

A bill for an act

relating to human services; amending child welfare provisions; changing a standard of evidence; changing the treatment of certain data; adopting a new Interstate Compact for the Placement of Children and repealing the old compact; regulating child and adult adoptions; directing the commissioner to adopt rules; amending Minnesota Statutes 2006, sections 13.02, subdivision 3a; 13.46, by adding subdivisions; 13.82, subdivision 1; 245C.24, subdivision 2; 245C.29, subdivision 2; 246.13, subdivision 2; 256.045, subdivisions 3, 3b; 259.20, subdivision 1; 259.21, by adding a subdivision; 259.22, subdivision 2; 259.23, subdivision 2; 259.43; 259.52, subdivision 2; 259.53, subdivision 3; 259.59, subdivisions 1, 2; 259.67, subdivisions 2, 3, by adding a subdivision; 259.75, subdivision 5; 259.89, subdivisions 1, 2, 4, by adding a subdivision; 260.795, subdivision 3; 260C.001, subdivision 2; 260C.007, subdivisions 5, 6, 13; 260C.171, subdivision 2; 260C.178, subdivision 1; 260C.212, subdivision 7, by adding a subdivision; 260C.325, subdivisions 1, 3; 524.2-114; 626.556, subdivision 7; Minnesota Statutes 2007 Supplement, sections 245C.14, subdivision 1; 245C.15, subdivisions 2, 3, 4; 245C.24, subdivision 3; 245C.27, subdivision 1; 256.01, subdivision 2; 259.41, subdivision 1; 259.57, subdivision 1; 259.67, subdivision 4; 260C.163, subdivision 1; 260C.209, subdivisions 1, 2, by adding a subdivision; 260C.212, subdivision 4; 626.556, subdivision 10a; Laws 2007, chapter 147, article 2, section 56; proposing coding for new law in Minnesota Statutes, chapters 259; 260; repealing Minnesota Statutes 2006, sections 260.851; 260B.241; 260C.207; Minnesota Rules, part 9560.0092.

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

ARTICLE 1

CHILD WELFARE

Section 1. Minnesota Statutes 2007 Supplement, section 245C.14, subdivision 1, is amended to read:

Subdivision 1. **Disqualification from direct contact.** (a) The commissioner shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services from the license holder or entity

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identified in section 245C.03, upon receipt of information showing, or when a background study completed under this chapter shows any of the following:

(1) a conviction of, admission to, or Alford plea to one or more crimes listed in section 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor, or misdemeanor level crime;

(2) ~~a preponderance of the~~ clear and convincing evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, regardless of whether the ~~preponderance of the~~ clear and convincing evidence is for a felony, gross misdemeanor, or misdemeanor level crime. An arrest record, police report, or criminal complaint alone does not meet the standard for clear and convincing evidence; or

(3) an investigation results in an administrative determination listed under section 245C.15, subdivision 4, paragraph (b).

(b) No individual who is disqualified following a background study under section 245C.03, subdivisions 1 and 2, may be retained in a position involving direct contact with persons served by a program or entity identified in section 245C.03, unless the commissioner has provided written notice under section 245C.17 stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in section 245C.21, subdivision 2;

(2) the commissioner has set aside the individual's disqualification for that program or entity identified in section 245C.03, as provided in section 245C.22, subdivision 4; or

(3) the license holder has been granted a variance for the disqualified individual under section 245C.30.

Sec. 2. Minnesota Statutes 2007 Supplement, section 245C.15, subdivision 2, is amended to read:

Subd. 2. **15-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than 15 years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a felony-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.165 (felon ineligible to possess firearm); 609.21 (criminal vehicular homicide and injury); 609.215 (suicide); 609.223 or 609.2231 (assault in the third or fourth degree); repeat offenses under 609.224 (assault in the fifth degree); 609.229 (crimes committed for benefit of a gang); 609.2325 (criminal abuse of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.235 (use of

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drugs to injure or facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.2664 (manslaughter of an unborn child in the first degree); 609.2665 (manslaughter of an unborn child in the second degree); 609.267 (assault of an unborn child in the first degree); 609.2671 (assault of an unborn child in the second degree); 609.268 (injury or death of an unborn child in the commission of a crime); 609.27 (coercion); 609.275 (attempt to coerce); 609.466 (medical assistance fraud); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); 609.52 (theft); 609.521 (possession of shoplifting gear); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.562 (arson in the second degree); 609.563 (arson in the third degree); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.625 (aggravated forgery); 609.63 (forgery); 609.631 (check forgery; offering a forged check); 609.635 (obtaining signature by false pretense); 609.66 (dangerous weapons); 609.67 (machine guns and short-barreled shotguns); 609.687 (adulteration); 609.71 (riot); 609.713 (terroristic threats); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; repeat offenses under 617.241 (obscene materials and performances; distribution and exhibition prohibited; penalty); 624.713 (certain persons not to possess firearms); chapter 152 (drugs; controlled substance); or a felony-level conviction involving alcohol or drug use.

(b) An individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) For foster care and family child care an individual is disqualified under section 245C.14 if less than 15 years has passed since the individual's voluntary termination of the individual's parental rights under section 260C.301, subdivision 1, paragraph (b), or 260C.301, subdivision 3.

(d) An individual is disqualified under section 245C.14 if less than 15 years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of the offenses listed in paragraph (a).

(e) If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a gross misdemeanor or misdemeanor, the individual is disqualified but the disqualification look-back period for the offense is the period applicable to the gross misdemeanor or misdemeanor disposition.

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(f) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on ~~a preponderance of clear~~ and convincing evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

Sec. 3. Minnesota Statutes 2007 Supplement, section 245C.15, subdivision 3, is amended to read:

Subd. 3. **Ten-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than ten years have passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a gross misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 or 609.222 (assault in the first or second degree); 609.223 or 609.2231 (assault in the third or fourth degree); 609.224 (assault in the fifth degree); 609.224, subdivision 2, paragraph (c) (assault in the fifth degree by a caregiver against a vulnerable adult); 609.2242 and 609.2243 (domestic assault); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.265 (abduction); 609.275 (attempt to coerce); 609.324, subdivision 1a (other prohibited acts; minor engaged in prostitution); 609.33 (disorderly house); 609.377 (malicious punishment of a child); 609.378 (neglect or endangerment of a child); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.582 (burglary); 609.59 (possession of burglary tools); 609.611 (insurance fraud); 609.631 (check forgery; offering a forged check); 609.66 (dangerous weapons); 609.71 (riot); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); repeat offenses under 609.746 (interference with privacy); 609.749, subdivision 2 (harassment; stalking); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.241 (obscene materials and performances); 617.243 (indecent literature, distribution); 617.293 (harmful

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materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01, subdivision 14.

(b) An individual is disqualified under section 245C.14 if less than ten years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a), as each of these offenses is defined in Minnesota Statutes.

(c) An individual is disqualified under section 245C.14 if less than ten years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

(d) If the individual studied commits one of the offenses listed in paragraph (a), but the sentence or level of offense is a misdemeanor disposition, the individual is disqualified but the disqualification lookback period for the offense is the period applicable to misdemeanors.

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on ~~a preponderance of clear~~ and convincing evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

Sec. 4. Minnesota Statutes 2007 Supplement, section 245C.15, subdivision 4, is amended to read:

Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.21 (criminal vehicular homicide and injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized; procedures;

penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.293 (harmful materials; dissemination and display to minors prohibited); or violation of an order for protection under section 518B.01 (Domestic Abuse Act).

(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section 626.556 or 626.557 was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) substantiated serious or recurring maltreatment of a minor under section 626.556, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under section 626.556 or 626.557 for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

(c) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes.

(d) An individual is disqualified under section 245C.14 if less than seven years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraphs (a) and (b).

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on ~~a preponderance of clear~~ and convincing evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

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(f) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual was disqualified under section 256.98, subdivision 8.

Sec. 5. Minnesota Statutes 2006, section 245C.24, subdivision 2, is amended to read:

Subd. 2. **Permanent bar to set aside a disqualification.** (a) Except as provided in ~~paragraph~~ paragraphs (b) and (c), the commissioner may not set aside the disqualification of any individual disqualified pursuant to this chapter, regardless of how much time has passed, if the individual was disqualified for a crime or conduct listed in section 245C.15, subdivision 1.

(b) ~~For~~ An individual in the chemical dependency field who was:

(1) disqualified for a crime or conduct listed under section 245C.15, subdivision 1; ~~and;~~

(2) whose disqualification was set aside prior to July 1, 2005, ~~the commissioner must consider granting; and~~

(3) was granted a variance pursuant to section 245C.30 for the license holder for a program dealing primarily with adults. A request for reconsideration evaluated under this paragraph must include a letter of recommendation from the license holder that was subject to the prior set-aside decision addressing the individual's quality of care to children or vulnerable adults and the circumstances of the individual's departure from that service under this section prior to August 1, 2008, is eligible to request a set-aside under paragraph (c).

(c) For any individual who was disqualified for a crime or conduct listed under section 245C.15, subdivision 1, and whose disqualification was set aside prior to July 1, 2005, the commissioner must consider granting a set-aside pursuant to section 245C.22. An employer who hires any individual who provides in-home services shall monitor service provision with the client by telephone at least quarterly.

(d) For an individual who was disqualified for an offense under section 609.66, subdivision 1e, that was committed when the individual was a minor, and more than seven years has passed since the incident, during which time the individual has attended and graduated from college, the commissioner may consider setting aside the disqualification for a children's residential facility licensed by the Department of Corrections.

EFFECTIVE DATE. This section is effective August 1, 2008.

Sec. 6. Minnesota Statutes 2007 Supplement, section 245C.24, subdivision 3, is amended to read:

Subd. 3. **Ten-year bar to set aside disqualification.** (a) The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home if: (1) less than ten years has passed since the discharge of the sentence imposed, if any, for the offense; or (2) when disqualified based on a ~~preponderance of~~ clear and convincing evidence determination under section 245C.14, subdivision 1, paragraph (a), clause (2), or an admission under section 245C.14, subdivision 1, paragraph (a), clause (1), and less than ten years has passed since the individual committed the act or admitted to committing the act, whichever is later; and (3) the individual has committed a violation of any of the following offenses: sections 609.165 (felon ineligible to possess firearm); criminal vehicular homicide under 609.21 (criminal vehicular homicide and injury); 609.215 (aiding suicide or aiding attempted suicide); felony violations under 609.223 or 609.2231 (assault in the third or fourth degree); 609.229 (crimes committed for benefit of a gang); 609.713 (terroristic threats); 609.235 (use of drugs to injure or to facilitate crime); 609.24 (simple robbery); 609.255 (false imprisonment); 609.562 (arson in the second degree); 609.71 (riot); 609.498, subdivision 1 or 1b (aggravated first degree or first degree tampering with a witness); burglary in the first or second degree under 609.582 (burglary); 609.66 (dangerous weapon); 609.665 (spring guns); 609.67 (machine guns and short-barreled shotguns); 609.749, subdivision 2 (gross misdemeanor harassment; stalking); 152.021 or 152.022 (controlled substance crime in the first or second degree); 152.023, subdivision 1, clause (3) or (4) or subdivision 2, clause (4) (controlled substance crime in the third degree); 152.024, subdivision 1, clause (2), (3), or (4) (controlled substance crime in the fourth degree); 609.224, subdivision 2, paragraph (c) (fifth-degree assault by a caregiver against a vulnerable adult); 609.23 (mistreatment of persons confined); 609.231 (mistreatment of residents or patients); 609.2325 (criminal abuse of a vulnerable adult); 609.233 (criminal neglect of a vulnerable adult); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report); 609.265 (abduction); 609.2664 to 609.2665 (manslaughter of an unborn child in the first or second degree); 609.267 to 609.2672 (assault of an unborn child in the first, second, or third degree); 609.268 (injury or death of an unborn child in the commission of a crime); repeat offenses under 617.23 (indecent exposure); 617.293 (disseminating or displaying harmful material to minors); a felony-level conviction involving alcohol or drug use, a gross misdemeanor offense under 609.324, subdivision 1 (other prohibited acts); a gross misdemeanor offense under 609.378 (neglect or endangerment of a child); a gross misdemeanor offense under 609.377

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(malicious punishment of a child); 609.72, subdivision 3 (disorderly conduct against a vulnerable adult); or 624.713 (certain persons not to possess firearms).

