is a ward of the commissioner of human services or a ward of tribal court
11.29 pursuant to section 260.755, subdivision 12, who meets one of the criteria in subdivision
11.30 4, paragraph (b), clause (1), (2), or (3); or

11.31 (2) is under the guardianship of a Minnesota-licensed child-placing agency who
11.32 meets one of the criteria in subdivision 4, paragraph (b), clause (1) or (2).

11.33 (c) A child-placing agency licensed in Minnesota or any other state shall receive
11.34 reimbursement for adoption services it purchases for or directly provides to an eligible
11.35 child. Tribal social services shall receive reimbursement for adoption services it purchases

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for or directly provides to an eligible child. A local or tribal social services agency shall receive such reimbursement only for adoption services it purchases for an eligible child.

~~A child-placing agency licensed in Minnesota or any other state or local or tribal social services agency seeking reimbursement under this subdivision shall enter into~~
Before providing adoption services for which reimbursement will be sought under this subdivision, a reimbursement agreement, on the designated format, must be entered into
~~with the commissioner before providing adoption services for which reimbursement is sought.~~ No reimbursement under this subdivision shall be made to an agency for services provided prior to entering a reimbursement agreement. Separate reimbursement agreements shall be made for each child and separate records shall be kept on each child for whom a reimbursement agreement is made. The commissioner of human services shall agree that the reimbursement costs are reasonable and appropriate. The commissioner may spend up to \$16,000 for each purchase of service agreement. Only one agreement per child is allowed, unless an exception is granted by the commissioner. Funds encumbered and obligated under such an agreement for the child remain available until the terms of the agreement are fulfilled or the agreement is terminated.

~~(c) When a local or tribal social services agency uses a purchase of service agreement to provide services reimbursable under a reimbursement agreement,~~ The commissioner ~~may~~ shall make reimbursement payments directly to the agency providing the service if direct reimbursement is specified by the purchase of service agreement, and if the request for reimbursement is submitted by the local or tribal social services agency along with a verification that the service was provided.

Sec. 6. Minnesota Statutes 2006, section 259.75, subdivision 8, is amended to read:

Subd. 8. **Reasons for deferral.** Deferral of the listing of a child with the state adoption exchange shall be only for one or more of the following reasons:

- (a) the child is in an adoptive placement but is not legally adopted;
- (b) the child's foster parents or other individuals are now considering adoption;
- (c) diagnostic study or testing is required to clarify the child's problem and provide an adequate description; or
- (d) the child is currently in a hospital and continuing need for daily professional care will not permit placement in a family setting; or

~~(e) the child is 14 years of age or older and will not consent to an adoption plan.~~

Approval of a request to defer listing for any of the reasons specified in paragraph (b) or (c) shall be valid for a period not to exceed 90 days, with no subsequent deferrals for those reasons.

13.1 Sec. 7. Minnesota Statutes 2006, section 260.012, is amended to read:

13.2 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**
13.3 **REUNIFICATION; REASONABLE EFFORTS.**

13.4 (a) Once a child alleged to be in need of protection or services is under the court's
13.5 jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate
13.6 services, by the social services agency are made to prevent placement or to eliminate the
13.7 need for removal and to reunite the child with the child's family at the earliest possible
13.8 time, and when a child cannot be reunified with the parent or guardian from whom the
13.9 child was removed, the court must ensure that the responsible social services agency
13.10 makes reasonable efforts to finalize an alternative permanent plan for the child as provided
13.11 in paragraph (e). In determining reasonable efforts to be made with respect to a child and
13.12 in making those reasonable efforts, the child's best interests, health, and safety must be of
13.13 paramount concern. Reasonable efforts to prevent placement and for rehabilitation and
13.14 reunification are always required except upon a determination by the court that a petition
13.15 has been filed stating a prima facie case that:

13.16 (1) the parent has subjected a child to egregious harm as defined in section
13.17 260C.007, subdivision 14;

13.18 (2) the parental rights of the parent to another child have been terminated
13.19 involuntarily;

13.20 (3) the child is an abandoned infant under section 260C.301, subdivision 2,
13.21 paragraph (a), clause (2);

13.22 (4) the parent's custodial rights to another child have been involuntarily transferred
13.23 to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar
13.24 law of another jurisdiction; or

13.25 (5) the provision of services or further services for the purpose of reunification is
13.26 futile and therefore unreasonable under the circumstances.

13.27 (b) When the court makes one of the prima facie determinations under paragraph (a),
13.28 either permanency pleadings under section 260C.201, subdivision 11, or a termination
13.29 of parental rights petition under sections 260C.141 and 260C.301 must be filed. A
13.30 permanency hearing under section 260C.201, subdivision 11, must be held within 30
13.31 days of this determination.

13.32 (c) In the case of an Indian child, in proceedings under sections 260B.178 or
13.33 260C.178, 260C.201, and 260C.301 the juvenile court must make findings and conclusions
13.34 consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section
13.35 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child
13.36 Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social

14.1 services agency must provide active efforts as required under United States Code, title
14.2 25, section 1911(d).

14.3 (d) "Reasonable efforts to prevent placement" means:

14.4 (1) the agency has made reasonable efforts to prevent the placement of the child in
14.5 foster care; or

14.6 (2) given the particular circumstances of the child and family at the time of the
14.7 child's removal, there are no services or efforts available which could allow the child to
14.8 safely remain in the home.

14.9 (e) "Reasonable efforts to finalize a permanent plan for the child" means due
14.10 diligence by the responsible social services agency to:

14.11 (1) reunify the child with the parent or guardian from whom the child was removed;

14.12 (2) assess a noncustodial parent's ability to provide day-to-day care for the child and,
14.13 where appropriate, provide services necessary to enable the noncustodial parent to safely
14.14 provide the care, as required by section 260C.212, subdivision 4;

14.15 (3) conduct a relative search as required under section 260C.212, subdivision 5; and

14.16 (4) when the child cannot return to the parent or guardian from whom the child was
14.17 removed, to plan for and finalize a safe and legally permanent alternative home for the
14.18 child, and considers permanent alternative homes for the child inside or outside of the
14.19 state, preferably through adoption or transfer of permanent legal and physical custody of
14.20 the child.

14.21 (f) Reasonable efforts are made upon the exercise of due diligence by the responsible
14.22 social services agency to use culturally appropriate and available services to meet the
14.23 needs of the child and the child's family. Services may include those provided by the
14.24 responsible social services agency and other culturally appropriate services available in
14.25 the community. At each stage of the proceedings where the court is required to review
14.26 the appropriateness of the responsible social services agency's reasonable efforts as
14.27 described in paragraphs (a), (d), and (e), the social services agency has the burden of
14.28 demonstrating that:

14.29 (1) it has made reasonable efforts to prevent placement of the child in foster care;

14.30 (2) it has made reasonable efforts to eliminate the need for removal of the child from
14.31 the child's home and to reunify the child with the child's family at the earliest possible time;

14.32 (3) it has made reasonable efforts to finalize an alternative permanent home for
14.33 the child, and considers permanent alternative homes for the child inside or outside of
14.34 the state; or

14.35 (4) reasonable efforts to prevent placement and to reunify the child with the parent
14.36 or guardian are not required. The agency may meet this burden by stating facts in a sworn

petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the court may only require reasonable efforts for reunification after a hearing according to section 260C.163, where the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case when there is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a surviving child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the surviving child; or

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent.

(h) The juvenile court, in proceedings under sections 260B.178 or 260C.178, 260C.201, and 260C.301 shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for treatment of a child with a mental disability when the child's diagnostic assessment or individual treatment plan

16.1 indicates that appropriate and necessary treatment cannot be effectively provided outside
16.2 of a residential or inpatient treatment program.

16.3 (j) If continuation of reasonable efforts to prevent placement or reunify the child
16.4 with the parent or guardian from whom the child was removed is determined by the court
16.5 to be inconsistent with the permanent plan for the child or upon the court making one of
16.6 the prima facie determinations under paragraph (a), reasonable efforts must be made to
16.7 place the child in a timely manner in a safe and permanent home and to complete whatever
16.8 steps are necessary to legally finalize the permanent placement of the child.

16.9 (k) Reasonable efforts to place a child for adoption or in another permanent
16.10 placement may be made concurrently with reasonable efforts to prevent placement or to
16.11 reunify the child with the parent or guardian from whom the child was removed. When
16.12 the responsible social services agency decides to concurrently make reasonable efforts for
16.13 both reunification and permanent placement away from the parent under paragraph (a), the
16.14 agency shall disclose its decision and both plans for concurrent reasonable efforts to all
16.15 parties and the court. When the agency discloses its decision to proceed on both plans for
16.16 reunification and permanent placement away from the parent, the court's review of the
16.17 agency's reasonable efforts shall include the agency's efforts under both plans.

16.18 Sec. 8. Minnesota Statutes 2006, section 260.755, subdivision 12, is amended to read:

16.19 Subd. 12. **Indian tribe.** "Indian tribe" means an Indian tribe, band, nation, or
16.20 other organized group or community of Indians recognized as eligible for the services
16.21 provided to Indians by the secretary because of their status as Indians, including any ~~band~~
16.22 Native group under the Alaska Native Claims Settlement Act, United States Code, title 43,
16.23 section 1602, ~~and exercising tribal governmental powers.~~

16.24 Sec. 9. Minnesota Statutes 2006, section 260.755, subdivision 20, is amended to read:

16.25 Subd. 20. **Tribal court.** "Tribal court" means a court with ~~federally recognized~~
16.26 jurisdiction over child custody proceedings and which is either a court of Indian offenses,
16.27 or a court established and operated under the code or custom of an Indian tribe, or ~~the~~
16.28 any other administrative body of a tribe which is vested with authority over child custody
16.29 proceedings. Except as provided in section 260.771, subdivision 5, nothing in this chapter
16.30 shall be construed as conferring jurisdiction on an Indian tribe.

16.31 Sec. 10. Minnesota Statutes 2006, section 260.761, subdivision 7, is amended to read:

17.1 Subd. 7. **Identification of extended family members.** Any agency considering
17.2 placement of an Indian child shall make ~~reasonable~~ active efforts to identify and locate
17.3 extended family members.

17.4 Sec. 11. Minnesota Statutes 2006, section 260.765, subdivision 5, is amended to read:

17.5 Subd. 5. **Identification of extended family members.** Any agency considering
17.6 placement of an Indian child shall make ~~reasonable~~ active efforts to identify and locate
17.7 extended family members.

17.8 Sec. 12. Minnesota Statutes 2006, section 260.771, subdivision 1, is amended to read:

17.9 Subdivision 1. **Indian tribe jurisdiction.** An Indian tribe with a tribal court has
17.10 exclusive jurisdiction over a child placement proceeding involving an Indian child who
17.11 resides or is domiciled within the reservation of ~~such the~~ the tribe ~~at the commencement of~~
17.12 ~~the proceedings~~, except where jurisdiction is otherwise vested in the state by existing
17.13 federal law. When an Indian child is ~~in the legal custody of a person or agency pursuant~~
17.14 ~~to an order of~~ a ward of the tribal court, the Indian tribe retains exclusive jurisdiction,
17.15 notwithstanding the residence or domicile of the child.

17.16 Sec. 13. Minnesota Statutes 2006, section 260.771, subdivision 2, is amended to read:

17.17 Subd. 2. **Court determination of tribal affiliation of child.** In any child placement
17.18 proceeding, the court shall establish whether an Indian child is involved and the identity
17.19 of the Indian child's tribe. This chapter and the federal Indian Child Welfare Act are
17.20 applicable without exception in any child custody proceeding, as defined in the federal act,
17.21 involving an Indian child. This chapter applies to child custody proceedings involving
17.22 an Indian child whether the child is in the physical or legal custody of an Indian parent,
17.23 Indian custodian, Indian extended family member, or other person at the commencement
17.24 of the proceedings. A court shall not determine the applicability of this chapter or the
17.25 federal Indian Child Welfare Act to a child custody proceeding based upon whether an
17.26 Indian child is part of an existing Indian family or based upon the level of contact a child
17.27 has with the child's Indian tribe, reservation, society, or off-reservation community.