(b) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraph (a) as each of these offenses is defined in Minnesota Statutes.

(c) The commissioner may not set aside the disqualification of an individual if less than ten years have passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraph (a).

Sec. 7. Minnesota Statutes 2007 Supplement, section 245C.27, subdivision 1, is amended to read:

Subdivision 1. **Fair hearing when disqualification is not set aside.** (a) If the commissioner does not set aside a disqualification of an individual under section 245C.22 who is disqualified on the basis of ~~a preponderance of~~ clear and convincing evidence that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; for a determination under section 626.556 or 626.557 of substantiated maltreatment that was serious or recurring under section 245C.15; or for failure to make required reports under section 626.556, subdivision 3; or 626.557, subdivision 3, pursuant to section 245C.15, subdivision 4, paragraph (b), clause (1), the individual may request a fair hearing under section 256.045, unless the disqualification is deemed conclusive under section 245C.29.

(b) The fair hearing is the only administrative appeal of the final agency determination for purposes of appeal by the disqualified individual. The disqualified individual does not have the right to challenge the accuracy and completeness of data under section 13.04.

(c) Except as provided under paragraph (e), if the individual was disqualified based on a conviction or admission to any crimes listed in section 245C.15, subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision 8, the reconsideration decision under section 245C.22 is the final agency determination for purposes of appeal by the disqualified individual and is not subject to a hearing under section 256.045. If the individual was disqualified based on a judicial determination, that determination is treated the same as a conviction for purposes of appeal.

(d) This subdivision does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

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(e) Notwithstanding paragraph (c), if the commissioner does not set aside a disqualification of an individual who was disqualified based on both ~~a preponderance of~~ clear and convincing evidence and a conviction or admission, the individual may request a fair hearing under section 256.045, unless the disqualifications are deemed conclusive under section 245C.29. The scope of the hearing conducted under section 256.045 with regard to the disqualification based on a conviction or admission shall be limited solely to whether the individual poses a risk of harm, according to section 256.045, subdivision 3b. In this case, the reconsideration decision under section 245C.22 is not the final agency decision for purposes of appeal by the disqualified individual.

Sec. 8. Minnesota Statutes 2006, section 245C.29, subdivision 2, is amended to read:

Subd. 2. **Conclusive disqualification determination.** (a) Unless otherwise specified in statute, a determination that:

(1) the information the commissioner relied upon to disqualify an individual under section 245C.14 was correct based on serious or recurring maltreatment;

(2) ~~a preponderance of the~~ clear and convincing evidence shows that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15. A police report or criminal complaint alone does not meet this standard; or

(3) the individual failed to make required reports under section 626.556, subdivision 3, or 626.557, subdivision 3, is conclusive if:

(i) the commissioner has issued a final order in an appeal of that determination under section 245A.08, subdivision 5, or 256.045, or a court has issued a final decision;

(ii) the individual did not request reconsideration of the disqualification under section 245C.21; or

(iii) the individual did not request a hearing on the disqualification under section 256.045 or chapter 14.

(b) When a licensing action under section 245A.05, 245A.06, or 245A.07 is based on the disqualification of an individual in connection with a license to provide family child care, foster care for children in the provider's own home, or foster care services for adults in the provider's own home, that disqualification shall be conclusive for purposes of the licensing action if a request for reconsideration was not submitted within 30 calendar days of the individual's receipt of the notice of disqualification.

(c) If a determination that the information relied upon to disqualify an individual was correct and is conclusive under this section, and the individual is subsequently disqualified under section 245C.15, the individual has a right to request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding the

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11.1 risk of harm shall be made according to section 245C.22 and are not subject to another
11.2 hearing under section 256.045 or chapter 14.

11.3 Sec. 9. Minnesota Statutes 2006, section 256.045, subdivision 3, is amended to read:

11.4 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the
11.5 following: (1) any person applying for, receiving or having received public assistance,
11.6 medical care, or a program of social services granted by the state agency or a county
11.7 agency or the federal Food Stamp Act whose application for assistance is denied, not acted
11.8 upon with reasonable promptness, or whose assistance is suspended, reduced, terminated,
11.9 or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an
11.10 order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a
11.11 prepaid health plan; (4) except as provided under chapter 245C, any individual or facility
11.12 determined by a lead agency to have maltreated a vulnerable adult under section 626.557
11.13 after they have exercised their right to administrative reconsideration under section
11.14 626.557; (5) any person whose claim for foster care payment according to a placement of
11.15 the child resulting from a child protection assessment under section 626.556 is denied or
11.16 not acted upon with reasonable promptness, regardless of funding source; (6) any person
11.17 to whom a right of appeal according to this section is given by other provision of law;
11.18 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
11.19 under section 256B.15; (8) an applicant aggrieved by an adverse decision to an application
11.20 or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04,
11.21 subdivision 4a; (9) except as provided under chapter 245A, an individual or facility
11.22 determined to have maltreated a minor under section 626.556, after the individual or
11.23 facility has exercised the right to administrative reconsideration under section 626.556;
11.24 or (10) except as provided under chapter 245C, an individual disqualified under sections
11.25 245C.14 and 245C.15, on the basis of serious or recurring maltreatment; ~~a preponderance~~
11.26 ~~of the~~ clear and convincing evidence that the individual has committed an act or acts that
11.27 meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or
11.28 for failing to make reports required under section 626.556, subdivision 3, or 626.557,
11.29 subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9)
11.30 and a disqualification under this clause in which the basis for a disqualification is serious
11.31 or recurring maltreatment, which has not been set aside under sections 245C.22 and
11.32 245C.23, shall be consolidated into a single fair hearing. In such cases, the scope of review
11.33 by the human services referee shall include both the maltreatment determination and the
11.34 disqualification. The failure to exercise the right to an administrative reconsideration shall
11.35 not be a bar to a hearing under this section if federal law provides an individual the right to

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12.1 a hearing to dispute a finding of maltreatment. Individuals and organizations specified in
12.2 this section may contest the specified action, decision, or final disposition before the state
12.3 agency by submitting a written request for a hearing to the state agency within 30 days
12.4 after receiving written notice of the action, decision, or final disposition, or within 90 days
12.5 of such written notice if the applicant, recipient, patient, or relative shows good cause why
12.6 the request was not submitted within the 30-day time limit.

12.7 The hearing for an individual or facility under clause (4), (9), or (10) is the only
12.8 administrative appeal to the final agency determination specifically, including a challenge
12.9 to the accuracy and completeness of data under section 13.04. Hearings requested under
12.10 clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995.
12.11 Hearings requested by nursing assistants in nursing homes alleged to have maltreated a
12.12 resident prior to October 1, 1995, shall be held as a contested case proceeding under the
12.13 provisions of chapter 14. Hearings requested under clause (9) apply only to incidents of
12.14 maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility
12.15 under clause (9) is only available when there is no juvenile court or adult criminal action
12.16 pending. If such action is filed in either court while an administrative review is pending,
12.17 the administrative review must be suspended until the judicial actions are completed. If
12.18 the juvenile court action or criminal charge is dismissed or the criminal action overturned,
12.19 the matter may be considered in an administrative hearing.

12.20 For purposes of this section, bargaining unit grievance procedures are not an
12.21 administrative appeal.

12.22 The scope of hearings involving claims to foster care payments under clause (5) shall
12.23 be limited to the issue of whether the county is legally responsible for a child's placement
12.24 under court order or voluntary placement agreement and, if so, the correct amount of
12.25 foster care payment to be made on the child's behalf and shall not include review of the
12.26 propriety of the county's child protection determination or child placement decision.

12.27 (b) A vendor of medical care as defined in section 256B.02, subdivision 7, or a
12.28 vendor under contract with a county agency to provide social services is not a party and
12.29 may not request a hearing under this section, except if assisting a recipient as provided in
12.30 subdivision 4.

12.31 (c) An applicant or recipient is not entitled to receive social services beyond the
12.32 services prescribed under chapter 256M or other social services the person is eligible
12.33 for under state law.

12.34 (d) The commissioner may summarily affirm the county or state agency's proposed
12.35 action without a hearing when the sole issue is an automatic change due to a change in
12.36 state or federal law.

Sec. 10. Minnesota Statutes 2006, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. Standard of evidence for maltreatment and disqualification hearings.

(a) The state human services referee shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under sections 626.556 and 626.557. For purposes of hearings regarding disqualification, the state human services referee shall affirm the proposed disqualification in an appeal under subdivision 3, paragraph (a), clause (9), if ~~a preponderance of the evidence shows the individual has:~~

(1) a preponderance of the evidence shows the individual has committed maltreatment under section 626.556 or 626.557, which is serious or recurring;

(2) clear and convincing evidence shows the individual has committed an act or acts meeting the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or

(3) a preponderance of the evidence shows the individual has failed to make required reports under section 626.556 or 626.557, for incidents in which the final disposition under section 626.556 or 626.557 was substantiated maltreatment that was serious or recurring.

(b) If the disqualification is affirmed, the state human services referee shall determine whether the individual poses a risk of harm in accordance with the requirements of section 245C.16, and whether the disqualification should be set aside or not set aside.

In determining whether the disqualification should be set aside, the human services referee shall consider all of the characteristics that cause the individual to be disqualified, including those characteristics that were not subject to review under paragraph (a), in order to determine whether the individual poses a risk of harm. A decision to set aside a disqualification that is the subject of the hearing constitutes a determination that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside. If a determination that the information relied upon to disqualify an individual was correct and is conclusive under section 245C.29, and the individual is subsequently disqualified under section 245C.14, the individual has a right to again request reconsideration on the risk of harm under section 245C.21. Subsequent determinations regarding risk of harm are not subject to another hearing under this section.

(c) The state human services referee shall recommend an order to the commissioner of health, education, or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.46,

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14.1 the commissioner's determination as to maltreatment is conclusive, as provided under
14.2 section 245C.29.

14.3 Sec. 11. Minnesota Statutes 2006, section 259.20, subdivision 1, is amended to read:

14.4 Subdivision 1. **Policy and purpose.** The policy of the state of Minnesota and the
14.5 purpose of sections 259.20 to 259.69 is to ensure:

14.6 (1) that the best interests of ~~children~~ adopted persons are met in the planning and
14.7 granting of adoptions; and

14.8 (2) that laws and practices governing adoption recognize the diversity of Minnesota's
14.9 population and the diverse needs of persons affected by adoption.