17.28 Sec. 14. **[260.852] PLACEMENT PROCEDURES.**

17.29 Subdivision 1. **Home study.** The state must have procedures for the orderly and
17.30 timely interstate placement of children that are implemented in accordance with an
17.31 interstate compact and that, within 60 days after the state receives from another state a
17.32 request to conduct a study of a home environment for purposes of assessing the safety

18.1 and suitability of placing a child in the home, the state shall, directly or by contract,
18.2 conduct and complete a home study and return to the other state a report on the results of
18.3 the study, which shall address the extent to which placement in the home would meet the
18.4 needs of the child; except in the case of a home study begun before October 1, 2008, if the
18.5 state fails to comply with conducting and completing the home study within the 60-day
18.6 period and this is as a result of circumstances beyond the control of the state, the state has
18.7 75 days to comply if the state documents the circumstances involved and certifies that
18.8 completing the home study is in the best interests of the child.

18.9 This subdivision does not require the completion within the applicable period of
18.10 the parts of the home study involving the education and training of the prospective foster
18.11 or adoptive parents.

18.12 Subd. 2. **Effect of received report.** The state shall treat any report described in
18.13 subdivision 1 that is received from another state, an Indian tribe, or a private agency
18.14 under contract with another state or Indian tribe as meeting any requirements imposed by
18.15 the state for the completion of a home study before placing a child in the home, unless,
18.16 within 14 days after receipt of the report, the state determines, based on grounds that
18.17 are specific to the content of the report, that making a decision in reliance on the report
18.18 would be contrary to the welfare of the child.

18.19 Subd. 3. **Resources.** The state shall make effective use of cross-jurisdictional
18.20 resources including through contract for the purchase of services and shall eliminate legal
18.21 barriers to facilitate timely adoptive or permanent placements for waiting children. The
18.22 state shall not impose any restriction on the use of private agencies for the purpose of
18.23 conducting a home study to meet the 60-day requirement.

18.24 Subd. 4. **Incentive eligibility.** Minnesota is an incentive-eligible state and must:

18.25 (1) have an approved plan as required by the United States Secretary of Health
18.26 and Human Services;

18.27 (2) be in compliance with the data requirements of the United States Department of
18.28 Health and Human Services; and

18.29 (3) have data that verify that a home study is completed within 30 days.

18.30 Subd. 5. **Data requirements.** The state shall provide to the United States Secretary
18.31 of Health and Human Services a written report, covering the preceding fiscal year, that
18.32 specifies:

18.33 (1) the total number of interstate home studies requested by the state with respect to
18.34 children in foster care under the responsibility of the state, and with respect to each such
18.35 study, the identity of the other state involved;

(2) the total number of timely interstate home studies completed by the state with respect to children in foster care under the responsibility of other states and, with respect to each such study, the identity of the other state involved; and

(3) other information the United States Secretary of Health and Human Services requires in order to determine whether Minnesota is a home study incentive-eligible state.

Subd. 6. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Home study" means an evaluation of a home environment conducted in accordance with applicable requirements of the state in which the home is located, to determine whether a proposed placement of a child would meet the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development.

(c) "Interstate home study" means a home study conducted by a state at the request of another state to facilitate an adoptive or foster placement in the state of a child in foster care under the responsibility of the state.

(d) "Timely interstate home study" means an interstate home study completed by a state if the state provides to the state that requested the study, within 30 days after receipt of the request, a report on the results of the study, except that there is no requirement for completion within the 30-day period of the parts of the home study involving the education and training of the prospective foster or adoptive parents.

Subd. 7. **Background study requirements for adoption and foster care.** (a) Background study requirements for an adoption home study must be completed consistent with section 259.41, subdivisions 1, 2, and 3.

(b) Background study requirements for a foster care license must be completed consistent with section 245C.08.

Subd. 8. **Home visits.** If a child has been placed in foster care outside the state in which the home of the parents of the child is located, periodically, but at least every six months, a caseworker on the staff of the agency of the state in which the home of the parents of the child is located or the state in which the child has been placed, or a private agency under contract with either state, must visit the child in the home or institution and submit a report on each visit to the agency of the state in which the home of the parents of the child is located.

Sec. 15. Minnesota Statutes 2006, section 260C.152, subdivision 5, is amended to read:

Subd. 5. Notice to foster parents and preadoptive parents and relatives. The foster parents, if any, of a child and any preadoptive parent or relative providing care for the child must be provided notice of and ~~an opportunity~~ a right to be heard in any

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review or hearing to be held with respect to the child. Any other relative may also request, and must be granted, a notice and the opportunity to be heard under this section. This subdivision does not require that a foster parent, preadoptive parent, or relative providing care for the child be made a party to a review or hearing solely on the basis of the notice and ~~opportunity~~ right to be heard.

Sec. 16. Minnesota Statutes 2006, section 260C.163, subdivision 1, is amended to read:

Subdivision 1. **General.** (a) Except for hearings arising under section 260C.425, hearings on any matter shall be without a jury and may be conducted in an informal manner. In all adjudicatory proceedings involving a child alleged to be in need of protection or services, the court shall admit only evidence that would be admissible in a civil trial. To be proved at trial, allegations of a petition alleging a child to be in need of protection or services must be proved by clear and convincing evidence.

(b) Except for proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may be continued or adjourned from time to time. In proceedings involving a child alleged to be in need of protection or services and petitions for the termination of parental rights, hearings may not be continued or adjourned for more than one week unless the court makes specific findings that the continuance or adjournment is in the best interests of the child. If a hearing is held on a petition involving physical or sexual abuse of a child who is alleged to be in need of protection or services or neglected and in foster care, the court shall file the decision with the court administrator as soon as possible but no later than 15 days after the matter is submitted to the court. When a continuance or adjournment is ordered in any proceeding, the court may make any interim orders as it deems in the best interests of the minor in accordance with the provisions of sections 260C.001 to 260C.421.

(c) Except as otherwise provided in this paragraph, the court shall exclude the general public from hearings under this chapter and shall admit only those persons who, in the discretion of the court, have a direct interest in the case or in the work of the court.

(d) Adoption hearings shall be conducted in accordance with the provisions of laws relating to adoptions.

(e) In any permanency hearing, including the transition of a child from foster care to independent living, the court shall ensure that any consult with the child is in an age-appropriate manner.

Sec. 17. Minnesota Statutes 2006, section 260C.201, subdivision 11, is amended to read:

Subd. 11. **Review of court-ordered placements; permanent placement**

determination. (a) This subdivision and subdivision 11a do not apply in cases where the child is in placement due solely to the child's developmental disability or emotional disturbance, where legal custody has not been transferred to the responsible social services agency, and where the court finds compelling reasons under section 260C.007, subdivision 8, to continue the child in foster care past the time periods specified in this subdivision. Foster care placements of children due solely to their disability are governed by section 260C.141, subdivision 2a. In all other cases where the child is in foster care or in the care of a noncustodial parent under subdivision 1, the court shall commence proceedings to determine the permanent status of a child not later than 12 months after the child is placed in foster care or in the care of a noncustodial parent. At the admit-deny hearing commencing such proceedings, the court shall determine whether there is a prima facie basis for finding that the agency made reasonable efforts, or in the case of an Indian child active efforts, required under section 260.012 and proceed according to the rules of juvenile court.

For purposes of this subdivision, the date of the child's placement in foster care is the earlier of the first court-ordered placement or 60 days after the date on which the child has been voluntarily placed in foster care by the child's parent or guardian. For purposes of this subdivision, time spent by a child under the protective supervision of the responsible social services agency in the home of a noncustodial parent pursuant to an order under subdivision 1 counts towards the requirement of a permanency hearing under this subdivision or subdivision 11a. Time spent on a trial home visit ~~does not count~~ counts towards the requirement of a permanency hearing under this subdivision ~~or~~ and a permanency review for a child under eight years of age under subdivision 11a.

For purposes of this subdivision, 12 months is calculated as follows:

(1) during the pendency of a petition alleging that a child is in need of protection or services, all time periods when a child is placed in foster care or in the home of a noncustodial parent are cumulated;

(2) if a child has been placed in foster care within the previous five years under one or more previous petitions, the lengths of all prior time periods when the child was placed in foster care within the previous five years are cumulated. If a child under this clause has been in foster care for 12 months or more, the court, if it is in the best interests of the child and for compelling reasons, may extend the total time the child may continue out of the home under the current petition up to an additional six months before making a permanency determination.

22.1 (b) Unless the responsible social services agency recommends return of the child
22.2 to the custodial parent or parents, not later than 30 days prior to the admit-deny hearing
22.3 required under paragraph (a) and the rules of juvenile court, the responsible social services
22.4 agency shall file pleadings in juvenile court to establish the basis for the juvenile court to
22.5 order permanent placement of the child, including a termination of parental rights petition,
22.6 according to paragraph (d). Notice of the hearing and copies of the pleadings must be
22.7 provided pursuant to section 260C.152.

22.8 (c) The permanency proceedings shall be conducted in a timely fashion including
22.9 that any trial required under section 260C.163 shall be commenced within 60 days of the
22.10 admit-deny hearing required under paragraph (a). At the conclusion of the permanency
22.11 proceedings, the court shall:

22.12 (1) order the child returned to the care of the parent or guardian from whom the
22.13 child was removed; or

22.14 (2) order a permanent placement or termination of parental rights if permanent
22.15 placement or termination of parental rights is in the child's best interests. The "best
22.16 interests of the child" means all relevant factors to be considered and evaluated. Transfer
22.17 of permanent legal and physical custody, termination of parental rights, or guardianship
22.18 and legal custody to the commissioner through a consent to adopt are preferred
22.19 permanency options for a child who cannot return home.

22.20 (d) If the child is not returned to the home, the court must order one of the following
22.21 dispositions:

22.22 (1) permanent legal and physical custody to a relative in the best interests of the
22.23 child according to the following conditions:

22.24 (i) an order for transfer of permanent legal and physical custody to a relative shall
22.25 only be made after the court has reviewed the suitability of the prospective legal and
22.26 physical custodian;

22.27 (ii) in transferring permanent legal and physical custody to a relative, the juvenile
22.28 court shall follow the standards applicable under this chapter and chapter 260, and the
22.29 procedures set out in the juvenile court rules;

22.30 (iii) an order establishing permanent legal and physical custody under this
22.31 subdivision must be filed with the family court;

22.32 (iv) a transfer of legal and physical custody includes responsibility for the protection,
22.33 education, care, and control of the child and decision making on behalf of the child;

22.34 (v) the social services agency may bring a petition or motion naming a fit and
22.35 willing relative as a proposed permanent legal and physical custodian. The commissioner
22.36 of human services shall annually prepare for counties information that must be given to

23.1 proposed custodians about their legal rights and obligations as custodians together with
23.2 information on financial and medical benefits for which the child is eligible; and

23.3 (vi) the juvenile court may maintain jurisdiction over the responsible social services
23.4 agency, the parents or guardian of the child, the child, and the permanent legal and
23.5 physical custodian for purposes of ensuring appropriate services are delivered to the child
23.6 and permanent legal custodian or for the purpose of ensuring conditions ordered by the
23.7 court related to the care and custody of the child are met;

23.8 (2) termination of parental rights when the requirements of sections 260C.301 to
23.9 260C.328 are met or according to the following conditions:

23.10 (i) order the social services agency to file a petition for termination of parental
23.11 rights in which case all the requirements of sections 260C.301 to 260C.328 remain
23.12 applicable; and

23.13 (ii) an adoption completed subsequent to a determination under this subdivision may
23.14 include an agreement for communication or contact under section 259.58;

23.15 (3) long-term foster care according to the following conditions:

23.16 (i) the court may order a child into long-term foster care only if it approves the
23.17 responsible social service agency's compelling reasons that neither an award of permanent
23.18 legal and physical custody to a relative, nor termination of parental rights is in the child's
23.19 best interests;

23.20 (ii) further, the court may only order long-term foster care for the child under this
23.21 section if it finds the following:

23.22 (A) the child has reached age 12 and the responsible social services agency has made
23.23 reasonable efforts to locate and place the child with an adoptive family or with a fit and
23.24 willing relative who will agree to a transfer of permanent legal and physical custody of
23.25 the child, but such efforts have not proven successful; or

23.26 (B) the child is a sibling of a child described in subitem (A) and the siblings have
23.27 a significant positive relationship and are ordered into the same long-term foster care
23.28 home; and

23.29 (iii) at least annually, the responsible social services agency reconsiders its provision
23.30 of services to the child and the child's placement in long-term foster care to ensure that:

23.31 (A) long-term foster care continues to be the most appropriate legal arrangement
23.32 for meeting the child's need for permanency and stability, including whether there is
23.33 another permanent placement option under this chapter that would better serve the child's
23.34 needs and best interests;

24.1 (B) whenever possible, there is an identified long-term foster care family that is
24.2 committed to being the foster family for the child as long as the child is a minor or under
24.3 the jurisdiction of the court;

24.4 (C) the child is receiving appropriate services or assistance to maintain or build
24.5 connections with the child's family and community;

24.6 (D) the child's physical and mental health needs are being appropriately provided
24.7 for; and

24.8 (E) the child's educational needs are being met;

24.9 (4) foster care for a specified period of time according to the following conditions:

24.10 (i) foster care for a specified period of time may be ordered only if:

24.11 (A) the sole basis for an adjudication that the child is in need of protection or
24.12 services is the child's behavior;

24.13 (B) the court finds that foster care for a specified period of time is in the best
24.14 interests of the child; and

24.15 (C) the court approves the responsible social services agency's compelling reasons
24.16 that neither an award of permanent legal and physical custody to a relative, nor termination
24.17 of parental rights is in the child's best interests;

24.18 (ii) the order does not specify that the child continue in foster care for any period
24.19 exceeding one year; or

24.20 (5) guardianship and legal custody to the commissioner of human services under
24.21 the following procedures and conditions:

24.22 (i) there is an identified prospective adoptive home agreed to by the responsible
24.23 social services agency having legal custody of the child pursuant to court order under this
24.24 section that has agreed to adopt the child and the court accepts the parent's voluntary
24.25 consent to adopt under section 259.24, except that such consent executed by a parent under
24.26 this item, following proper notice that consent given under this provision is irrevocable
24.27 upon acceptance by the court, shall be irrevocable unless fraud is established and an order
24.28 issues permitting revocation as stated in item (vii);

24.29 (ii) if the court accepts a consent to adopt in lieu of ordering one of the other
24.30 enumerated permanency dispositions, the court must review the matter at least every 90
24.31 days. The review will address the reasonable efforts of the agency to achieve a finalized
24.32 adoption;

24.33 (iii) a consent to adopt under this clause vests all legal authority regarding the child,
24.34 including guardianship and legal custody of the child, with the commissioner of human
24.35 services as if the child were a state ward after termination of parental rights;

(iv) the court must forward a copy of the consent to adopt, together with a certified copy of the order transferring guardianship and legal custody to the commissioner, to the commissioner;

(v) if an adoption is not finalized by the identified prospective adoptive parent within 12 months of the execution of the consent to adopt under this clause, the commissioner of human services or the commissioner's delegate shall pursue adoptive placement in another home unless the commissioner certifies that the failure to finalize is not due to either an action or a failure to act by the prospective adoptive parent;

(vi) notwithstanding item (v), the commissioner of human services or the commissioner's designee must pursue adoptive placement in another home as soon as the commissioner or commissioner's designee determines that finalization of the adoption with the identified prospective adoptive parent is not possible, that the identified prospective adoptive parent is not willing to adopt the child, that the identified prospective adoptive parent is not cooperative in completing the steps necessary to finalize the adoption, or upon the commissioner's determination to withhold consent to the adoption.

(vii) unless otherwise required by the Indian Child Welfare Act, United States Code, title 25, section 1913, a consent to adopt executed under this section, following proper notice that consent given under this provision is irrevocable upon acceptance by the court, shall be irrevocable upon acceptance by the court except upon order permitting revocation issued by the same court after written findings that consent was obtained by fraud.

(e) In ordering a permanent placement of a child, the court must be governed by the best interests of the child, including a review of the relationship between the child and relatives and the child and other important persons with whom the child has resided or had significant contact. When the court has determined that permanent placement of the child away from the parent is necessary, the court shall consider permanent alternative homes that are available both inside and outside the state.

(f) Once a permanent placement determination has been made and permanent placement has been established, further court reviews are necessary if:

(1) the placement is long-term foster care or foster care for a specified period of time;

(2) the court orders further hearings because it has retained jurisdiction of a transfer of permanent legal and physical custody matter;

(3) an adoption has not yet been finalized; or

(4) there is a disruption of the permanent or long-term placement.

(g) Court reviews of an order for long-term foster care, whether under this section or section 260C.317, subdivision 3, paragraph (d), must be conducted at least yearly and

26.1 must review the child's out-of-home placement plan and the reasonable efforts of the
26.2 agency to finalize the permanent plan for the child including the agency's efforts to:

26.3 (1) ensure that long-term foster care continues to be the most appropriate legal
26.4 arrangement for meeting the child's need for permanency and stability or, if not, to identify
26.5 and attempt to finalize another permanent placement option under this chapter that would
26.6 better serve the child's needs and best interests;

26.7 (2) identify a specific long-term foster home for the child, if one has not already
26.8 been identified;

26.9 (3) support continued placement of the child in the identified home, if one has been
26.10 identified;

26.11 (4) ensure appropriate services are provided to address the physical health, mental
26.12 health, and educational needs of the child during the period of long-term foster care and
26.13 also ensure appropriate services or assistance to maintain relationships with appropriate
26.14 family members and the child's community; and

26.15 (5) plan for the child's independence upon the child's leaving long-term foster care
26.16 living as required under section 260C.212, subdivision 1.

26.17 (h) In the event it is necessary for a child that has been ordered into foster care for a
26.18 specified period of time to be in foster care longer than one year after the permanency
26.19 hearing held under this section, not later than 12 months after the time the child was
26.20 ordered into foster care for a specified period of time, the matter must be returned to
26.21 court for a review of the appropriateness of continuing the child in foster care and of the
26.22 responsible social services agency's reasonable efforts to finalize a permanent plan for
26.23 the child; if it is in the child's best interests to continue the order for foster care for a
26.24 specified period of time past a total of 12 months, the court shall set objectives for the
26.25 child's continuation in foster care, specify any further amount of time the child may be in
26.26 foster care, and review the plan for the safe return of the child to the parent.

26.27 (i) An order permanently placing a child out of the home of the parent or guardian
26.28 must include the following detailed findings:

26.29 (1) how the child's best interests are served by the order;

26.30 (2) the nature and extent of the responsible social service agency's reasonable efforts,
26.31 or, in the case of an Indian child, active efforts to reunify the child with the parent or
26.32 guardian where reasonable efforts are required;

26.33 (3) the parent's or parents' efforts and ability to use services to correct the conditions
26.34 which led to the out-of-home placement; and

26.35 (4) that the conditions which led to the out-of-home placement have not been
26.36 corrected so that the child can safely return home.

(j) An order for permanent legal and physical custody of a child may be modified under sections 518.18 and 518.185. The social services agency is a party to the proceeding and must receive notice. A parent may only seek modification of an order for long-term foster care upon motion and a showing by the parent of a substantial change in the parent's circumstances such that the parent could provide appropriate care for the child and that removal of the child from the child's permanent placement and the return to the parent's care would be in the best interest of the child. The responsible social services agency may ask the court to vacate an order for long-term foster care upon a prima facie showing that there is a factual basis for the court to order another permanency option under this chapter and that such an option is in the child's best interests. Upon a hearing where the court determines that there is a factual basis for vacating the order for long-term foster care and that another permanent order regarding the placement of the child is in the child's best interests, the court may vacate the order for long-term foster care and enter a different order for permanent placement that is in the child's best interests. The court shall not require further reasonable efforts to reunify the child with the parent or guardian as a basis for vacating the order for long-term foster care and ordering a different permanent placement in the child's best interests. The county attorney must file pleadings and give notice as required under the rules of juvenile court in order to modify an order for long-term foster care under this paragraph.

(k) The court shall issue an order required under this section within 15 days of the close of the proceedings. The court may extend issuing the order an additional 15 days when necessary in the interests of justice and the best interests of the child.

(l) This paragraph applies to proceedings required under this subdivision when the child is on a trial home visit:

(1) if the child is on a trial home visit 12 months after the child was placed in foster care or in the care of a noncustodial parent as calculated in this subdivision, the responsible social services agency may file a report with the court regarding the child's and parent's progress on the trial home visit and its reasonable efforts to finalize the child's safe and permanent return to the care of the parent in lieu of filing the pleadings required under paragraph (b). The court shall make findings regarding reasonableness of the responsible social services efforts to finalize the child's return home as the permanent order in the best interests of the child. The court may continue the trial home visit to a total time not to exceed six months as provided in subdivision 1. If the court finds the responsible social services agency has not made reasonable efforts to finalize the child's return home as the permanent order in the best interests of the child, the court may order other or additional efforts to support the child's remaining in the care of the parent; and

28.1 (2) if a trial home visit ordered or continued at proceedings under this subdivision
28.2 terminates, the court shall re-commence proceedings under this subdivision to determine
28.3 the permanent status of the child not later than 30 days after the child is returned to foster
28.4 care.

28.5 Sec. 18. Minnesota Statutes 2006, section 260C.212, subdivision 1, is amended to read:

28.6 Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan
28.7 shall be prepared within 30 days after any child is placed in a residential facility by court
28.8 order or by the voluntary release of the child by the parent or parents.

28.9 For purposes of this section, a residential facility means any group home, family
28.10 foster home or other publicly supported out-of-home residential facility, including any
28.11 out-of-home residential facility under contract with the state, county or other political
28.12 subdivision, or any agency thereof, to provide those services or foster care as defined in
28.13 section 260C.007, subdivision 18.

28.14 (b) An out-of-home placement plan means a written document which is prepared by
28.15 the responsible social services agency jointly with the parent or parents or guardian of the
28.16 child and in consultation with the child's guardian ad litem, the child's tribe, if the child is
28.17 an Indian child, the child's foster parent or representative of the residential facility, and,
28.18 where appropriate, the child. For a child in placement due solely or in part to the child's
28.19 emotional disturbance, preparation of the out-of-home placement plan shall additionally
28.20 include the child's mental health treatment provider. As appropriate, the plan shall be:

28.21 (1) submitted to the court for approval under section 260C.178, subdivision 7;

28.22 (2) ordered by the court, either as presented or modified after hearing, under section
28.23 260C.178, subdivision 7, or 260C.201, subdivision 6; and

28.24 (3) signed by the parent or parents or guardian of the child, the child's guardian ad
28.25 litem, a representative of the child's tribe, the responsible social services agency, and, if
28.26 possible, the child.