14.10 Sec. 12. Minnesota Statutes 2006, section 259.21, is amended by adding a subdivision
14.11 to read:

14.12 Subd. 2a. **Adult adoption.** "Adult adoption" means the adoption of a person
14.13 at least 18 years of age.

14.14 Sec. 13. Minnesota Statutes 2006, section 259.22, subdivision 2, is amended to read:

14.15 Subd. 2. ~~Children~~ Persons who may be adopted. No petition for adoption shall be
14.16 filed unless the ~~child~~ person sought to be adopted has been placed by the commissioner
14.17 of human services, the commissioner's agent, or a licensed child-placing agency. The
14.18 provisions of this subdivision shall not apply if

14.19 (a) the ~~child~~ person to be adopted is over 14 years of age;

14.20 (b) the child is sought to be adopted by an individual who is related to the child, as
14.21 defined by section 245A.02, subdivision 13;

14.22 (c) the child has been lawfully placed under the laws of another state while the child
14.23 and petitioner resided in that other state;

14.24 (d) the court waives the requirement of this subdivision in the best interests of the
14.25 child or petitioners, provided that the adoption does not involve a placement as defined in
14.26 section 259.21, subdivision 8; or

14.27 (e) the child has been lawfully placed under section 259.47.

14.28 Sec. 14. Minnesota Statutes 2006, section 259.23, subdivision 2, is amended to read:

14.29 Subd. 2. **Contents of petition.** The petition shall be signed by the petitioner and, if
14.30 married, by the spouse. It shall be verified, and filed in duplicate. The petition shall allege:

14.31 (a) The full name, age and place of residence of petitioner, and if married, the date
14.32 and place of marriage;

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(b) The date petitioner acquired physical custody of the child and from what person or agency;

(c) The date of birth of the ~~child~~ person to be adopted, if known, and the state and county where born;

(d) The name of the child's parents, if known, and the guardian if there be one;

(e) The actual name of the ~~child~~ person to be adopted, if known, and any known aliases;

(f) The name to be given the ~~child~~ person to be adopted if a change of name is desired;

(g) The description and value of any real or personal property owned by the ~~child~~ person to be adopted;

(h) That the petitioner desires that the relationship of parent and child be established between petitioner and the ~~child~~, ~~and that it is to the~~ person to be adopted and that adoption is in the best interests of the ~~child for the~~ child person to be adopted by the petitioner.

In agency placements, the information required in clauses (d) and (e) shall not be required to be alleged in the petition but shall be transmitted to the court by the commissioner of human services or the agency.

Sec. 15. [259.241] ADULT ADOPTION.

(a) Any adult person may be adopted, regardless of his or her residence. A resident of Minnesota may petition the court of record having jurisdiction of adoption proceedings to adopt an individual who has reached the age of 18 years or older.

(b) The consent of the person to be adopted shall be the only consent necessary, according to section 259.24. The consent of an adult in his or her own adoption is invalid if the adult is considered to be a vulnerable adult under section 626.5572, subdivision 21, or if the person consenting to the adoption is determined not competent to give consent.

(c) The decree of adoption establishes a parent-child relationship between the adopting parent or parents and the person adopted, including the right to inherit, and also terminates the parental rights and sibling relationship between the adopted person and the adopted person's birth parents and siblings according to section 259.59.

(d) If the adopted person requests a change of name, the adoption decree shall order the name change.

Sec. 16. Minnesota Statutes 2007 Supplement, section 259.41, subdivision 1, is amended to read:

Subdivision 1. **Study required before placement; certain relatives excepted.** (a)

An approved adoption study; completed background study, as required under section 245C.33; and written report must be completed before the child is placed in a prospective adoptive home under this chapter, except as allowed by section 259.47, subdivision 6. In an agency placement, the report must be filed with the court at the time the adoption petition is filed. In a direct adoptive placement, the report must be filed with the court in support of a motion for temporary preadoptive custody under section 259.47, subdivision 3, or, if the study and report are complete, in support of an emergency order under section 259.47, subdivision 6. The study and report shall be completed by a licensed child-placing agency and must be thorough and comprehensive. The study and report shall be paid for by the prospective adoptive parent, except as otherwise required under section 256.01, subdivision 2, paragraph (h), 259.67, or 259.73.

(b) A placement for adoption with an individual who is related to the child, as defined by section 245A.02, subdivision 13, is ~~not subject to this section except as the background study required by sections 245C.33 and 259.53, subdivision 2, paragraph (c).~~ by subdivision 2, paragraph (a), clause (1), items (i) and (ii), and subdivision 3. In the case of a stepparent adoption, a background study must be completed on the stepparent and any children as required under subdivision 3, paragraph (b), except that a child of the stepparent does not need to have a background study complete if they are a sibling through birth or adoption of the person being adopted. The local social services agency of the county in which the prospective adoptive parent lives must initiate a background study unless a child-placing agency has been involved with the adoption. The local social service agency may charge a reasonable fee for the background study. If a placement is being made the background study must be completed prior to placement pursuant to section 259.29, subdivision 1, paragraph (c). Background study results must be filed with the adoption petition according to section 259.22, except in an adult adoption where an adoption study and background study are not needed.

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

Sec. 17. Minnesota Statutes 2006, section 259.43, is amended to read:

259.43 BIRTH PARENT HISTORY; COMMISSIONER'S FORM.

In any adoption under this chapter, except a stepparent or an adult adoption under section 259.241, a birth parent or an agency, if an agency placement, shall provide a

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17.1 prospective adoptive parent with a complete, thorough, detailed, and current social and
17.2 medical history of the ~~birth families~~ child being adopted, if information is known after
17.3 reasonable inquiry. Each ~~birth family~~ child social and medical history must be provided
17.4 on a form or forms prepared by the commissioner and must include background and health
17.5 history specific to the child, the child's birth parents, and the child's other birth relatives.
17.6 Applicable background and health information about the child includes: the child's current
17.7 health condition, behavior, and demeanor; placement history; education history; sibling
17.8 information; and birth, medical, dental, and immunization information. Redacted copies of
17.9 pertinent records, assessments, and evaluations shall be attached to the child's social and
17.10 medical history. Applicable background information about the child's birth parents and
17.11 other birth relatives includes: general background information; education and employment
17.12 history; physical health and mental health history; and reasons for the child's placement.
17.13 The child's social and medical history shall be completed in a manner so that the completed
17.14 ~~form~~ protects the identities of all individuals described in it. The commissioner shall make
17.15 the form available to agencies and court administrators for public distribution. The ~~birth~~
17.16 ~~family~~ child's social and medical history must be provided to the prospective adoptive
17.17 family prior to adoptive placement, provided to the Department of Human Services
17.18 with application for adoption assistance, if applicable, and filed with the court when the
17.19 adoption petition is filed, or, In a direct adoptive placement, the child's social and medical
17.20 history must be filed with the court with the motion for temporary preadoptive custody.

17.21 Sec. 18. Minnesota Statutes 2006, section 259.52, subdivision 2, is amended to read:

17.22 Subd. 2. **Requirement to search registry before adoption petition can be**
17.23 **granted; proof of search.** No petition for adoption may be granted unless the agency
17.24 supervising the adoptive placement, the birth mother of the child, or, in the case of a
17.25 stepparent or relative adoption, the county agency responsible for the report required
17.26 under section 259.53, subdivision 1, requests that the commissioner of health search the
17.27 registry to determine whether a putative father is registered in relation to a child who is
17.28 or may be the subject of an adoption petition. The search required by this subdivision
17.29 must be conducted no sooner than 31 days following the birth of the child. A search
17.30 of the registry may be proven by the production of a certified copy of the registration
17.31 form or by a certified statement of the commissioner of health that after a search no
17.32 registration of a putative father in relation to a child who is or may be the subject of
17.33 an adoption petition could be located. The filing of a certified copy of an order from a
17.34 juvenile protection matter under chapter 260C containing a finding that certification of the
17.35 requisite search of the Minnesota Fathers' Adoption Registry was filed with the court in

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that matter shall also constitute proof of search. Certification that the fathers' adoption registry has been searched must be filed with the court prior to entry of any final order of adoption. In addition to the search required by this subdivision, the agency supervising the adoptive placement, the birth mother of the child, or, in the case of a stepparent or relative adoption, the ~~county~~ social services agency responsible for the report under section 259.53, subdivision 1, or the responsible social services agency that is a petitioner in a juvenile protection matter under chapter 260C may request that the commissioner of health search the registry at any time.

Sec. 19. Minnesota Statutes 2006, section 259.53, subdivision 3, is amended to read:

Subd. 3. **Reports and records.** (a) The contents of all reports and records of the commissioner of human services, local social services agency, or child-placing agency bearing on the suitability of the proposed adoptive home and the child to each other shall not be disclosed either directly or indirectly to any person other than the commissioner of human services, the child's guardian ad litem appointed under: (1) section 260C.163 when the guardian's appointment continues under section 260C.317, subdivision 3, paragraph (b); or (2) section 259.65 or a judge of the court having jurisdiction of the matter, except as provided in paragraph (b).

(b) A judge of the court having jurisdiction of the matter shall upon request disclose to a party to the proceedings or the party's counsel any portion of a report or record that relates only to the suitability of the proposed adoptive parents. In this disclosure, the judge may withhold the identity of individuals providing information in the report or record. When the judge is considering whether to disclose the identity of individuals providing information, the agency with custody of the report or record shall be permitted to present reasons for or against disclosure.

Sec. 20. Minnesota Statutes 2007 Supplement, section 259.57, subdivision 1, is amended to read:

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

(a) if the court finds that it is in the best interests of the ~~child~~ person to be adopted that the petition be granted, a decree of adoption shall be made and recorded in the office of the court administrator, ordering that henceforth the ~~child~~ person to be adopted shall be the child of the petitioner. In the decree the court may change the name of the ~~child~~ adopted person if desired. After the decree is granted for ~~a child~~ an adopted person who is:

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

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

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

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

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

Sec. 21. Minnesota Statutes 2006, section 259.59, subdivision 1, is amended to read:

Subdivision 1. **Legal effect.** Upon adoption, the ~~child~~ adopted person shall become the legal child of the adopting persons and they shall become the legal parents of the child with all the rights and duties between them of birth parents and legitimate child. By virtue of the adoption the ~~child~~ adopted person shall inherit from the adoptive parents or their relatives the same as though the ~~child~~ adopted person were the natural child of the parents, and in case of the ~~child's~~ adopted person's death intestate the adoptive parents and their relatives shall inherit the ~~child's~~ adopted person's estate as if ~~they~~ the adopted person had been the child's birth parents and relatives. After a decree of adoption is entered the birth parents of an adopted ~~child~~ person shall be relieved of all parental responsibilities for the ~~child~~ adopted person, and they shall not exercise or have any rights over the adopted ~~child~~ person or the ~~child's~~ adopted person's property. The ~~child~~ adopted person shall not owe the birth parents or their relatives any legal duty nor shall the ~~child~~ adopted person inherit from the birth parents or kindred, except as provided in subdivision 1a and section 257C.08, subdivision 6.

Sec. 22. Minnesota Statutes 2006, section 259.59, subdivision 2, is amended to read:

Subd. 2. **Enrollment in American Indian tribe.** Notwithstanding the provisions of subdivision 1, the adoption of a ~~child~~ person whose birth parent or parents are enrolled in an American Indian tribe shall not change the ~~child's~~ person's enrollment in that tribe.

Sec. 23. Minnesota Statutes 2006, section 259.67, subdivision 2, is amended to read:

Subd. 2. **Adoption assistance agreement.** The placing agency shall certify a child as eligible for adoption assistance according to rules promulgated by the commissioner. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. Not later than 30 days after a parent or parents are found and approved for adoptive placement of a child certified as eligible for adoption assistance, and before the final decree of adoption is issued, a written agreement must be entered into by the commissioner, the adoptive parent or parents, and the placing agency. The written agreement must be fully completed by the placing agency and in the form prescribed by the commissioner and must set forth the responsibilities of all parties, the anticipated duration of the adoption assistance payments, and the payment terms. The adoption assistance agreement shall be subject to the commissioner's approval, which must be granted or denied not later than 15 days after the agreement is entered.

The amount of adoption assistance is subject to the availability of state and federal funds and shall be determined through agreement with the adoptive parents. The agreement shall take into consideration the circumstances of the adopting parent or parents, the needs of the child being adopted and may provide ongoing monthly assistance, supplemental maintenance expenses related to the ~~adopted person's~~ child's special needs, nonmedical expenses periodically necessary for purchase of services, items, or equipment related to the special needs, and medical expenses. The placing agency or the adoptive parent or parents shall provide written documentation to support the need for adoption assistance payments. The commissioner may require periodic reevaluation of adoption assistance payments. The amount of ongoing monthly adoption assistance granted may in no case exceed that which would be allowable for the child under foster family care and is subject to the availability of state and federal funds.

Sec. 24. Minnesota Statutes 2006, section 259.67, subdivision 3, is amended to read:

Subd. 3. ~~**Annual affidavit**~~ **Modification or termination of the adoption assistance agreement.** ~~When adoption assistance agreements are for more than one year, the adoptive parents or guardian or conservator shall annually present an affidavit stating whether the adopted person remains under their care and whether the need for adoption assistance continues to exist. The commissioner may verify the affidavit.~~ The adoption assistance agreement shall continue in accordance with its terms as long as the need for adoption assistance continues and the adopted ~~person~~ child is the legal or financial dependent of the adoptive parent or parents or guardian or conservator and is under 18 years of age. The adoption assistance agreement may be extended to age 22 as allowed by rules adopted

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21.1 by the commissioner. Termination or modification of the adoption assistance agreement
21.2 may be requested by the adoptive parents or subsequent guardian or conservator at any
21.3 time. When the commissioner determines that a child is eligible for adoption assistance
21.4 under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to
21.5 679a, the commissioner shall modify the adoption assistance agreement in order to obtain
21.6 the funds under that act.

21.7 Sec. 25. Minnesota Statutes 2006, section 259.67, is amended by adding a subdivision
21.8 to read:

21.9 Subd. 3a. **Recovery of overpayments.** An amount of adoption assistance paid to
21.10 an adoptive parent in excess of the payment due is recoverable by the commissioner,
21.11 even when the overpayment was caused by agency error or circumstances outside the
21.12 responsibility and control of the family or provider. The commissioner shall adopt
21.13 rules that govern the recovery of overpayment. Adoption assistance amounts covered
21.14 by this subdivision include basic maintenance needs payments, monthly supplemental
21.15 maintenance needs payments, reimbursement of nonrecurring adoption expenses,
21.16 reimbursement of special nonmedical costs, and reimbursement of medical costs.

21.17 Sec. 26. Minnesota Statutes 2007 Supplement, section 259.67, subdivision 4, is
21.18 amended to read:

21.19 Subd. 4. **Eligibility conditions.** (a) The placing agency shall use the AFDC
21.20 requirements as specified in federal law as of July 16, 1996, when determining the child's
21.21 eligibility for adoption assistance under title IV-E of the Social Security Act. If the child
21.22 does not qualify, the placing agency shall certify a child as eligible for state funded
21.23 adoption assistance only if the following criteria are met:

21.24 (1) Due to the child's characteristics or circumstances it would be difficult to provide
21.25 the child an adoptive home without adoption assistance.

21.26 (2)(i) A placement agency has made reasonable efforts to place the child for adoption
21.27 without adoption assistance, but has been unsuccessful; ~~or~~

21.28 (ii) the child's licensed foster parents desire to adopt the child and it is determined by
21.29 the placing agency that the adoption is in the best interest of the child; or

21.30 (iii) the child's relative, as defined in section 260C.007, subdivision 27, desires to
21.31 adopt the child, and it is determined by the placing agency that the adoption is in the
21.32 best interest of the child.

21.33 (3)(i) The child ~~has been~~ is a ward of the commissioner, ~~a Minnesota-licensed~~
21.34 ~~child-placing agency,~~ or a tribal social service agency of Minnesota recognized by the

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Secretary of the Interior; or (ii) the child will be adopted according to tribal law without a termination of parental rights or relinquishment, provided that the tribe has documented the valid reason why the child cannot or should not be returned to the home of the child's parent. The placing agency shall not certify a child who remains under the jurisdiction of the sending agency pursuant to section 260.851, article 5, for state-funded adoption assistance when Minnesota is the receiving state. A child who is adopted by the child's legal custodian or guardian shall not be eligible for state-funded adoption assistance.

~~(b) For purposes of this subdivision, The characteristics or circumstances that may be considered in determining whether a child is a child with special needs under United States Code, title 42, chapter 7, subchapter IV, part E, or meets the requirements of paragraph (a), clause (1), or section 473(c)(2)(A) of the Social Security Act, are the following:~~

(1) The child is a member of a sibling group to be placed as one unit in which at least one sibling is older than 15 months of age or is described in clause (2) or (3).

(2) The child has documented physical, mental, emotional, or behavioral disabilities.

(3) The child has a high risk of developing physical, mental, emotional, or behavioral disabilities.

(4) The child is five years of age or older.

(c) When a child's eligibility for adoption assistance is based upon the high risk of developing physical, mental, emotional, or behavioral disabilities, payments shall not be made under the adoption assistance agreement unless and until the potential disability manifests itself as documented by an appropriate health care professional.

Sec. 27. Minnesota Statutes 2006, section 259.75, subdivision 5, is amended to read:

Subd. 5. **Withdrawal of registration.** A child's registration shall be withdrawn when the exchange service has been notified in writing by the local social service agency ~~and or~~ the licensed child-placing agency that the child has been adopted, ~~has become 14 years old and will not consent to an adoption plan,~~ placed in an adoptive home or has died.

Sec. 28. Minnesota Statutes 2006, section 259.89, subdivision 1, is amended to read:

Subdivision 1. **Request.** An adopted person who is 19 years of age or over may request the commissioner of health to disclose the information on the adopted person's original birth record. The commissioner of health shall, within five days of receipt of the request, notify the commissioner of human services agent or licensed child-placing agency when known or the commissioner of human services when the agency is not known in writing of the request by the adopted person.

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Sec. 29. Minnesota Statutes 2006, section 259.89, subdivision 2, is amended to read:

Subd. 2. **Search.** Within six months after receiving notice of the request of the adopted person, the commissioner of human ~~services~~ services' agent or a licensed child-placing agency shall make complete and reasonable efforts to notify each parent identified on the original birth record of the adopted person. The commissioner, the commissioner's agents, and licensed child-placing agencies may charge a reasonable fee to the adopted person for the cost of making a search pursuant to this subdivision. Every licensed child-placing agency in the state shall cooperate with the commissioner of human services in efforts to notify an identified parent. All communications under this subdivision are confidential pursuant to section 13.02, subdivision 3.

For purposes of this subdivision, "notify" means a personal and confidential contact with the birth parents named on the original birth record of the adopted person. The contact ~~shall not be by mail and~~ shall be by an employee or agent of the licensed child-placing agency which processed the pertinent adoption or some other licensed child-placing agency designated by the commissioner of human services when it is determined to be reasonable by the commissioner; otherwise contact shall be by mail or telephone. The contact shall be evidenced by filing with the commissioner of health an affidavit of notification executed by the person who notified each parent certifying that each parent was given the following information:

- ~~(a)~~ (1) the nature of the information requested by the adopted person;
- ~~(b)~~ (2) the date of the request of the adopted person;
- ~~(c)~~ (3) the right of the parent to file, within 30 days of receipt of the notice, an affidavit with the commissioner of health stating that the information on the original birth record should not be disclosed;
- ~~(d)~~ (4) the right of the parent to file a consent to disclosure with the commissioner of health at any time; and
- ~~(e)~~ (5) the effect of a failure of the parent to file either a consent to disclosure or an affidavit stating that the information on the original birth record should not be disclosed.

Sec. 30. Minnesota Statutes 2006, section 259.89, subdivision 4, is amended to read:

Subd. 4. **Release of information after notice.** If, within six months, the commissioner of human ~~services certifies~~ services' agent or licensed child-placing agency document to the commissioner of health notification of each parent identified on the original birth record pursuant to subdivision 2, the commissioner of health shall disclose the information requested by the adopted person 31 days after the date of the latest notice to either parent. This disclosure will occur if, at any time during the 31 days both of

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24.1 the parents identified on the original birth record have filed a consent to disclosure with
24.2 the commissioner of health and neither consent to disclosure has been revoked by the
24.3 subsequent filing by a parent of an affidavit stating that the information should not be
24.4 disclosed. If only one parent has filed a consent to disclosure and the consent has not been
24.5 revoked, the commissioner of health shall disclose, to the adopted person, original birth
24.6 record information on the consenting parent only.

24.7 Sec. 31. Minnesota Statutes 2006, section 259.89, is amended by adding a subdivision
24.8 to read:

24.9 Subd. 7. **Adult adoptions.** Notwithstanding section 144.218, a person adopted
24.10 as an adult shall be permitted to access the person's birth records that existed prior to
24.11 the adult adoption. Access to the existing birth records shall be the same access that
24.12 was permitted prior to the adult adoption.

24.13 Sec. 32. Minnesota Statutes 2006, section 260.795, subdivision 3, is amended to read:

24.14 Subd. 3. ~~Revenue enhancement~~ Indian child welfare position. ~~The commissioner~~
24.15 ~~shall submit claims for federal reimbursement earned through the activities and services~~
24.16 ~~supported through Indian child welfare grants. The commissioner may set aside a~~
24.17 ~~portion of the federal funds earned under this subdivision to establish and support a new~~
24.18 ~~Indian child welfare position in the Department of Human Services to provide program~~
24.19 ~~development. The commissioner shall use any federal revenue not set aside to expand~~
24.20 ~~services under section 260.785. The federal revenue earned under this subdivision is~~
24.21 ~~available for these purposes until the funds are expended. The commissioner shall use~~
24.22 Title IV-E administrative reimbursement earned by tribes through the new Social Services
24.23 Administrative Tribal Time Study to continue funding the state Indian child welfare
24.24 position.

24.25 Sec. 33. **[260.853] INTERSTATE COMPACT FOR THE PLACEMENT OF**
24.26 **CHILDREN.**

24.27 ARTICLE I. PURPOSE

24.28 The purpose of this Interstate Compact for the Placement of Children is to:

24.29 A. Provide a process through which children subject to this compact are placed in
24.30 safe and suitable homes in a timely manner.

24.31 B. Facilitate ongoing supervision of a placement, the delivery of services, and
24.32 communication between the states.

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25.1 C. Provide operating procedures that will ensure that children are placed in safe and
25.2 suitable homes in a timely manner.