28.27 (c) The out-of-home placement plan shall be explained to all persons involved in its
28.28 implementation, including the child who has signed the plan, and shall set forth:

28.29 (1) a description of the residential facility including how the out-of-home placement
28.30 plan is designed to achieve a safe placement for the child in the least restrictive, most
28.31 family-like, setting available which is in close proximity to the home of the parent or
28.32 parents or guardian of the child when the case plan goal is reunification, and how the
28.33 placement is consistent with the best interests and special needs of the child according to
28.34 the factors under subdivision 2, paragraph (b);

(2) the specific reasons for the placement of the child in a residential facility, and when reunification is the plan, a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home and the changes the parent or parents must make in order for the child to safely return home;

(3) a description of the services offered and provided to prevent removal of the child from the home and to reunify the family including:

(i) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (2), and the time period during which the actions are to be taken; and

(ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made to achieve a safe and stable home for the child including social and other supportive services to be provided or offered to the parent or parents or guardian of the child, the child, and the residential facility during the period the child is in the residential facility;

(4) a description of any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of the child's placement in the residential facility, and whether those services or resources were provided and if not, the basis for the denial of the services or resources;

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 27, and siblings of the child if the siblings are not placed together in the residential facility, and whether visitation is consistent with the best interest of the child, during the period the child is in the residential facility;

(6) documentation of steps to finalize the adoption or legal guardianship of the child if the court has issued an order terminating the rights of both parents of the child or of the only known, living parent of the child, ~~and~~. At a minimum, the documentation must include child-specific recruitment efforts such as relative search and the use of state, regional, and national adoption exchanges to facilitate orderly and timely instate and interstate placements. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

~~(7) to the extent available and accessible,~~ the health and educational records of the child including the most recent information available regarding:

(i) the names and addresses of the child's health and educational providers;

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;

(v) a record of the child's immunizations;

30.1 (vi) the child's known medical problems, including any known communicable
30.2 diseases, as defined in section 144.4172, subdivision 2;

30.3 (vii) the child's medications; and

30.4 (viii) any other relevant health and education information;

30.5 (8) an independent living plan for a child age 16 or older who is in placement as
30.6 a result of a permanency disposition. The plan should include, but not be limited to,
30.7 the following objectives:

30.8 (i) educational, vocational, or employment planning;

30.9 (ii) health care planning and medical coverage;

30.10 (iii) transportation including, where appropriate, assisting the child in obtaining a
30.11 driver's license;

30.12 (iv) money management;

30.13 (v) planning for housing;

30.14 (vi) social and recreational skills; and

30.15 (vii) establishing and maintaining connections with the child's family and
30.16 community; and

30.17 (9) for a child in placement due solely or in part to the child's emotional disturbance,
30.18 diagnostic and assessment information, specific services relating to meeting the mental
30.19 health care needs of the child, and treatment outcomes.

30.20 (d) The parent or parents or guardian and the child each shall have the right to legal
30.21 counsel in the preparation of the case plan and shall be informed of the right at the time
30.22 of placement of the child. The child shall also have the right to a guardian ad litem.
30.23 If unable to employ counsel from their own resources, the court shall appoint counsel
30.24 upon the request of the parent or parents or the child or the child's legal guardian. The
30.25 parent or parents may also receive assistance from any person or social services agency
30.26 in preparation of the case plan.

30.27 After the plan has been agreed upon by the parties involved or approved or ordered
30.28 by the court, the foster parents shall be fully informed of the provisions of the case plan
30.29 and shall be provided a copy of the plan.

30.30 Upon discharge from foster care, the parent, adoptive parent, or permanent legal and
30.31 physical custodian, as appropriate, and the child, if appropriate, must be provided with
30.32 a current copy of the child's health and education record.

30.33 Sec. 19. Minnesota Statutes 2006, section 260C.212, subdivision 4, is amended to read:

Subd. 4. **Responsible social service agency's duties for children in placement.** (a)

When a child is in placement, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

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

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

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

(ii) provide a parent who is the subject of a background study under section 260C.209 15 days' notice that it intends to use the study to recommend against putting the child with that parent, as well as the notice provided in section 260C.209, subdivision 4, and the court shall afford the parent an opportunity to be heard concerning the study.

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

(3) If, after the provision of services following an out-of-home placement plan under this section, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.201, subdivision 11. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.

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

32.1 (b) The responsible social services agency shall give notice to the parent or parents
32.2 or guardian of each child in a residential facility, other than a child in placement due
32.3 solely to that child's developmental disability or emotional disturbance, of the following
32.4 information:

32.5 (1) that residential care of the child may result in termination of parental rights or an
32.6 order permanently placing the child out of the custody of the parent, but only after notice
32.7 and a hearing as required under chapter 260C and the juvenile court rules;

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

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

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

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

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

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

32.22 (8) the financial responsibilities and obligations, if any, of the parent or parents for
32.23 the support of the child during the period the child is in the residential facility.

32.24 (c) The responsible social services agency shall inform a parent considering
32.25 voluntary placement of a child who is not developmentally disabled or emotionally
32.26 disturbed of the following information:

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

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

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

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

(5) the timelines and procedures for review of voluntary placements under subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under section 260C.201, subdivision 11.

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

(e) If a child leaves foster care by reason of having attained the age of majority under state law, the child must be given at no cost a copy of the child's health and education report.

Sec. 20. Minnesota Statutes 2006, section 260C.317, subdivision 3, is amended to read:

Subd. 3. Order; retention of jurisdiction. (a) A certified copy of the findings and the order terminating parental rights, and a summary of the court's information concerning the child shall be furnished by the court to the commissioner or the agency to which guardianship is transferred. The orders shall be on a document separate from the findings. The court shall furnish the individual to whom guardianship is transferred a copy of the order terminating parental rights.

(b) The court shall retain jurisdiction in a case where adoption is the intended permanent placement disposition until the child's adoption is finalized, the child is 18 years of age, or the child is otherwise ordered discharged from the jurisdiction of the court. The guardian ad litem and counsel for the child shall continue on the case until an adoption decree is entered. A hearing must be held every 90 days following termination of parental rights for the court to review progress toward an adoptive placement and the specific

recruitment efforts the agency has taken to find an adoptive family or other placement living arrangement for the child and to finalize the adoption or other permanency plan.

(c) The responsible social services agency may make a determination of compelling reasons for a child to be in long-term foster care when the agency has made exhaustive efforts to recruit, identify, and place the child in an adoptive home, and the child continues in foster care for at least 24 months after the court has issued the order terminating parental rights. A child of any age who is under the guardianship of the commissioner of the Department of Human Services and is legally available for adoption may not refuse or waive the commissioner's agent's exhaustive efforts to recruit, identify, and place the child in an adoptive home required under paragraph (b) or sign a document relieving county social services agencies of all recruitment efforts on the child's behalf. Upon approving the agency's determination of compelling reasons, the court may order the child placed in long-term foster care. At least every 12 months thereafter as long as the child continues in out-of-home placement, the court shall conduct a permanency review hearing to determine the future status of the child using the review requirements of section 260C.201, subdivision 11, paragraph (g).

(d) The court shall retain jurisdiction through the child's minority in a case where long-term foster care is the permanent disposition whether under paragraph (c) or section 260C.201, subdivision 11.

Sec. 21. Minnesota Statutes 2006, section 260C.331, subdivision 1, is amended to read:

Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a responsible social services agency,

(2) whenever legal custody is transferred to a person other than the responsible social services agency, but under the supervision of the responsible social services agency, or

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, and the responsible social services agency shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income

and resources attributable to the child include, but are not limited to, Social Security benefits, supplemental security income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the responsible social services agency shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance. Income does not include earnings from a child over 18 who is working as part of a plan under section 260C.212, subdivision 1, paragraph (c), clause (8), to transition from foster care.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the responsible social services agency shall require, the parents to contribute to the cost of care, examination, or treatment of the child. When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the responsible social services agency and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518A from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, co-payments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

Sec. 22. Minnesota Statutes 2006, section 626.556, is amended by adding a subdivision to read:

Subd. 3e. **Agency responsibility for assessing or investigating reports of sexual abuse.** The local welfare agency is the agency responsible for investigating allegations of sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual functioning within the family unit as a person responsible for the child's care, or a person with a significant relationship to the child if that person resides in the child's household.

Sec. 23. Minnesota Statutes 2006, section 626.556, is amended by adding a subdivision to read:

Subd. 3f. **Law enforcement agency responsibility for investigating maltreatment.** The local law enforcement agency has responsibility for investigating any report of child maltreatment if a violation of a criminal statute is alleged. Law enforcement and the responsible agency must coordinate their investigations or assessments as required under subdivision 10.

Sec. 24. Minnesota Statutes 2006, section 626.556, subdivision 10, is amended to read:

Subd. 10. **Duties of local welfare agency and local law enforcement agency upon receipt of a report.** (a) Upon receipt of a report, the local welfare agency shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child maltreatment. The local welfare agency:

(1) shall conduct an investigation on reports involving substantial child endangerment;

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

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

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

If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, or sexual abuse by a person with a significant relationship to the child when that

person resides in the child's household or by a sibling, the local welfare agency shall immediately conduct a family assessment or investigation as identified in clauses (1) to (4). In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence and offer services for purposes of preventing future child maltreatment, safeguarding and enhancing the welfare of the abused or neglected minor, and supporting and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the family assessment or investigation indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615. The local welfare agency shall report the determination of the chemical use assessment, and the recommendations and referrals for alcohol and other drug treatment services to the state authority on alcohol and drug abuse.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of education shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

(c) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided

with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 49.02 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

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

39.1 Except where the alleged offender is believed to be a school official or employee,
39.2 the time and place, and manner of the interview on school premises shall be within the
39.3 discretion of school officials, but the local welfare or law enforcement agency shall have
39.4 the exclusive authority to determine who may attend the interview. The conditions as to
39.5 time, place, and manner of the interview set by the school officials shall be reasonable and
39.6 the interview shall be conducted not more than 24 hours after the receipt of the notification
39.7 unless another time is considered necessary by agreement between the school officials and
39.8 the local welfare or law enforcement agency. Where the school fails to comply with the
39.9 provisions of this paragraph, the juvenile court may order the school to comply. Every
39.10 effort must be made to reduce the disruption of the educational program of the child, other
39.11 students, or school staff when an interview is conducted on school premises.

39.12 (e) Where the alleged offender or a person responsible for the care of the alleged
39.13 victim or other minor prevents access to the victim or other minor by the local welfare
39.14 agency, the juvenile court may order the parents, legal custodian, or guardian to produce
39.15 the alleged victim or other minor for questioning by the local welfare agency or the local
39.16 law enforcement agency outside the presence of the alleged offender or any person
39.17 responsible for the child's care at reasonable places and times as specified by court order.

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

39.25 (g) The commissioner of human services, the ombudsman for mental health and
39.26 developmental disabilities, the local welfare agencies responsible for investigating reports,
39.27 the commissioner of education, and the local law enforcement agencies have the right to
39.28 enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,
39.29 including medical records, as part of the investigation. Notwithstanding the provisions of
39.30 chapter 13, they also have the right to inform the facility under investigation that they are
39.31 conducting an investigation, to disclose to the facility the names of the individuals under
39.32 investigation for abusing or neglecting a child, and to provide the facility with a copy of
39.33 the report and the investigative findings.

39.34 (h) The local welfare agency responsible for conducting a family assessment or
39.35 investigation shall collect available and relevant information to determine child safety,
39.36 risk of subsequent child maltreatment, and family strengths and needs and share not public

information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for assessing or investigating the report may make a determination of no maltreatment early in an assessment, and close the case and retain immunity, if the collected information shows no basis for a full assessment or investigation.

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

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

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

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

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

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding section 13.384 or 144.335, the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

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

(i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact with the child and primary caregiver shall occur immediately if substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

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

- (1) audio recordings of all interviews with witnesses and collateral sources; and
- (2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

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

Sec. 25. Minnesota Statutes 2006, section 626.556, subdivision 10a, is amended to read:

Subd. 10a. ~~Abuse outside family unit~~ **Law enforcement agency responsibility for investigation; welfare agency reliance on law enforcement fact-finding; welfare agency offer of services.** (a) If the report alleges neglect, physical abuse, or sexual abuse by a person who is not a parent, guardian, sibling, person responsible for the child's care functioning outside within the family unit as a person responsible for the child's care, or a person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.