25.3 D. Provide for the promulgation and enforcement of administrative rules
25.4 implementing the provisions of this compact and regulating the covered activities of
25.5 the member states.

25.6 E. Provide for uniform data collection and information sharing between member
25.7 states under this compact.

25.8 F. Promote coordination between this compact, the Interstate Compact for Juveniles,
25.9 the Interstate Compact on Adoption and Medical Assistance and other compacts affecting
25.10 the placement of and which provide services to children otherwise subject to this compact.

25.11 G. Provide for a state's continuing legal jurisdiction and responsibility for placement
25.12 and care of a child that it would have had if the placement were intrastate.

25.13 H. Provide for the promulgation of guidelines, in collaboration with Indian tribes,
25.14 for interstate cases involving Indian children as is or may be permitted by federal law.

25.15 ARTICLE II. DEFINITIONS

25.16 As used in this compact,

25.17 A. "Approved placement" means the public child-placing agency in the receiving
25.18 state has determined that the placement is both safe and suitable for the child.

25.19 B. "Assessment" means an evaluation of a prospective placement by a public
25.20 child-placing agency to determine whether the placement meets the individualized needs
25.21 of the child, including but not limited to the child's safety and stability, health and
25.22 well-being, and mental, emotional, and physical development. An assessment is only
25.23 applicable to a placement by a public child-placing agency.

25.24 C. "Child" means an individual who has not attained the age of eighteen (18).

25.25 D. "Certification" means to attest, declare or sworn to before a judge or notary public.

25.26 E. "Default" means the failure of a member state to perform the obligations or
25.27 responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate
25.28 Commission.

25.29 F. "Home Study" means an evaluation of a home environment conducted according
25.30 to the applicable requirements of the State in which the home is located, and documents
25.31 the preparation and the suitability of the placement resource for placement of a child
25.32 according to the laws and requirements of the state in which the home is located.

25.33 G. "Indian tribe" means any Indian tribe, band, nation, or other organized group
25.34 or community of Indians recognized as eligible for services provided to Indians by the
25.35 Secretary of the Interior because of their status as Indians, including any Alaskan native

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26.1 village as defined in section 3 (c) of the Alaska Native Claims settlement Act at 43 USC
26.2 §1602(c).

26.3 H. "Interstate Commission for the Placement of Children" means the commission
26.4 that is created under Article VIII of this compact and which is generally referred to as the
26.5 Interstate Commission.

26.6 I. "Jurisdiction" means the power and authority of a court to hear and decide matters.

26.7 J. "Legal Risk Placement" ("Legal Risk Adoption") means a placement made
26.8 preliminary to an adoption where the prospective adoptive parents acknowledge in writing
26.9 that a child can be ordered returned to the sending state or the birth mother's state of
26.10 residence, if different from the sending state and a final decree of adoption shall not be
26.11 entered in any jurisdiction until all required consents are obtained or are dispensed with
26.12 according to applicable law.

26.13 K. "Member state" means a state that has enacted this compact.

26.14 L. "Non-custodial parent" means a person who, at the time of the commencement
26.15 of court proceedings in the sending state, does not have sole legal custody of the child
26.16 or has joint legal custody of a child, and who is not the subject of allegations or findings
26.17 of child abuse or neglect.

26.18 M. "Non-member state" means a state which has not enacted this compact.

26.19 N. "Notice of residential placement" means information regarding a placement
26.20 into a residential facility provided to the receiving state including, but not limited to the
26.21 name, date and place of birth of the child, the identity and address of the parent or legal
26.22 guardian, evidence of authority to make the placement, and the name and address of
26.23 the facility in which the child will be placed. Notice of residential placement shall also
26.24 include information regarding a discharge and any unauthorized absence from the facility.

26.25 O. "Placement" means the act by a public or private child-placing agency intended
26.26 to arrange for the care or custody of a child in another state.

26.27 P. "Private child-placing agency" means any private corporation, agency, foundation,
26.28 institution, or charitable organization, or any private person or attorney that facilitates,
26.29 causes, or is involved in the placement of a child from one state to another and that is not
26.30 an instrumentality of the state or acting under color of state law.

26.31 Q. "Provisional placement" means a determination made by the public child-placing
26.32 agency in the receiving state that the proposed placement is safe and suitable, and, to the
26.33 extent allowable, the receiving state has temporarily waived its standards or requirements
26.34 otherwise applicable to prospective foster or adoptive parents so as to not delay the
26.35 placement. Completion of an assessment and the receiving state requirements regarding

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27.1 training for prospective foster or adoptive parents shall not delay an otherwise safe and
27.2 suitable placement.

27.3 R. "Public child-placing agency" means any government child welfare agency or
27.4 child protection agency or a private entity under contract with such an agency, regardless
27.5 of whether they act on behalf of a state, county, municipality or other governmental unit
27.6 and which facilitates, causes, or is involved in the placement of a child from one state
27.7 to another.

27.8 S. "Receiving state" means the state to which a child is sent, brought, or caused to
27.9 be sent or brought.

27.10 T. "Relative" means someone who is related to the child as a parent, step-parent,
27.11 sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a
27.12 non-relative with such significant ties to the child that they may be regarded as relatives as
27.13 determined by the court in the sending state.

27.14 U. "Residential Facility" means a facility providing a level of care that is sufficient
27.15 to substitute for parental responsibility or foster care, and is beyond what is needed for
27.16 assessment or treatment of an acute condition. For purposes of the compact, residential
27.17 facilities do not include institutions primarily educational in character, hospitals or other
27.18 medical facilities.

27.19 V. "Rule" means a written directive, mandate, standard or principle issued by the
27.20 Interstate Commission promulgated pursuant to Article XI of this compact that is of
27.21 general applicability and that implements, interprets or prescribes a policy or provision of
27.22 the compact. "Rule" has the force and effect of an administrative rule in a member state,
27.23 and includes the amendment, repeal, or suspension of an existing rule.

27.24 W. "Sending state" means the state from which the placement of a child is initiated.

27.25 X. "Service member's permanent duty station" means the military installation where
27.26 an active duty Armed Services member is currently assigned and is physically located
27.27 under competent orders that do not specify the duty as temporary.

27.28 Y. "Service member's state of legal residence" means the state in which the active
27.29 duty Armed Services member is considered a resident for tax and voting purposes.

27.30 Z. "State" means a state of the United States, the District of Columbia, the
27.31 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the
27.32 Northern Marianas Islands and any other territory of the United States.

27.33 AA. "State court" means a judicial body of a state that is vested by law with
27.34 responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or
27.35 status offenses of individuals who have not attained the age of eighteen (18).

BB. "Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III. APPLICABILITY

A. Except as otherwise provided in Article III, Section B, this compact shall apply to:

1. The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

2. The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

a. the child is being placed in a residential facility in another member state and is not covered under another compact; or

b. the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

3. The interstate placement of any child by a public child-placing agency or private child-placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

1. The interstate placement of a child with a non-relative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

2. The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

3. The placement of a child, not subject to Article III, Section A, into a residential facility by his parent.

4. The placement of a child with a non-custodial parent provided that:

a. The non-custodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

b. The court in the sending state makes a written finding that placement with the non-custodial parent is in the best interests of the child; and

c. The court in the sending state dismisses its jurisdiction over the child's case.

29.1 5. A child entering the United States from a foreign country for the purpose of
29.2 adoption or leaving the United States to go to a foreign country for the purpose of
29.3 adoption in that country.

29.4 6. Cases in which a U.S. citizen child living overseas with his family, at least one
29.5 of whom is in the U.S. Armed Services, and who is stationed overseas, is removed and
29.6 placed in a state.

29.7 7. The sending of a child by a public child-placing agency or a private child-placing
29.8 agency for a visit as defined by the rules of the Interstate Commission.

29.9 C. For purposes of determining the applicability of this compact to the placement of
29.10 a child with a family in the Armed Services, the public child-placing agency or private
29.11 child-placing agency may choose the state of the service member's permanent duty station
29.12 or the service member's declared legal residence.

29.13 D. Nothing in this compact shall be construed to prohibit the concurrent application
29.14 of the provisions of this compact with other applicable interstate compacts including the
29.15 Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical
29.16 Assistance. The Interstate Commission may in cooperation with other interstate compact
29.17 commissions having responsibility for the interstate movement, placement or transfer of
29.18 children, promulgate like rules to ensure the coordination of services, timely placement
29.19 of children, and the reduction of unnecessary or duplicative administrative or procedural
29.20 requirements.

29.21 ARTICLE IV. JURISDICTION

29.22 A. Except as provided in Article IV, Section G, concerning private and independent
29.23 adoptions, the sending state shall retain jurisdiction over a child with respect to all matters
29.24 of custody and disposition of the child which it would have had if the child had remained
29.25 in the sending state. Such jurisdiction shall also include the power to order the return
29.26 of the child to the sending state.

29.27 B. When an issue of child protection or custody is brought before a court in the
29.28 receiving state, such court shall confer with the court of the sending state to determine the
29.29 most appropriate forum for adjudication.

29.30 C. In accordance with its own laws, the court in the sending state shall have authority
29.31 to terminate its jurisdiction if:

29.32 1. The child is reunified with the parent in the receiving state who is the subject
29.33 of allegations or findings of abuse or neglect, only with the concurrence of the public
29.34 child-placing agency in the receiving state; or

29.35 2. The child is adopted;

29.36 3. The child reaches the age of majority under the laws of the sending state; or

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30.1 4. The child achieves legal independence pursuant to the laws of the sending state; or

30.2 5. A guardianship is created by a court in the receiving state with the concurrence of
30.3 the court in the sending state; or

30.4 6. An Indian tribe has petitioned for and received jurisdiction from the court in
30.5 the sending state; or

30.6 7. The public child-placing agency of the sending state requests termination and has
30.7 obtained the concurrence of the public child-placing agency in the receiving the state.

30.8 D. When a sending state court terminates its jurisdiction, the receiving state
30.9 child-placing agency shall be notified.

30.10 E. Nothing in this article shall defeat a claim of jurisdiction by a receiving state
30.11 court sufficient to deal with an act of truancy, delinquency, crime or behavior involving a
30.12 child as defined by the laws of the receiving state committed by the child in the receiving
30.13 state which would be a violation of its laws.

30.14 F. Nothing in this article shall limit the receiving state's ability to take emergency
30.15 jurisdiction for the protection of the child.

30.16 G. The substantive laws of the state in which an adoption will be finalized shall
30.17 solely govern all issues relating to the adoption of the child and the court in which the
30.18 adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive
30.19 issues relating to the adoption, except:

30.20 1. when the child is a ward of another court that established jurisdiction over the
30.21 child prior to the placement;

30.22 2. when the child is in the legal custody of a public agency in the sending state; or

30.23 3. when the court in the sending state has otherwise appropriately assumed
30.24 jurisdiction over the child, prior to the submission of the request for approval of placement.

30.25 ARTICLE V. PLACEMENT EVALUATION

30.26 A. Prior to sending, bringing, or causing a child to be sent or brought into a receiving
30.27 state, the public child-placing agency shall provide a written request for assessment to
30.28 the receiving state.