(b) The local agency may rely on the fact-finding efforts of the law enforcement investigation conducted under this subdivision to make a determination whether or not threatened harm or other maltreatment has occurred under subdivision 2 if an alleged offender has minor children or lives with minors.

(c) The local welfare agency shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

Sec. 26. Minnesota Statutes 2006, section 626.556, subdivision 10f, is amended to read:

Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion of a family assessment, the local welfare agency shall notify the parent or guardian of the child of the need for services to address child safety concerns or significant risk of subsequent child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed. Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for assessing or investigating the report shall notify the parent or guardian of the child, the

person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section or section 256.022. The notice must also state that a finding of maltreatment may result in denial of a license application or background study disqualification under chapter 245C related to employment or services that are licensed by the Department of Human Services under chapter 245A, the Department of Health under chapter 144 or 144A, the Department of Corrections under section 241.021, and from providing services related to an unlicensed personal care provider organization under chapter 256B.

Sec. 27. **REVISOR'S INSTRUCTION.**

(a) The revisor shall renumber Minnesota Statutes, section 626.556, subdivision 3d, as Minnesota Statutes, section 626.556, subdivision 3g.

(b) The revisor shall change references to Minnesota Statutes, section 260.851, to section 260.853 and references to Minnesota Statutes, section 260.851, article 5, to section 260.853, article IV, wherever those references appear in Minnesota Statutes and Minnesota Rules.

Sec. 28. **REPEALER.**

(a) Laws 1997, chapter 8, section 1, is repealed.

(b) Minnesota Rules, part 9560.0102, subpart 2, item C, is repealed.

ARTICLE 2
LICENSING

Section 1. Minnesota Statutes 2006, section 245A.035, is amended to read:

245A.035 ~~RELATIVE FOSTER CARE;~~ UNLICENSED EMERGENCY
LICENSE RELATIVE PLACEMENT.

Subdivision 1. ~~Grant of Emergency license placement.~~ Notwithstanding section 245A.03, subdivision 2a, or 245C.13, subdivision 2, a county agency may place a child ~~for foster care~~ with a relative who is not licensed to provide foster care, provided the

requirements of ~~subdivision 2~~ this section are met. As used in this section, the term "relative" has the meaning given it under section 260C.007, subdivision 27.

Subd. 2. **Cooperation with emergency licensing placement process.** (a) A county agency that places a child with a relative who is not licensed to provide foster care must ~~begin the process of securing an emergency license for the relative as soon as possible and must~~ conduct the initial inspection required by subdivision 3, clause (1), whenever possible, prior to placing the child in the relative's home, but no later than three working days after placing the child in the home. A child placed in the home of a relative who is not licensed to provide foster care must be removed from that home if the relative fails to cooperate with the county agency ~~in securing an emergency foster care license. The commissioner may issue an emergency foster care license to a relative with whom the county agency wishes to place or has placed a child for foster care, or to a relative with whom a child has been placed by court order.~~

(b) If a child is to be placed in the home of a relative not licensed to provide foster care, either the placing agency or the county agency in the county in which the relative lives shall conduct the emergency licensing placement process as required in this section.

Subd. 3. **Requirements for emergency license placement.** Before an emergency license placement may be ~~issued~~ made, the following requirements must be met:

(1) the county agency must conduct an initial inspection of the premises where the ~~foster care placement~~ is to be provided made to ensure the health and safety of any child placed in the home. The county agency shall conduct the inspection using a form developed by the commissioner;

(2) at the time of the inspection or placement, whichever is earlier, the county agency must provide the relative being considered for an emergency ~~license shall receive placement~~ an application form for a child foster care license;

(3) whenever possible, prior to placing the child in the relative's home, the relative being considered for an emergency license placement shall provide the information required by section 245C.05; and

(4) if the county determines, prior to the ~~issuance of an emergency license placement~~, that anyone requiring a background study ~~may be~~ prior to licensure of the home is disqualified under ~~section 245C.14 and~~ chapter 245C, and the disqualification is one which the commissioner cannot set aside, an emergency ~~license shall placement~~ must not be issued made.

Subd. 4. **Applicant study.** When the county agency has received the information required by section 245C.05, the county agency shall ~~begin an applicant study according to the procedures in chapter 245C. The commissioner may issue an emergency license upon~~

~~recommendation of the county agency once the initial inspection has been successfully completed and the information necessary to begin the applicant background study has been provided. If the county agency does not recommend that the emergency license be granted, the agency shall notify the relative in writing that the agency is recommending denial to the commissioner; shall remove any child who has been placed in the home prior to licensure; and shall inform the relative in writing of the procedure to request review pursuant to subdivision 6. An emergency license shall be effective until a child foster care license is granted or denied, but shall in no case remain in effect more than 120 days from the date of placement submit the information to the commissioner according to section 245C.05.~~

Subd. 5. **Child foster care license application.** (a) The relatives with whom the emergency ~~license holder~~ placement has been made shall complete the child foster care license application and necessary paperwork within ten days of the placement. The county agency shall assist the emergency ~~license holder~~ applicant to complete the application. The granting of a child foster care license to a relative shall be under the procedures in this chapter and according to the standards ~~set forth by foster care rule~~ in Minnesota Rules, chapter 2960. In licensing a relative, the commissioner shall consider the importance of maintaining the child's relationship with relatives as an additional significant factor in determining whether to a background study disqualification should be set aside a licensing disqualifier under section 245C.22, or to grant a variance of licensing requirements should be granted under ~~sections 245C.21 to 245C.27~~ section 245C.30.

(b) When the county or private child-placing agency is processing an application for child foster care licensure of a relative as defined in section 260B.007, subdivision 12, or 260C.007, subdivision 27, the county agency or child-placing agency must explain the licensing process to the prospective licensee, including the background study process and the procedure for reconsideration of an initial disqualification for licensure. The county or private child-placing agency must also provide the prospective relative licensee with information regarding appropriate options for legal representation in the pertinent geographic area. If a relative is initially disqualified under section 245C.14, the ~~county or child-placing agency~~ commissioner must provide written notice of the reasons for the disqualification and the right to request a reconsideration by the commissioner as required under section 245C.17.

(c) The commissioner shall maintain licensing data so that activities related to applications and licensing actions for relative foster care providers may be distinguished from other child foster care settings.

~~Subd. 6. Denial of emergency license. If the commissioner denies an application for an emergency foster care license under this section, that denial must be in writing and~~

~~must include reasons for the denial. Denial of an emergency license is not subject to appeal under chapter 14. The relative may request a review of the denial by submitting to the commissioner a written statement of the reasons an emergency license should be granted. The commissioner shall evaluate the request for review and determine whether to grant the emergency license. The commissioner's review shall be based on a review of the records submitted by the county agency and the relative. Within 15 working days of the receipt of the request for review, the commissioner shall notify the relative requesting review in written form whether the emergency license will be granted. The commissioner's review shall be based on a review of the records submitted by the county agency and the relative. A child shall not be placed or remain placed in the relative's home while the request for review is pending. Denial of an emergency license shall not preclude an individual from reapplying for an emergency license or from applying for a child foster care license. The decision of the commissioner is the final administrative agency action.~~

Sec. 2. Minnesota Statutes 2006, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04 ~~and~~; background studies for adult foster care, family adult day services, and family child care under chapter 245C; to recommend denial of applicants under section 245A.05₂; to issue correction orders, to issue variances, and recommend a conditional license under section 245A.06, or to recommend suspending or revoking a license or issuing a fine under section 245A.07₂; shall comply with rules and directives of the commissioner governing those functions and with this section. The following variances are excluded from the delegation of variance authority and may be issued only by the commissioner:

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

(2) adult foster care maximum capacity;

(3) adult foster care minimum age requirement;

(4) child foster care maximum age requirement;

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

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

(b) County agencies must report:

~~(1) information about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision 2, clauses paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the commissioner at least monthly in a format prescribed by the commissioner; and~~

~~(2) for relative child foster care applicants and license holders, the number of relatives, as defined in section 260C.007, subdivision 27, and household members of relatives who are disqualified under section 245C.14; the disqualifying characteristics under section 245C.15; the number of these individuals who requested reconsideration under section 245C.21; the number of set-asides under section 245C.22; and variances under section 245C.30 issued. This information shall be reported to the commissioner annually by January 15 of each year in a format prescribed by the commissioner.~~

(c) For family day care programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

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

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

Sec. 3. Minnesota Statutes 2006, section 245A.16, subdivision 3, is amended to read:

Subd. 3. **Recommendations to the commissioner.** The county or private agency shall not make recommendations to the commissioner regarding licensure without first conducting an inspection, and for adult foster care, family adult day services, and family child care, a background study of the applicant, and evaluation pursuant to under chapter 245C. The county or private agency must forward its recommendation to the commissioner regarding the appropriate licensing action within 20 working days of receipt of a completed application.

Sec. 4. Minnesota Statutes 2006, section 245C.02, is amended by adding a subdivision to read:

Subd. 14a. **Private agency.** "Private agency" has the meaning given in section 245A.02, subdivision 12.

Sec. 5. Minnesota Statutes 2006, section 245C.04, subdivision 1, is amended to read:

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

(b) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at reapplication for a license for family child care, ~~child foster care, and adult foster care,~~ and family adult day services.

(c) The commissioner is not required to conduct a study of an individual at the time of reapplication for a license if the individual's background study was completed by the commissioner of human services for an adult foster care license holder that is also:

(1) registered under chapter 144D; or

(2) licensed to provide home and community-based services to people with disabilities at the foster care location and the license holder does not reside in the foster care residence; and

(3) the following conditions are met:

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

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

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

(d) From July 1, 2007, to June 30, 2009, the commissioner of human services shall conduct a study of an individual required to be studied under section 245C.03 at the time of reapplication for a child foster care license. The county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b), and 5, paragraphs (a) and (b). The background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, paragraph (a), clauses (1) to (4), and 3.

(e) The commissioner of human services shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with a child foster care license holder. The county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1 and 5. The background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, paragraph (a), and 3.

(f) Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study forms to the commissioner before

49.1 individuals specified in section 245C.03, subdivision 1, begin positions allowing direct
49.2 contact in any licensed program.

49.3 ~~(e)~~ (g) For purposes of this section, a physician licensed under chapter 147 is
49.4 considered to be continuously affiliated upon the license holder's receipt from the
49.5 commissioner of health or human services of the physician's background study results.

49.6 Sec. 6. Minnesota Statutes 2006, section 245C.05, subdivision 1, is amended to read:

49.7 Subdivision 1. **Individual studied.** (a) The individual who is the subject of the
49.8 background study must provide the applicant, license holder, or other entity under section
49.9 245C.04 with sufficient information to ensure an accurate study, including:

49.10 (1) the individual's first, middle, and last name and all other names by which the
49.11 individual has been known;

49.12 (2) home address, city, and state of residence;

49.13 (3) zip code;

49.14 (4) sex;

49.15 (5) date of birth; and

49.16 (6) Minnesota driver's license number or state identification number.

49.17 (b) Every subject of a background study conducted by counties or private agencies
49.18 under this chapter must also provide the home address, city, county, and state of residence
49.19 for the past five years.

49.20 (c) Every subject of a background study related to child foster care through a private
49.21 agency shall also provide the commissioner a signed consent for the release of any
49.22 information received from national crime information databases to the private agency that
49.23 initiated the background study.

49.24 (d) The subject of a background study shall provide fingerprints as required in
49.25 subdivision 5, paragraph (c).

49.26 Sec. 7. Minnesota Statutes 2006, section 245C.05, is amended by adding a subdivision
49.27 to read:

49.28 Subd. 2a. **County or private agency.** For background studies related to child foster
49.29 care, county and private agencies must collect the information under subdivision 1 and
49.30 forward it to the commissioner.