30.29 B. For placements by a private child-placing agency, a child may be sent or brought,
30.30 or caused to be sent or brought, into a receiving state, upon receipt and review of the
30.31 required content in a request for approval of a placement in both the sending and receiving
30.32 state public child-placing agency. The required content for a request for provisional
30.33 approval shall include all of the following:

30.34 1. A request for approval identifying the child, birth parents, the prospective adoptive
30.35 parents, and the supervising agency, signed by the person requesting approval; and

31.1 2. Certification by a licensed attorney or other authorized agent that the consent or
31.2 relinquishment is in compliance with the applicable laws of the sending state, or where
31.3 permitted the laws of the state where finalization of the adoption will occur; and

31.4 3. A home study; and

31.5 4. An acknowledgment of legal risk signed by the prospective adoptive parents.

31.6 C. The sending state and the receiving state may request additional information or
31.7 documents prior to finalization of an approved placement, but they may not delay travel
31.8 by the prospective adoptive parents with the child if the required content for approval
31.9 has been submitted, received, and reviewed by the public child-placing agency in both
31.10 the sending state and the receiving state.

31.11 D. Approval from the public child-placing agency in the receiving state for a
31.12 provisional or approved placement is required as provided for in the rules of the Interstate
31.13 Commission.

31.14 E. The procedures for making, and the request for an assessment, shall contain all
31.15 information and be in such form as provided for in the rules of the Interstate Commission.

31.16 F. Upon receipt of a request from the public child-placing agency of the sending
31.17 state, the receiving state shall initiate an assessment of the proposed placement to
31.18 determine its safety and suitability. If the proposed placement is a placement with a
31.19 relative, the public child-placing agency of the sending state may request a determination
31.20 for a provisional placement.

31.21 G. The public child-placing agency in the receiving state may request from the
31.22 public child-placing agency or the private child-placing agency in the sending state, and
31.23 shall be entitled to receive supporting or additional information necessary to complete
31.24 the assessment.

31.25 ARTICLE VI. PLACEMENT AUTHORITY

31.26 A. Except as otherwise provided in this compact, no child subject to this compact
31.27 shall be placed into a receiving state until approval for such placement is obtained.

31.28 B. If the public child-placing agency in the receiving state does not approve
31.29 the proposed placement then the child shall not be placed. The receiving state shall
31.30 provide written documentation of any such determination in accordance with the rules
31.31 promulgated by the Interstate Commission. Such determination is not subject to judicial
31.32 review in the sending state.

31.33 C. If the proposed placement is not approved, any interested party shall have
31.34 standing to seek an administrative review of the receiving state's determination.

1. The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures.

2. If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY

A. For the interstate placement of a child made by a public child-placing agency or state court:

1. The public child-placing agency in the sending state shall have financial responsibility for:

a. the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

b. as determined by the public child-placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

2. The receiving state shall only have financial responsibility for:

a. any assessment conducted by the receiving state; and

b. supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child-placing agencies of the receiving and sending state.

3. Nothing in this provision shall prohibit public child-placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

B. For the placement of a child by a private child-placing agency preliminary to a possible adoption, the private child-placing agency shall be:

1. Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

2. Financially responsible for the child absent a contractual agreement to the contrary.

C. The public child-placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

D. The public child-placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

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33.1 E. Nothing in this compact shall be construed as to limit the authority of the public
33.2 child-placing agency in the receiving state from contracting with a licensed agency or
33.3 person in the receiving state for an assessment or the provision of supervision or services
33.4 for the child or otherwise authorizing the provision of supervision or services by a licensed
33.5 agency during the period of placement.

33.6 F. Each member state shall provide for coordination among its branches of
33.7 government concerning the state's participation in, and compliance with, the compact and
33.8 Interstate Commission activities, through the creation of an advisory council or use of an
33.9 existing body or board.

33.10 G. Each member state shall establish a central state compact office, which shall
33.11 be responsible for state compliance with the compact and the rules of the Interstate
33.12 Commission.

33.13 H. The public child-placing agency in the sending state shall oversee compliance
33.14 with the provisions of the Indian Child Welfare Act (25 USC 1901 et seq.) for placements
33.15 subject to the provisions of this compact, prior to placement.

33.16 I. With the consent of the Interstate Commission, states may enter into limited
33.17 agreements that facilitate the timely assessment and provision of services and supervision
33.18 of placements under this compact.

33.19 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

33.20 The member states hereby establish, by way of this compact, a commission known
33.21 as the "Interstate Commission for the Placement of Children." The activities of the
33.22 Interstate Commission are the formation of public policy and are a discretionary state
33.23 function. The Interstate Commission shall:

33.24 A. Be a joint commission of the member states and shall have the responsibilities,
33.25 powers and duties set forth herein, and such additional powers as may be conferred upon it
33.26 by subsequent concurrent action of the respective legislatures of the member states.

33.27 B. Consist of one commissioner from each member state who shall be appointed by
33.28 the executive head of the state human services administration with ultimate responsibility
33.29 for the child welfare program. The appointed commissioner shall have the legal authority
33.30 to vote on policy related matters governed by this compact binding the state.

33.31 1. Each member state represented at a meeting of the Interstate Commission is
33.32 entitled to one vote.

33.33 2. A majority of the member states shall constitute a quorum for the transaction of
33.34 business, unless a larger quorum is required by the bylaws of the Interstate Commission.

33.35 3. A representative shall not delegate a vote to another member state.

34.1 4. A representative may delegate voting authority to another person from their state
34.2 for a specified meeting.

34.3 C. In addition to the commissioners of each member state, the Interstate Commission
34.4 shall include persons who are members of interested organizations as defined in the bylaws
34.5 or rules of the Interstate Commission. Such members shall be ex officio and shall not be
34.6 entitled to vote on any matter before the Interstate Commission.

34.7 D. Establish an executive committee which shall have the authority to administer
34.8 the day-to-day operations and administration of the Interstate Commission. It shall not
34.9 have the power to engage in rulemaking.

34.10 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

34.11 The Interstate Commission shall have the following powers:

34.12 A. To promulgate rules and take all necessary actions to effect the goals, purposes
34.13 and obligations as enumerated in this compact.

34.14 B. To provide for dispute resolution among member states.

34.15 C. To issue, upon request of a member state, advisory opinions concerning the
34.16 meaning or interpretation of the interstate compact, its bylaws, rules or actions.

34.17 D. To enforce compliance with this compact or the bylaws or rules of the Interstate
34.18 Commission pursuant to Article XII.

34.19 E. Collect standardized data concerning the interstate placement of children subject
34.20 to this compact as directed through its rules which shall specify the data to be collected,
34.21 the means of collection and data exchange and reporting requirements.

34.22 F. To establish and maintain offices as may be necessary for the transacting of its
34.23 business.

34.24 G. To purchase and maintain insurance and bonds.

34.25 H. To hire or contract for services of personnel or consultants as necessary to
34.26 carry out its functions under the compact and establish personnel qualification policies,
34.27 and rates of compensation.

34.28 I. To establish and appoint committees and officers including, but not limited to, an
34.29 executive committee as required by Article X.

34.30 J. To accept any and all donations and grants of money, equipment, supplies,
34.31 materials, and services, and to receive, utilize, and dispose thereof.

34.32 K. To lease, purchase, accept contributions or donations of, or otherwise to own,
34.33 hold, improve or use any property, real, personal, or mixed.

34.34 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose
34.35 of any property, real, personal or mixed.

34.36 M. To establish a budget and make expenditures.

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N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate and provide education, training and public awareness regarding the interstate movement of children for officials involved in such activity.

Q. To maintain books and records in accordance with the bylaws of the Interstate Commission.

R. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE
INTERSTATE COMMISSION

A. Bylaws

1. Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

2. The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

B. Meetings

1. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

2. Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

a. relate solely to the Interstate Commission's internal personnel practices and procedures; or

b. disclose matters specifically exempted from disclosure by federal law; or

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c. disclose financial or commercial information which is privileged, proprietary or confidential in nature; or

d. involve accusing a person of a crime, or formally censuring a person; or

e. disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or

f. disclose investigative records compiled for law enforcement purposes; or

g. specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

3. For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

C. Officers and Staff

1. The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

2. The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

D. Qualified Immunity, Defense and Indemnification

1. The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or

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liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

a. The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

b. The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

c. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the

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Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the U. S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

C. When promulgating a rule, the Interstate Commission shall, at a minimum:

1. Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and

2. Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available; and

3. Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

D. Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

E. Not later than 60 days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

F. If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

G. The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

H. Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

1. Transition rules

2. Forms and procedures

3. Time lines

4. Data collection and reporting

5. Rulemaking

6. Visitation

39.1 7. Progress reports/supervision

39.2 8. Sharing of information/confidentiality

39.3 9. Financing of the Interstate Commission

39.4 10. Mediation, arbitration and dispute resolution

39.5 11. Education, training and technical assistance

39.6 12. Enforcement

39.7 13. Coordination with other interstate compacts

39.8 I. Upon determination by a majority of the members of the Interstate Commission

39.9 that an emergency exists:

39.10 1. The Interstate Commission may promulgate an emergency rule only if it is
39.11 required to:

39.12 a. Protect the children covered by this compact from an imminent threat to their
39.13 health, safety and well-being; or

39.14 b. Prevent loss of federal or state funds; or

39.15 c. Meet a deadline for the promulgation of an administrative rule required by
39.16 federal law.

39.17 2. An emergency rule shall become effective immediately upon adoption, provided
39.18 that the usual rulemaking procedures provided hereunder shall be retroactively applied
39.19 to said rule as soon as reasonably possible, but no later than 90 days after the effective
39.20 date of the emergency rule.

39.21 3. An emergency rule shall be promulgated as provided for in the rules of the
39.22 Interstate Commission.

39.23 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

39.24 A. Oversight

39.25 1. The Interstate Commission shall oversee the administration and operation of the
39.26 compact.

39.27 2. The executive, legislative and judicial branches of state government in each
39.28 member state shall enforce this compact and the rules of the Interstate Commission and
39.29 shall take all actions necessary and appropriate to effectuate the compact's purposes and
39.30 intent. The compact and its rules shall be binding in the compacting states to the extent
39.31 and in the manner provided for in this compact.

39.32 3. All courts shall take judicial notice of the compact and the rules in any judicial
39.33 or administrative proceeding in a member state pertaining to the subject matter of this
39.34 compact.

39.35 4. The Interstate Commission shall be entitled to receive service of process in any
39.36 action in which the validity of a compact provision or rule is the issue for which a judicial

determination has been sought and shall have standing to intervene in any proceedings.
Failure to provide service of process to the Interstate Commission shall render any
judgment, order or other determination, however so captioned or classified, void as to the
Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

B. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to
resolve disputes which are subject to the compact and which may arise among member
states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation
and binding dispute resolution for disputes among compacting states. The costs of such
mediation or dispute resolution shall be the responsibility of the parties to the dispute.

C. Enforcement

1. If the Interstate Commission determines that a member state has defaulted in the
performance of its obligations or responsibilities under this compact, its bylaws or rules,
the Interstate Commission may:

- a. Provide remedial training and specific technical assistance; or
- b. Provide written notice to the defaulting state and other member states, of the
nature of the default and the means of curing the default. The Interstate Commission shall
specify the conditions by which the defaulting state must cure its default; or
- c. By majority vote of the members, initiate against a defaulting member state legal
action in the United State District Court for the District of Columbia or, at the discretion
of the Interstate Commission, in the federal district where the Interstate Commission has
its principal office, to enforce compliance with the provisions of the compact, its bylaws
or rules. The relief sought may include both injunctive relief and damages. In the event
judicial enforcement is necessary the prevailing party shall be awarded all costs of such
litigation including reasonable attorney's fees; or
- d. Avail itself of any other remedies available under state law or the regulation of
official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable
expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from
each member state to cover the cost of the operations and activities of the Interstate
Commission and its staff which must be in a total amount sufficient to cover the Interstate
Commission's annual budget as approved by its members each year. The aggregate annual

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assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

3. The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the

withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the Compact

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or

43.1 all of the purposes of the compact as specified in Article I. The Interstate Commission
43.2 shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to
43.3 reflect the diverse circumstances of the various Indian tribes.