49.31 Sec. 8. Minnesota Statutes 2006, section 245C.05, subdivision 4, is amended to read:

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

- (1) background study information to the commissioner; ~~and~~
- (2) background study results to the license holder; and
- (3) background study results to county and private agencies for background studies conducted by the commissioner for child foster care.

Sec. 9. Minnesota Statutes 2006, section 245C.05, subdivision 5, is amended to read:

Subd. 5. **Fingerprints.** (a) Except as provided in paragraph (c), for any background study completed under this chapter, when the commissioner has reasonable cause to believe that further pertinent information may exist on the subject of the background study, the subject shall provide the commissioner with a set of classifiable fingerprints obtained from an authorized ~~law enforcement~~ agency.

(b) For purposes of requiring fingerprints, the commissioner has reasonable cause when, but not limited to, the:

- (1) information from the Bureau of Criminal Apprehension indicates that the subject is a multistate offender;
- (2) information from the Bureau of Criminal Apprehension indicates that multistate offender status is undetermined; or
- (3) commissioner has received a report from the subject or a third party indicating that the subject has a criminal history in a jurisdiction other than Minnesota.

(c) Except as specified under section 245C.04, subdivision 1, paragraph (d), for background studies conducted by the commissioner for child foster care, the subject of the background study shall provided the commissioner with a set of classifiable fingerprints obtained from an authorized agency.

Sec. 10. Minnesota Statutes 2006, section 245C.05, subdivision 7, is amended to read:

Subd. 7. **Probation officer and corrections agent.** (a) A probation officer or corrections agent shall notify the commissioner of an individual's conviction if the individual is:

- (1) affiliated with a program or facility regulated by the Department of Human Services or Department of Health, a facility serving children or youth licensed by the Department of Corrections, or any type of home care agency or provider of personal care assistance services; and
- (2) convicted of a crime constituting a disqualification under section 245C.14.

51.1 (b) For the purpose of this subdivision, "conviction" has the meaning given it
51.2 in section 609.02, subdivision 5.

51.3 (c) The commissioner, in consultation with the commissioner of corrections, shall
51.4 develop forms and information necessary to implement this subdivision and shall provide
51.5 the forms and information to the commissioner of corrections for distribution to local
51.6 probation officers and corrections agents.

51.7 (d) The commissioner shall inform individuals subject to a background study that
51.8 criminal convictions for disqualifying crimes will be reported to the commissioner by the
51.9 corrections system.

51.10 (e) A probation officer, corrections agent, or corrections agency is not civilly or
51.11 criminally liable for disclosing or failing to disclose the information required by this
51.12 subdivision.

51.13 (f) Upon receipt of disqualifying information, the commissioner shall provide the
51.14 notice required under section 245C.17, as appropriate, to agencies on record as having
51.15 initiated a background study or making a request for documentation of the background
51.16 study status of the individual.

51.17 (g) This subdivision does not apply to family child care ~~and child foster care~~
51.18 programs.

51.19 Sec. 11. Minnesota Statutes 2006, section 245C.08, subdivision 1, is amended to read:

51.20 Subdivision 1. **Background studies conducted by commissioner of human**
51.21 **services.** (a) For a background study conducted by the commissioner, the commissioner
51.22 shall review:

51.23 (1) information related to names of substantiated perpetrators of maltreatment of
51.24 vulnerable adults that has been received by the commissioner as required under section
51.25 626.557, subdivision 9c, paragraph (i);

51.26 (2) the commissioner's records relating to the maltreatment of minors in licensed
51.27 programs, and from ~~county agency~~ findings of maltreatment of minors as indicated
51.28 through the social service information system;

51.29 (3) information from juvenile courts as required in subdivision 4 for individuals
51.30 listed in section 245C.03, subdivision 1, clauses (2), (5), and (6); ~~and~~

51.31 (4) information from the Bureau of Criminal Apprehension; and

51.32 (5) for a background study related to a child foster care application for licensure, the
51.33 commissioner shall also review:

51.34 (i) information from the child abuse and neglect registry for any state in which the
51.35 background study subject has resided in for the past five years; and

52.1 (ii) information from national crime information databases.

52.2 (b) Notwithstanding expungement by a court, the commissioner may consider
52.3 information obtained under paragraph (a), clauses (3) and (4), unless the commissioner
52.4 received notice of the petition for expungement and the court order for expungement is
52.5 directed specifically to the commissioner.

52.6 Sec. 12. Minnesota Statutes 2006, section 245C.08, subdivision 2, is amended to read:

52.7 Subd. 2. **Background studies conducted by a county ~~or private~~ agency.** (a) For
52.8 a background study conducted by a county ~~or private~~ agency for ~~child foster care~~, adult
52.9 foster care, family adult day services, and family child care homes, the commissioner
52.10 shall review:

52.11 (1) information from the county agency's record of substantiated maltreatment
52.12 of adults and the maltreatment of minors;

52.13 (2) information from juvenile courts as required in subdivision 4 for individuals
52.14 listed in section 245C.03, subdivision 1, clauses (2), (5), and (6);

52.15 (3) information from the Bureau of Criminal Apprehension; and

52.16 (4) arrest and investigative records maintained by the Bureau of Criminal
52.17 Apprehension, county attorneys, county sheriffs, courts, county agencies, local police, the
52.18 National Criminal Records Repository, and criminal records from other states.

52.19 (b) If the individual has resided in the county for less than five years, the study shall
52.20 include the records specified under paragraph (a) for the previous county or counties of
52.21 residence for the past five years.

52.22 (c) Notwithstanding expungement by a court, the county ~~or private~~ agency may
52.23 consider information obtained under paragraph (a), clauses (3) and (4), unless the
52.24 commissioner received notice of the petition for expungement and the court order for
52.25 expungement is directed specifically to the commissioner.

52.26 Sec. 13. Minnesota Statutes 2006, section 245C.10, is amended by adding a
52.27 subdivision to read:

52.28 Subd. 4. **Temporary personnel agencies, educational programs, and professional**
52.29 **services agencies.** The commissioner shall recover the cost of the background studies
52.30 initiated by temporary personnel agencies, educational programs, and professional
52.31 services agencies that initiate background studies under section 245C.03, subdivision 4,
52.32 through a fee of no more than \$20 per study charged to the agency. The fees collected
52.33 under this subdivision are appropriated to the commissioner for the purpose of conducting
52.34 background studies.

Sec. 14. Minnesota Statutes 2006, section 245C.11, subdivision 1, is amended to read:

Subdivision 1. **Adult foster care; criminal conviction data.** For individuals who are required to have background studies under section 245C.03, subdivisions 1 and 2, and who have been continuously affiliated with ~~a~~ an adult foster care provider that is licensed in more than one county, criminal conviction data may be shared among those counties in which the adult foster care programs are licensed. A county agency's receipt of criminal conviction data from another county agency shall meet the criminal data background study requirements of this chapter.

Sec. 15. Minnesota Statutes 2006, section 245C.11, subdivision 2, is amended to read:

Subd. 2. **Jointly licensed programs.** A county agency may accept a background study completed by the commissioner under this chapter in place of the background study required under section 245A.16, subdivision 3, in programs with joint licensure as home and community-based services and adult foster care for people with developmental disabilities when the license holder does not reside in the adult foster care residence and the subject of the study has been continuously affiliated with the license holder since the date of the commissioner's study.

Sec. 16. Minnesota Statutes 2006, section 245C.12, is amended to read:

245C.12 BACKGROUND STUDY; TRIBAL ORGANIZATIONS.

(a) For the purposes of background studies completed by tribal organizations performing licensing activities otherwise required of the commissioner under this chapter, after obtaining consent from the background study subject, tribal licensing agencies shall have access to criminal history data in the same manner as county licensing agencies and private licensing agencies under this chapter.

(b) Tribal organizations may contract with the commissioner to obtain background study data on individuals under tribal jurisdiction related to adoptions according to section 245C.34. Tribal organizations may also contract with the commissioner to obtain background study data on individuals under tribal jurisdiction related to child foster care according to section 245C.34.

Sec. 17. Minnesota Statutes 2006, section 245C.16, subdivision 1, is amended to read:

Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the

54.1 subject's immediate risk of harm to persons served by the program where the individual
54.2 studied will have direct contact.

54.3 (b) The commissioner shall consider all relevant information available, including the
54.4 following factors in determining the immediate risk of harm:

54.5 (1) the recency of the disqualifying characteristic;

54.6 (2) the recency of discharge from probation for the crimes;

54.7 (3) the number of disqualifying characteristics;

54.8 (4) the intrusiveness or violence of the disqualifying characteristic;

54.9 (5) the vulnerability of the victim involved in the disqualifying characteristic;

54.10 (6) the similarity of the victim to the persons served by the program where the
54.11 individual studied will have direct contact; and

54.12 (7) whether the individual has a disqualification from a previous background study
54.13 that has not been set aside.

54.14 (c) This section does not apply when the subject of a background study is regulated
54.15 by a health-related licensing board as defined in chapter 214, and the subject is determined
54.16 to be responsible for substantiated maltreatment under section 626.556 or 626.557.

54.17 (d) This section does not apply to a background study related to an initial application
54.18 for a child foster care license.

54.19 (e) If the commissioner has reason to believe, based on arrest information or an
54.20 active maltreatment investigation, that an individual poses an imminent risk of harm to
54.21 persons receiving services, the commissioner may order that the person be continuously
54.22 supervised or immediately removed pending the conclusion of the maltreatment
54.23 investigation or criminal proceedings.

54.24 Sec. 18. Minnesota Statutes 2006, section 245C.17, is amended by adding a
54.25 subdivision to read:

54.26 Subd. 5. **Notice to county or private agency.** For studies on individuals related to a
54.27 license to provide child foster care, the commissioner shall also provide a notice of the
54.28 background study results to the county or private agency that initiated the background
54.29 study.

54.30 Sec. 19. Minnesota Statutes 2006, section 245C.21, is amended by adding a
54.31 subdivision to read:

54.32 Subd. 1a. **Submission of reconsideration request to county or private agency.**

54.33 (a) For disqualifications related to studies conducted by county agencies, and for

54.34 disqualifications related to studies conducted by the commissioner for child foster care,

55.1 the individual shall submit the request for reconsideration to the county or private agency
55.2 that initiated the background study.

55.3 (b) A reconsideration request shall be submitted within the time frames specified
55.4 in section 69.13, subdivision 2.

55.5 (c) The county or private agency shall forward the individual's request for
55.6 reconsideration and provide the commissioner with a recommendation whether to set aside
55.7 the individual's disqualification.

55.8 Sec. 20. Minnesota Statutes 2006, section 245C.23, subdivision 2, is amended to read:

55.9 Subd. 2. **Commissioner's notice of disqualification that is not set aside.** (a) The
55.10 commissioner shall notify the license holder of the disqualification and order the license
55.11 holder to immediately remove the individual from any position allowing direct contact
55.12 with persons receiving services from the license holder if:

55.13 (1) the individual studied does not submit a timely request for reconsideration
55.14 under section 245C.21;

55.15 (2) the individual submits a timely request for reconsideration, but the commissioner
55.16 does not set aside the disqualification for that license holder under section 245C.22;

55.17 (3) an individual who has a right to request a hearing under sections 245C.27 and
55.18 256.045, or 245C.28 and chapter 14 for a disqualification that has not been set aside, does
55.19 not request a hearing within the specified time; or

55.20 (4) an individual submitted a timely request for a hearing under sections 245C.27
55.21 and 256.045, or 245C.28 and chapter 14, but the commissioner does not set aside the
55.22 disqualification under section 245A.08, subdivision 5, or 256.045.

55.23 (b) If the commissioner does not set aside the disqualification under section 245C.22,
55.24 and the license holder was previously ordered under section 245C.17 to immediately
55.25 remove the disqualified individual from direct contact with persons receiving services or
55.26 to ensure that the individual is under continuous, direct supervision when providing direct
55.27 contact services, the order remains in effect pending the outcome of a hearing under
55.28 sections 245C.27 and 256.045, or 245C.28 and chapter 14.