43.4 **EFFECTIVE DATE.** This section is effective upon legislative enactment of the
43.5 compact into law by no less than 35 states. The commissioner of human services shall
43.6 inform the Revisor of Statutes when this occurs.

43.7 Sec. 34. Minnesota Statutes 2006, section 260C.001, subdivision 2, is amended to read:

43.8 Subd. 2. **Child in need of protection services.** (a) The paramount consideration in
43.9 all proceedings concerning a child alleged or found to be in need of protection or services
43.10 is the health, safety, and best interests of the child. In proceedings involving an American
43.11 Indian child, as defined in section 260.755, subdivision 8, the best interests of the child
43.12 must be determined consistent with sections 260.751 to 260.835 and the Indian Child
43.13 Welfare Act, United States Code, title 25, sections 1901 to 1923.

43.14 (b) The purpose of the laws relating to juvenile courts is:

43.15 (1) to secure for each child alleged or adjudicated in need of protection or services
43.16 and under the jurisdiction of the court, the care and guidance, preferably in the child's own
43.17 home, as will best serve the spiritual, emotional, mental, and physical welfare of the child;

43.18 (2) to provide judicial procedures which protect the welfare of the child;

43.19 (3) to preserve and strengthen the child's family ties whenever possible and in the
43.20 child's best interests, removing the child from the custody of parents only when the child's
43.21 welfare or safety cannot be adequately safeguarded without removal;

43.22 (4) to ensure that when removal from the child's own family is necessary and in the
43.23 child's best interests, the responsible social services agency has legal responsibility for
43.24 the child removal either:

43.25 (i) pursuant to a voluntary placement agreement between the child's parent or
43.26 guardian and the responsible social services agency; or

43.27 (ii) by court order pursuant to section 260C.151, subdivision 6; 206C.178; or
43.28 260C.201;

43.29 (5) to ensure that, when placement is pursuant to court order, the court order
43.30 removing the child or continuing the child in foster care contains an individualized
43.31 determination that placement is in the best interests of the child that coincides with the
43.32 actual removal of the child; and, ~~when removal from the child's own family is necessary~~
43.33 ~~and in the child's best interests,~~

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(6) to ~~secure for~~ ensure that when the child is removed, the ~~child custody~~, child's care and discipline is, as nearly as possible, equivalent to that which should have been given by the parents: and is either in:

(i) the home of a noncustodial parent pursuant to section 260C.178 or 260C.201, subdivision 1, paragraph (a), clause (1);

(ii) the home of a relative pursuant to emergency placement by the responsible social services agency under chapter 245A; or

(iii) a foster home licensed under chapter 245A.

Sec. 35. Minnesota Statutes 2006, section 260C.007, subdivision 5, is amended to read:

Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim ~~and~~ that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or that is physical or sexual abuse as defined in section 626.556, subdivision 2, or an act committed in another state that involves a minor victim and would constitute a violation of one of these sections if committed in this state.

Sec. 36. Minnesota Statutes 2006, section 260C.007, subdivision 6, is amended to read:

Subd. 6. **Child in need of protection or services.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse as defined in section 626.556, subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision 5 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5, or (iv) is a victim of emotional maltreatment as defined in subdivision 8;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care, including a child in voluntary placement due solely to the child's developmental disability or emotional disturbance;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The

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term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, including a child in placement according to voluntary release by the parent under section 260C.212, subdivision 8;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) has engaged in prostitution as defined in section 609.321, subdivision 9;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is a habitual truant; or

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense.

Sec. 37. Minnesota Statutes 2006, section 260C.007, subdivision 13, is amended to read:

Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

(1) any physical injury to a minor family or household member inflicted by an adult family or household member other than by accidental means; ~~or~~

(2) subjection of a minor family or household member by an adult family or household member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342, 609.343, 609.344, 609.345, or 617.246; or

(3) physical or sexual abuse as defined in section 626.556, subdivision 2.

Sec. 38. Minnesota Statutes 2007 Supplement, 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.~~ Absent exceptional circumstances, hearings under this chapter are presumed to be accessible to the public, however the court may close any hearing and the records related to any matter as provided in the Minnesota Rules of Juvenile Protection Procedure.

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

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

47.4 Sec. 39. Minnesota Statutes 2006, section 260C.171, subdivision 2, is amended to read:

47.5 Subd. 2. **Public inspection of records.** (a) The ~~following~~ records from proceedings
47.6 or portions of proceedings involving a child in need of protection or services ~~that,~~
47.7 permanency, or termination of parental rights are open accessible to the public as
47.8 authorized by ~~Supreme Court order and court rules are accessible to the public unless the~~
47.9 ~~court determines that access should be restricted because of the intensely personal nature~~
47.10 ~~of the information.~~ the Minnesota Rules of Juvenile Protection Procedure.

47.11 ~~(1) the summons and petition;~~
47.12 ~~(2) affidavits of publication and service;~~
47.13 ~~(3) certificates of representation;~~
47.14 ~~(4) court orders;~~
47.15 ~~(5) hearing and trial notices, witness lists, and subpoenas;~~
47.16 ~~(6) motions and legal memoranda;~~
47.17 ~~(7) exhibits introduced at hearings or trial that are not inaccessible under paragraph~~
47.18 ~~(b);~~

47.19 ~~(8) birth records; and~~
47.20 ~~(9) all other documents not listed as inaccessible to the public under paragraph (b).~~

47.21 ~~(b) The following records are not accessible to the public under paragraph (a):~~

47.22 ~~(1) written, audiotaped, or videotaped information from the social services agency,~~
47.23 ~~except to the extent the information appears in the petition, court orders, or other~~
47.24 ~~documents that are accessible under paragraph (a);~~

47.25 ~~(2) child protection intake or screening notes;~~

47.26 ~~(3) documents identifying reporters of maltreatment, unless the names and other~~
47.27 ~~identifying information are redacted;~~

47.28 ~~(4) guardian ad litem reports;~~

47.29 ~~(5) victim statements and addresses and telephone numbers;~~

47.30 ~~(6) documents identifying nonparty witnesses under the age of 18, unless the names~~
47.31 ~~and other identifying information are redacted;~~

47.32 ~~(7) transcripts of testimony taken during closed hearing;~~

47.33 ~~(8) fingerprinting materials;~~

47.34 ~~(9) psychological, psychiatric, and chemical dependency evaluations;~~

47.35 ~~(10) presentence evaluations of juveniles and probation reports;~~

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~~(11) medical records and test results;~~
~~(12) reports issued by sexual predator programs;~~
~~(13) diversion records of juveniles;~~
~~(14) any document which the court, upon its own motion or upon motion of a party,~~
~~orders inaccessible to serve the best interests of the child; and~~
~~(15) any other records that are not accessible to the public under rules developed~~
~~by the courts.~~

~~In addition, records that are accessible to the public under paragraph (a) become~~
~~inaccessible to the public if one year has elapsed since either the proceeding was dismissed~~
~~or the court's jurisdiction over the matter was terminated.~~

~~(e) Except as otherwise provided by this section, none of the records of the juvenile~~
~~court and (b) None of the records relating to an appeal from a nonpublic juvenile court~~
~~proceeding, except the written appellate opinion, shall be open to public inspection or their~~
~~contents disclosed except by order of a court.~~

~~(d) (c) The records of juvenile probation officers are records of the court for the~~
~~purposes of this subdivision. This subdivision applies to all proceedings under this~~
~~chapter, including appeals from orders of the juvenile court. The court shall maintain the~~
~~confidentiality of adoption files and records in accordance with the provisions of laws~~
~~relating to adoptions. In juvenile court proceedings any report or social history furnished~~
~~to the court shall be open to inspection by the attorneys of record and the guardian ad litem~~
~~a reasonable time before it is used in connection with any proceeding before the court.~~

~~(e) When a judge of a juvenile court, or duly authorized agent of the court,~~
~~determines under a proceeding under this chapter that a child has violated a state or local~~
~~law, ordinance, or regulation pertaining to the operation of a motor vehicle on streets~~
~~and highways, except parking violations, the judge or agent shall immediately report~~
~~the violation to the commissioner of public safety. The report must be made on a form~~
~~provided by the Department of Public Safety and must contain the information required~~
~~under section 169.95.~~

Sec. 40. Minnesota Statutes 2006, section 260C.178, subdivision 1, is amended to read:

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into
custody under section 260C.175, subdivision 1, clause (a) or (b)(2), the court shall hold a
hearing within 72 hours of the time the child was taken into custody, excluding Saturdays,
Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others,
not return for a court hearing, run away from the child's parent, guardian, or custodian

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49.1 or otherwise not remain in the care or control of the person to whose lawful custody the
49.2 child is released, or that the child's health or welfare would be immediately endangered,
49.3 the child shall be released to the custody of a parent, guardian, custodian, or other
49.4 suitable person, subject to reasonable conditions of release including, but not limited to,
49.5 a requirement that the child undergo a chemical use assessment as provided in section
49.6 260C.157, subdivision 1.

49.7 (c) If the court determines there is reason to believe that the child would endanger
49.8 self or others; not return for a court hearing; run away from the child's parent, guardian, or
49.9 custodian or otherwise not remain in the care or control of the person to whose lawful
49.10 custody the child is released; or that the child's health or welfare would be immediately
49.11 endangered if returned to the care of the parent or guardian who has custody and from
49.12 whom the child was removed, the court shall order the child into foster care under the
49.13 legal responsibility of the responsible social services agency or responsible probation or
49.14 corrections agency for the purposes of protective care as that term is used in the juvenile
49.15 court rules: or into the home of a noncustodial parent and order the noncustodial parent
49.16 to comply with any conditions the court determines to be appropriate to the safety and
49.17 care of the child, including cooperating with paternity establishment proceedings in the
49.18 case of a man who has not been adjudicated the child's father. The court shall not give
49.19 the responsible social services legal custody and order a trial home visit at any time prior
49.20 to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a),
49.21 clause (3), but may order the child returned to the care of the parent or guardian who
49.22 has custody and from whom the child was removed and order the parent or guardian to
49.23 comply with any conditions the court determines to be appropriate to meet the safety,
49.24 health, and welfare of the child.

49.25 (d) In determining whether the child's health or welfare would be immediately
49.26 endangered, the court shall consider whether the child would reside with a perpetrator
49.27 of domestic child abuse.