55.29 (c) For background studies related to child foster care, the commissioner shall
55.30 also notify the county or private agency that initiated the study of the results of the
55.31 reconsideration.

55.32 Sec. 21. **[245C.33] ADOPTION BACKGROUND STUDY REQUIREMENTS.**

55.33 Subdivision 1. Background studies conducted by commissioner. Before
55.34 placement of a child for purposes of adoption, the commissioner shall conduct a

56.1 background study on individuals listed in section 259.41, subdivision 3, for county
56.2 agencies and private agencies licensed to place children for adoption.

56.3 Subd. 2. **Information and data provided to county or private agency.** The
56.4 subject of the background study shall provide the following information to the county
56.5 or private agency:

- 56.6 (1) the information specified in section 245C.05;
56.7 (2) a set of classifiable fingerprints obtained from an authorized agency; and
56.8 (3) for studies initiated by a private agency, a signed consent for the release of
56.9 information received from national crime information databases to the private agency.

56.10 Subd. 3. **Information and data provided to commissioner.** The county or private
56.11 agency shall forward the data collected under subdivision 2 to the commissioner.

56.12 Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review
56.13 the following information regarding the background study subject:

- 56.14 (1) the information under section 245C.08, subdivisions 1, 3, and 4;
56.15 (2) information from the child abuse and neglect registry for any state in which the
56.16 subject has resided for the past five years; and
56.17 (3) information from national crime information databases.

56.18 (b) The commissioner shall provide any information collected under this subdivision
56.19 to the county or private agency that initiated the background study. The commissioner
56.20 shall indicate if the information collected shows that the subject of the background study
56.21 has a conviction listed in United States Code, title 42, section 671(a)(20)(A).

56.22 Sec. 22. **[245C.34] ADOPTION AND CHILD FOSTER CARE BACKGROUND**
56.23 **STUDIES; TRIBAL ORGANIZATIONS.**

56.24 Subdivision 1. **Background studies may be conducted by commissioner.** (a)
56.25 Tribal organizations may contract with the commissioner under section 245C.12 to obtain
56.26 background study data on individuals under tribal jurisdiction related to adoptions.

56.27 (b) Tribal organizations may contract with the commissioner under section 245C.12
56.28 to obtain background study data on individuals under tribal jurisdiction related to child
56.29 foster care.

56.30 (c) Background studies initiated by tribal organizations under paragraphs (a) and (b)
56.31 must be conducted as provided in subdivisions 2 and 3.

56.32 Subd. 2. **Information and data provided to tribal organization.** The background
56.33 study subject must provide the following information to the tribal organization:

- 56.34 (1) for background studies related to adoptions, the information under section
56.35 245C.05;

57.1 (2) for background studies related to child foster care, the information under section
57.2 245C.05;

57.3 (3) a set of classifiable fingerprints obtained from an authorized agency; and

57.4 (4) a signed consent for the release of information received from national crime
57.5 information databases to the tribal organization.

57.6 Subd. 3. **Information and data provided to commissioner.** The tribal organization
57.7 shall forward the data collected under subdivision 2 to the commissioner.

57.8 Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review
57.9 the following information regarding the background study subject:

57.10 (1) the information under section 245C.08, subdivisions 1, 3, and 4;

57.11 (2) information from the child abuse and neglect registry for any state in which the
57.12 subject has resided for the past five years; and

57.13 (3) information from national crime information databases.

57.14 (b) The commissioner shall provide any information collected under this subdivision
57.15 to the tribal organization that initiated the background study. The commissioner shall
57.16 indicate if the information collected shows that the subject of the background study has a
57.17 conviction listed in United States Code, title 42, section 671(a)(20)(A).

57.18 Sec. 23. Minnesota Statutes 2006, section 259.20, subdivision 2, is amended to read:

57.19 Subd. 2. **Other applicable law.** (a) Portions of chapters 245A, 245C, 257, 260, and
57.20 317A may also affect the adoption of a particular child.

57.21 (b) Provisions of the Indian Child Welfare Act, United States Code, title 25, chapter
57.22 21, sections 1901-1923, may also apply in the adoption of an Indian child, and may
57.23 preempt specific provisions of this chapter.

57.24 (c) Consistent with chapters 245A and 245C and Public Law 109-248, a completed
57.25 background study is required before the approval of any foster or adoptive placement in
57.26 a related or an unrelated home.

57.27 Sec. 24. Minnesota Statutes 2006, section 259.29, subdivision 1, is amended to read:

57.28 Subdivision 1. **Best interests of the child.** (a) The policy of the state of Minnesota
57.29 is to ensure that the best interests of the child are met by requiring individualized
57.30 determination of the needs of the child and of how the adoptive placement will serve the
57.31 needs of the child.

57.32 (b) Among the factors the agency shall consider in determining the needs of the child
57.33 are those specified under section 260C.193, subdivision 3, paragraph (b).

58.1 (c) Except for emergency placements provided for in section 245A.03, a completed
58.2 background study is required under section 245C.33 before the approval of an adoptive
58.3 placement in a home.

58.4 Sec. 25. Minnesota Statutes 2006, section 259.41, is amended to read:

58.5 **259.41 ADOPTION STUDY.**

58.6 Subdivision 1. **Study required before placement; certain relatives excepted.** (a)
58.7 An approved adoption study; completed background study, as required under section
58.8 245C.33; and written report must be completed before the child is placed in a prospective
58.9 adoptive home under this chapter, except as allowed by section 259.47, subdivision 6.
58.10 In an agency placement, the report must be filed with the court at the time the adoption
58.11 petition is filed. In a direct adoptive placement, the report must be filed with the court in
58.12 support of a motion for temporary preadoptive custody under section 259.47, subdivision
58.13 3, or, if the study and report are complete, in support of an emergency order under section
58.14 259.47, subdivision 6. The study and report shall be completed by a licensed child-placing
58.15 agency and must be thorough and comprehensive. The study and report shall be paid for
58.16 by the prospective adoptive parent, except as otherwise required under section 259.67
58.17 or 259.73.

58.18 (b) A placement for adoption with an individual who is related to the child, as
58.19 defined by section 245A.02, subdivision 13, is not subject to this section except as required
58.20 by ~~section~~ sections 245C.33 and 259.53, subdivision 2, paragraph (c).

58.21 (c) In the case of a licensed foster parent seeking to adopt a child who is in the foster
58.22 parent's care, any portions of the foster care licensing process that duplicate requirements
58.23 of the home study may be submitted in satisfaction of the relevant requirements of this
58.24 section.

58.25 Subd. 2. **Form of study.** (a) The adoption study must include at least one in-home
58.26 visit with the prospective adoptive parent. At a minimum, the study must ~~include~~
58.27 document the following information about the prospective adoptive parent:

58.28 (1) a background ~~check~~ study as required by subdivision 3 and section 245C.33,
58.29 ~~and~~ including:

58.30 (i) ~~an evaluation~~ assessment of the data and information provided by section
58.31 245C.33, subdivision 4, to determine if the prospective adoptive parent and any other
58.32 person over the age of 13 living in the home has a felony conviction consistent with
58.33 subdivision 3 and section 471(a)(2) of the federal Social Security Act; and

(ii) an assessment of the effect of a any conviction or finding of substantiated maltreatment on the ability to capacity of the prospective adoptive parent to safely care for and parent a child;

(2) a medical and social history and assessment of current health;

(3) an assessment of potential parenting skills;

(4) an assessment of ability to provide adequate financial support for a child; and

(5) an assessment of the level of knowledge and awareness of adoption issues including, where appropriate, matters relating to interracial, cross-cultural, and special needs adoptions.

(b) The adoption study is the basis for completion of a written report. The report must be in a format specified by the commissioner and must contain recommendations regarding the suitability of the subject of the study to be an adoptive parent.

Subd. 3. ~~Background check; affidavit of history study.~~ (a) At the time an adoption study is commenced, each prospective adoptive parent must:

(1) authorize access by the agency to any private data needed to complete the study;

(2) provide all addresses at which the prospective adoptive parent and anyone in the household over the age of 13 has resided in the previous five years; and

(3) disclose any names used previously other than the name used at the time of the study.

(b) When the requirements of paragraph (a) have been met, the agency shall immediately ~~begin~~ initiate a background ~~check~~ study under section 245C.33 to be completed by the commissioner, on each person over the age of 13 living in the home, consisting, at a minimum, of the following: As required under section 245C.33 and Public Law 109-248, a completed background study is required before the approval of any foster or adoptive placement in a related or an unrelated home. The required background study must be completed as part of the home study.

~~(1) a check of criminal conviction data with the Bureau of Criminal Apprehension and local law enforcement authorities;~~

~~(2) a check for data on substantiated maltreatment of a child or vulnerable adult and domestic violence data with local law enforcement and social services agencies and district courts; and~~

~~(3) for those persons under the age of 25, a check of juvenile court records.~~

~~Notwithstanding the provisions of section 260B.171 or 260C.171, the Bureau of Criminal Apprehension, local law enforcement and social services agencies, district courts, and juvenile courts shall release the requested information to the agency completing the adoption study.~~

~~(c) When paragraph (b) requires checking the data or records of local law enforcement and social services agencies and district and juvenile courts, the agency shall check with the law enforcement and social services agencies and courts whose jurisdictions cover the addresses under paragraph (a), clause (2). In the event that the agency is unable to complete any of the record checks required by paragraph (b), the agency shall document the fact and the agency's efforts to obtain the information.~~

~~(d) For a study completed under this section, when the agency has reasonable cause to believe that further information may exist on the prospective adoptive parent or household member over the age of 13 that may relate to the health, safety, or welfare of the child, the prospective adoptive parent or household member over the age of 13 shall provide the agency with a set of classifiable fingerprints obtained from an authorized law enforcement agency and the agency may obtain criminal history data from the National Criminal Records Repository by submitting fingerprints to the Bureau of Criminal Apprehension. The agency has reasonable cause when, but not limited to, the:~~

~~(1) information from the Bureau of Criminal Apprehension indicates that the prospective adoptive parent or household member over the age of 13 is a multistate offender;~~

~~(2) information from the Bureau of Criminal Apprehension indicates that multistate offender status is undetermined;~~

~~(3) the agency has received a report from the prospective adoptive parent or household member over the age of 13 or a third party indicating that the prospective adoptive parent or household member over the age of 13 has a criminal history in a jurisdiction other than Minnesota; or~~

~~(4) the prospective adoptive parent or household member over the age of 13 is or has been a resident of a state other than Minnesota in the prior five years.~~

~~(e) At any time prior to completion of the background check required under paragraph (b), a prospective adoptive parent may submit to the agency conducting the study a sworn affidavit stating whether they or any person residing in the household have been convicted of a crime. The affidavit shall also state whether the adoptive parent or any other person residing in the household is the subject of an open investigation of, or have been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years. A complete description of the crime, open investigation, or substantiated abuse, and a complete description of any sentence, treatment, or disposition must be included. The affidavit must contain an acknowledgment that if, at any time before the adoption is final, a court receives evidence leading to a conclusion that a prospective adoptive parent knowingly gave false information in the affidavit, it shall be~~

determined that the adoption of the child by the prospective adoptive parent is not in the best interests of the child.

~~(f) For the purposes of subdivision 1 and section 259.47, subdivisions 3 and 6, an adoption study is complete for placement, even though the background checks required by paragraph (b) have not been completed, if each prospective adoptive parent has completed the affidavit allowed by paragraph (c) and the other requirements of this section have been met. The background checks required by paragraph (b) must be completed before an adoption petition is filed. If an adoption study has been submitted to the court under section 259.47, subdivision 3 or 6, before the background checks required by paragraph (b) were complete, an updated adoption study report which includes the results of the background check must be filed with the adoption petition. In the event that an agency is unable to complete any of the records checks required by paragraph (b), the agency shall submit with the petition to adopt an affidavit documenting the agency's efforts to complete the checks.~~

(c) A home study under paragraph (b) used to consider placement of any child on whose behalf Title IV-E adoption assistance payments are to be made must not be approved if a background study reveals a felony conviction at any time for:

- (1) child abuse or neglect;
- (2) spousal abuse;
- (3) a crime against children, including child pornography; or
- (4) a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.

(d) A home study under paragraph (b) used to consider placement of any child on whose behalf Title IV-E adoption assistance payments are to be made must not be approved if a background study reveals a felony conviction within the past five years for:

- (1) physical assault or battery; or
- (2) a drug-related offense.

Subd. 4. Updates to adoption study; period of validity. An agency may update an adoption study and report as needed, regardless of when the original study and report or most recent update was completed. An update must be in a format specified by the commissioner and must verify the continuing accuracy of the elements of the original report and document any changes to elements of the original report. An update to a study and report not originally completed under this section must ensure that the study and report, as updated, meet the requirements of this section. An adoption study is valid if the report has been completed or updated within the previous 12 months.

Sec. 26. Minnesota Statutes 2006, section 259.53, subdivision 2, is amended to read:

62.1 Subd. 2. **Adoption agencies; postplacement assessment and report.** (a) The
62.2 agency to which the petition has been referred under subdivision 1 shall conduct a
62.3 postplacement assessment and file a report with the court within 90 days of receipt
62.4 of a copy of the adoption petition. The agency shall send a copy of the report to the
62.5 commissioner at the time it files the report with the court. The assessment and report
62.6 must evaluate the environment and antecedents of the child to be adopted, the home of
62.7 the petitioners, whether placement with the petitioners meets the needs of the child as
62.8 described in section 259.57, subdivision 2. The report must include a recommendation to
62.9 the court as to whether the petition should or should not be granted.

62.10 In making evaluations and recommendations, the postplacement assessment and
62.11 report must, at a minimum, address the following:

- 62.12 (1) the level of adaptation by the prospective adoptive parents to parenting the child;
62.13 (2) the health and well-being of the child in the prospective adoptive parents' home;
62.14 (3) the level of incorporation by the child into the prospective adoptive parents'
62.15 home, extended family, and community; and
62.16 (4) the level of inclusion of the child's previous history into the prospective adoptive
62.17 home, such as cultural or ethnic practices, or contact with former foster parents or
62.18 biological relatives.

62.19 (b) A postplacement adoption report is valid for 12 months following its date
62.20 of completion.

62.21 ~~(c) If the petitioner is an individual who is related to the child, as defined by section~~
62.22 ~~245A.02, subdivision 13, the agency, as part of its postplacement assessment and report~~
62.23 ~~under paragraph (a), shall conduct a background check meeting the requirements of~~
62.24 ~~section 259.41, subdivision 3, paragraph (b). The prospective adoptive parent shall~~
62.25 ~~cooperate in the completion of the background check by supplying the information and~~
62.26 ~~authorizations described in section 259.41, subdivision 3, paragraph (a).~~

62.27 ~~(d)~~ (c) If the report recommends that the court not grant the petition to adopt the
62.28 child, the provisions of this paragraph apply. Unless the assessment and report were
62.29 completed by the local social services agency, the agency completing the report, at the
62.30 time it files the report with the court under paragraph (a), must provide a copy of the report
62.31 to the local social services agency in the county where the prospective adoptive parent
62.32 lives. The agency or local social services agency may recommend that the court dismiss
62.33 the petition. If the local social services agency determines that continued placement in the
62.34 home endangers the child's physical or emotional health, the agency shall seek a court
62.35 order to remove the child from the home.

63.1 ~~(e)~~ (d) If, through no fault of the petitioner, the agency to whom the petition was
63.2 referred under subdivision 1, paragraph (b), fails to complete the assessment and file the
63.3 report within 90 days of the date it received a copy of the adoption petition, the court may
63.4 hear the petition upon giving the agency and the local social services agency, if different,
63.5 five days' notice by mail of the time and place of the hearing.

63.6 Sec. 27. Minnesota Statutes 2006, section 259.57, subdivision 2, is amended to read:

63.7 Subd. 2. **Protection of child's best interests.** (a) The policy of the state of
63.8 Minnesota is to ensure that the best interests of children are met by requiring an
63.9 individualized determination of the needs of the child and how the adoptive placement
63.10 will serve the needs of the child.

63.11 (b) Among the factors the court shall consider in determining the needs of the child
63.12 are those specified under section 260C.193, subdivision 3, paragraph (b). Consistent with
63.13 section 245C.33 and Public Law 109-248, a completed background study is required
63.14 before the approval of an adoptive placement in a home.

63.15 (c) In reviewing adoptive placement and in determining appropriate adoption,
63.16 the court shall consider placement, consistent with the child's best interests and in the
63.17 following order, with (1) a relative or relatives of the child, or (2) an important friend with
63.18 whom the child has resided or had significant contact. Placement of a child cannot be
63.19 delayed or denied based on race, color, or national origin of the adoptive parent or the
63.20 child. Whenever possible, siblings should be placed together unless it is determined
63.21 not to be in the best interests of a sibling.

63.22 (d) If the child's birth parent or parents explicitly request that relatives and important
63.23 friends not be considered, the court shall honor that request consistent with the best
63.24 interests of the child.

63.25 If the child's birth parent or parents express a preference for placing the child in an
63.26 adoptive home of the same or a similar religious background to that of the birth parent
63.27 or parents, the court shall place the child with a family that also meets the birth parent's
63.28 religious preference. Only if no family is available as described in clause (a) or (b)
63.29 may the court give preference to a family described in clause (c) that meets the parent's
63.30 religious preference.

63.31 (e) This subdivision does not affect the Indian Child Welfare Act, United States
63.32 Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation
63.33 Act, sections 260.751 to 260.835.

Sec. 28. Minnesota Statutes 2006, section 260C.209, is amended to read:

260C.209 BACKGROUND CHECKS.

Subdivision 1. **Subjects.** The responsible social services agency must ~~conduct~~ initiate a background check study to be completed by the commissioner under this section of chapter 245C on the following individuals:

(1) a noncustodial parent or nonadjudicated parent who is being assessed for purposes of providing day-to-day care of a child temporarily or permanently under section 260C.212, subdivision 4, and any member of the parent's household who is over the age of 13 when there is a reasonable cause to believe that the parent or household member over age 13 has a criminal history or a history of maltreatment of a child or vulnerable adult which would endanger the child's health, safety, or welfare;

(2) an individual whose suitability for relative placement under section 260C.212, subdivision 5, is being determined and any member of the relative's household who is over the age of 13 when:

(i) the relative must be licensed for foster care; or

(ii) ~~the agency must conduct a background study~~ is required under section 259.53, subdivision 2; or

(iii) the agency or the commissioner has reasonable cause to believe the relative or household member over the age of 13 has a criminal history which would not make transfer of permanent legal and physical custody to the relative under section 260C.201, subdivision 11, in the child's best interest; and

(3) a parent, following an out-of-home placement, when the responsible social services agency has reasonable cause to believe that the parent has been convicted of a crime directly related to the parent's capacity to maintain the child's health, safety, or welfare or the parent is the subject of an open investigation of, or has been the subject of a substantiated allegation of, child or vulnerable-adult maltreatment within the past ten years.

"Reasonable cause" means that the agency has received information or a report from the subject or a third person that creates an articulable suspicion that the individual has a history that may pose a risk to the health, safety, or welfare of the child. The information or report must be specific to the potential subject of the background check and shall not be based on the race, religion, ethnic background, age, class, or lifestyle of the potential subject.

Subd. 2. **General procedures.** (a) When ~~conducting~~ initiating a background check under subdivision 1, the agency ~~may~~ shall require the individual being assessed to provide sufficient information to ensure an accurate assessment under this section, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

(2) home address, zip code, city, county, and state of residence for the past ten years;

(3) sex;

(4) date of birth; and

(5) driver's license number or state identification number.

(b) When notified by the commissioner or the responsible social services agency that it is conducting an assessment under this section, the Bureau of Criminal Apprehension, commissioners of health and human services, law enforcement, and county agencies must provide the commissioner or responsible social services agency or county attorney with the following information on the individual being assessed: criminal history data, reports about the maltreatment of adults substantiated under section 626.557, and reports of maltreatment of minors substantiated under section 626.556.

Subd. 3. **Multistate information.** ~~(a) For any assessment~~ every background study completed under this section, ~~if the responsible social services agency has reasonable cause to believe that the individual is a multistate offender, the individual must~~ the subject of the background study shall provide the responsible social services agency ~~or the county attorney~~ with a set of classifiable fingerprints obtained from an authorized law enforcement agency. The responsible social services agency ~~or county attorney may~~ shall provide the fingerprints to the commissioner, and the commissioner shall obtain criminal history data from the National Criminal Records Repository by submitting the fingerprints to the Bureau of Criminal Apprehension.

~~(b) For purposes of this subdivision, the responsible social services agency has reasonable cause when, but not limited to:~~

~~(1) information from the Bureau of Criminal Apprehension indicates that the individual is a multistate offender;~~

~~(2) information from the Bureau of Criminal Apprehension indicates that multistate offender status is undetermined;~~

~~(3) the social services agency has received a report from the individual or a third party indicating that the individual has a criminal history in a jurisdiction other than Minnesota; or~~

~~(4) the individual is or has been a resident of a state other than Minnesota at any time during the prior ten years.~~

Subd. 4. **Notice upon receipt.** ~~The responsible social services agency~~ commissioner must provide the subject of the background study with the results of the study as required under ~~this section within 15 business days of receipt or at least 15 days prior to the hearing~~

66.1 ~~at which the results will be presented, whichever comes first. The subject may provide~~
66.2 ~~written information to the agency that the results are incorrect and may provide additional~~
66.3 ~~or clarifying information to the agency and to the court through a party to the proceeding.~~
66.4 ~~This provision does not apply to any background study conducted under chapters 245A~~
66.5 ~~and chapter 245C.~~

66.6 Sec. 29. Minnesota Statutes 2006, section 260C.212, subdivision 2, is amended to read:

66.7 Subd. 2. **Placement decisions based on best interest of the child.** (a) The policy
66.8 of the state of Minnesota is to ensure that the child's best interests are met by requiring an
66.9 individualized determination of the needs of the child and of how the selected placement
66.10 will serve the needs of the child being placed. The authorized child-placing agency shall
66.11 place a child, released by court order or by voluntary release by the parent or parents, in
66.12 a family foster home selected by considering placement with relatives and important
66.13 friends in the following order:

66.14 (1) with an individual who is related to the child by blood, marriage, or adoption; or
66.15 (2) with an individual who is an important friend with whom the child has resided or
66.16 had significant contact.

66.17 (b) Among the factors the agency shall consider in determining the needs of the
66.18 child are the following:

66.19 (1) the child's current functioning and behaviors;
66.20 (2) the medical, educational, and developmental needs of the child;
66.21 (3) the child's history and past experience;
66.22 (4) the child's religious and cultural needs;
66.23 (5) the child's connection with a community, school, and church;
66.24 (6) the child's interests and talents;
66.25 (7) the child's relationship to current caretakers, parents, siblings, and relatives; and
66.26 (8) the reasonable preference of the child, if the court, or the child-placing agency
66.27 in the case of a voluntary placement, deems the child to be of sufficient age to express
66.28 preferences.

66.29 (c) Placement of a child cannot be delayed or denied based on race, color, or national
66.30 origin of the foster parent or the child.

66.31 (d) Siblings should be placed together for foster care and adoption at the earliest
66.32 possible time unless it is determined not to be in the best interests of a sibling or unless it
66.33 is not possible after appropriate efforts by the responsible social services agency.

67.1 (e) Except for emergency placements as provided for in section 245A.035, a
67.2 completed background study is required under section 245C.08 before the approval of a
67.3 foster placement in a related or unrelated home.