49.28 ~~(c)~~ (e) The court, before determining whether a child should be placed in or continue
49.29 in foster care under the protective care of the responsible agency, shall also make a
49.30 determination, consistent with section 260.012 as to whether reasonable efforts were made
49.31 to prevent placement or whether reasonable efforts to prevent placement are not required.
49.32 In the case of an Indian child, the court shall determine whether active efforts, according
49.33 to the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d),
49.34 were made to prevent placement. The court shall enter a finding that the responsible
49.35 social services agency has made reasonable efforts to prevent placement when the agency
49.36 establishes either:

50.1 (1) that it has actually provided services or made efforts in an attempt to prevent
50.2 the child's removal but that such services or efforts have not proven sufficient to permit
50.3 the child to safely remain in the home; or

50.4 (2) that there are no services or other efforts that could be made at the time of the
50.5 hearing that could safely permit the child to remain home or to return home. When
50.6 reasonable efforts to prevent placement are required and there are services or other efforts
50.7 that could be ordered which would permit the child to safely return home, the court shall
50.8 order the child returned to the care of the parent or guardian and the services or efforts put
50.9 in place to ensure the child's safety. When the court makes a prima facie determination
50.10 that one of the circumstances under paragraph ~~(e)~~ (g) exists, the court shall determine that
50.11 reasonable efforts to prevent placement and to return the child to the care of the parent or
50.12 guardian are not required.

50.13 If the court finds the social services agency's preventive or reunification efforts
50.14 have not been reasonable but further preventive or reunification efforts could not permit
50.15 the child to safely remain at home, the court may nevertheless authorize or continue
50.16 the removal of the child.

50.17 ~~(d)~~ (f) The court may not order or continue the foster care placement of the child
50.18 unless the court makes explicit, individualized findings that continued custody of the child
50.19 by the parent or guardian would be contrary to the welfare of the child and that placement
50.20 is in the best interest of the child.

50.21 ~~(e)~~ (g) At the emergency removal hearing, or at any time during the course of the
50.22 proceeding, and upon notice and request of the county attorney, the court shall determine
50.23 whether a petition has been filed stating a prima facie case that:

50.24 (1) the parent has subjected a child to egregious harm as defined in section
50.25 260C.007, subdivision 14;

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

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

50.30 (4) the parents' custodial rights to another child have been involuntarily transferred
50.31 to a relative under section 260C.201, subdivision 11, paragraph (e), clause (1), or a similar
50.32 law of another jurisdiction; or

50.33 (5) the provision of services or further services for the purpose of reunification is
50.34 futile and therefore unreasonable.

50.35 ~~(f)~~ (h) When a petition to terminate parental rights is required under section
50.36 260C.301, subdivision 3 or 4, but the county attorney has determined not to proceed

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51.1 with a termination of parental rights petition, and has instead filed a petition to transfer
51.2 permanent legal and physical custody to a relative under section 260C.201, subdivision 11,
51.3 the court shall schedule a permanency hearing within 30 days of the filing of the petition.

51.4 ~~(g)~~ (i) If the county attorney has filed a petition under section 260C.307, the court
51.5 shall schedule a trial under section 260C.163 within 90 days of the filing of the petition
51.6 except when the county attorney determines that the criminal case shall proceed to trial
51.7 first under section 260C.201, subdivision 3.

51.8 ~~(h)~~ (j) If the court determines the child should be ordered into foster care and
51.9 the child's parent refuses to give information to the responsible social services agency
51.10 regarding the child's father or relatives of the child, the court may order the parent to
51.11 disclose the names, addresses, telephone numbers, and other identifying information to the
51.12 responsible social services agency for the purpose of complying with the requirements of
51.13 sections 260C.151, 260C.212, and 260C.215.

51.14 ~~(i)~~ (k) If a child ordered into foster care has siblings, whether full, half, or step, who
51.15 are also ordered into foster care, the court shall inquire of the responsible social services
51.16 agency of the efforts to place the children together as required by section 260C.212,
51.17 subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a
51.18 child is in placement due solely to the child's own behavior or a child is placed with
51.19 a previously noncustodial parent who is not parent to all siblings. If the children are
51.20 not placed together at the time of the hearing, the court shall inquire at each subsequent
51.21 hearing of the agency's efforts to place the siblings together. If any sibling is not placed
51.22 with another sibling or siblings, the agency must develop a plan for visitation among the
51.23 siblings as required under section 260C.212, subdivision 1.

51.24 Sec. 41. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 1,
51.25 is amended to read:

51.26 Subdivision 1. **Subjects.** The responsible social services agency ~~must initiate a~~
51.27 ~~background study to be completed by the commissioner under chapter 245C~~ may have
51.28 access to the criminal history and history of child and adult maltreatment on the following
51.29 individuals:

51.30 (1) a noncustodial parent or nonadjudicated parent who is being assessed for
51.31 purposes of providing day-to-day care of a child temporarily or permanently under section
51.32 260C.212, subdivision 4, and any member of the parent's household who is over the age of
51.33 13 when there is a reasonable cause to believe that the parent or household member over
51.34 age 13 has a criminal history or a history of maltreatment of a child or vulnerable adult
51.35 which would endanger the child's health, safety, or welfare;

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(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 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.

Sec. 42. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 2, is amended to read:

Subd. 2. **General procedures.** (a) When ~~initiating a background check~~ accessing information under subdivision 1, the agency 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 five 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~~ accessing information under subdivision

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53.1 1, the Bureau of Criminal Apprehension, commissioners of health and human services,
53.2 law enforcement, and county agencies must provide ~~the commissioner or~~ the responsible
53.3 social services agency or county attorney with the following information on the individual
53.4 being assessed: criminal history data, local law enforcement data about the household,
53.5 reports about the maltreatment of adults substantiated under section 626.557, and reports
53.6 of maltreatment of minors substantiated under section 626.556.

53.7 Sec. 43. Minnesota Statutes 2007 Supplement, section 260C.209, is amended by
53.8 adding a subdivision to read:

53.9 Subd. 5. **Assessment for emergency relative placement.** The responsible social
53.10 services agency may obtain household members' criminal history and the history of
53.11 maltreatment of a child or adult and use the history to assess whether putting the child
53.12 in the household would endanger the child's health, safety, or welfare and to assess the
53.13 suitability of a relative prior to an emergency placement. This assessment does not
53.14 substitute for the background study required under chapter 245C and does not supersede
53.15 requirements related to emergency placement under section 245A.035.

53.16 Sec. 44. Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 4,
53.17 is amended to read:

53.18 Subd. 4. **Responsible social service agency's duties for children in placement.** (a)
53.19 When a child is in placement, the responsible social services agency shall make diligent
53.20 efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

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

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

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

54.1 (ii) provide a parent who is the subject of a background study under section
54.2 260C.209 15 days' notice that it intends to use the study to recommend against putting the
54.3 child with that parent, as well as the notice provided in section 260C.209, subdivision 4,
54.4 and the court shall afford the parent an opportunity to be heard concerning the study.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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56.1 has an examination within 30 days of coming into the agency's care and once a year
56.2 in subsequent years.

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

56.7 Sec. 45. Minnesota Statutes 2006, section 260C.212, is amended by adding a
56.8 subdivision to read:

56.9 Subd. 4a. **Monthly caseworker visits with children in foster care.** (a) Every
56.10 child in foster care or on a trial home visit shall be visited by the child's caseworker on
56.11 a monthly basis, with the majority of visits occurring in the child's residence. For the
56.12 purposes of this section, the following definitions apply:

56.13 (1) "visit" is defined as a face-to-face contact between a child and the child's
56.14 caseworker;

56.15 (2) "visited on a monthly basis" is defined as at least one visit per calendar month;

56.16 (3) "the child's caseworker" is defined as the person who has responsibility for
56.17 managing the child's foster care placement case as assigned by the responsible social
56.18 service agency; and

56.19 (4) "the child's residence" is defined as the home where the child is residing, and
56.20 can include the foster home, child care institution, or the home from which the child was
56.21 removed if the child is on a trial home visit.

56.22 (b) Caseworker visits shall be of sufficient substance and duration to address issues
56.23 pertinent to case planning and service delivery to ensure the safety, permanency, and
56.24 well-being of the child.

56.25 Sec. 46. Minnesota Statutes 2006, section 260C.212, subdivision 7, is amended to read:

56.26 Subd. 7. **Administrative or court review of placements.** (a) There shall be
56.27 an administrative review of the out-of-home placement plan of each child placed in ~~a~~
56.28 ~~residential facility~~ foster care no later than 180 days after the initial placement of the child
56.29 in ~~a residential facility~~ foster care and at least every six months thereafter if the child is not
56.30 returned to the home of the parent or parents within that time. The out-of-home placement
56.31 plan must be monitored and updated at each administrative review. The administrative
56.32 review shall be conducted by the responsible social services agency using a panel of
56.33 appropriate persons at least one of whom is not responsible for the case management of,
56.34 or the delivery of services to, either the child or the parents who are the subject of the

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review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the social services agency responsible for the placement may bring a petition as provided in section 260C.141, subdivision 2, to the court for review of the foster care to determine if placement is in the best interests of the child. This petition must be brought to the court in order for a court determination to be made regarding the best interests of the child within the applicable six months and is not in lieu of the requirements contained in subdivision 3 or 4. may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.193; 260C.201, subdivision 1 or 11, or section 260C.141, subdivision 2; or 2a, clause (2); or 260C.317 shall satisfy the requirement for an administrative review so long as the other requirements of this section are met.

(b) (c) At the review required under paragraph (a), the reviewing administrative body As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

- (1) the safety, permanency needs, and well-being of the child;
- (2) the continuing necessity for and appropriateness of the placement;
- (3) the extent of compliance with the out-of-home placement plan;
- (4) where appropriate, the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in a residential facility foster care;
- (5) where appropriate, the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian; and
- (6) the appropriateness of the services provided to the child.

(d) When a child is age 16 or older, in addition to any administrative review conducted by the agency, at the review required under section 260C.201, subdivision 11, paragraph (d), clause (3), unit (iii); or 260C.317, subdivision 3, clause (3), the court shall review the independent living plan required under subdivision 1, paragraph (c), clause (8), and the provision of services to the child related to the well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to

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58.1 each item in the plan necessary to the child's future safety and well-being when the child is
58.2 no longer in foster care.

58.3 (1) At the court review, the responsible social services agency shall establish that it
58.4 has given the notice required under Minnesota Rules, part 9560.0060, regarding the right
58.5 to continued access to services for certain children in foster care past age 18 and of the
58.6 right to appeal a denial of social services under section 256.245. If the agency is unable
58.7 to establish that the notice, including the right to appeal a denial of social services, has
58.8 been given, the court shall require the agency to give it.

58.9 (2) If the plan is for the child to leave foster care at age 18, the court shall make
58.10 findings regarding the child's progress toward or accomplishment of the following goals:

58.11 (i) the child has obtained a high school diploma or its equivalent;

58.12 (ii) the child has completed a driver's education course or has demonstrated the
58.13 ability to use public transportation in the child's community;

58.14 (iii) the child is employed or enrolled in postsecondary education;

58.15 (iv) the child has applied for and obtained postsecondary education financial aid for
58.16 which the child is eligible;

58.17 (v) the child has health care coverage and health care providers to meet the child's
58.18 physical and mental health needs;

58.19 (vi) the child has applied for and obtained disability income assistance for which
58.20 the child is eligible;

58.21 (vii) the child has obtained affordable housing with necessary supports, which does
58.22 not include a homeless shelter;

58.23 (viii) the child has saved sufficient funds to pay for the first month's rent and a
58.24 damage deposit;

58.25 (ix) the child has an alternative affordable housing plan, which does not include a
58.26 homeless shelter, if the original housing plan is unworkable;

58.27 (x) the child, if male, has registered for the Selective Service; and

58.28 (xi) the child has a permanent connection to a caring adult.

58.29 The child in conjunction with the placement provider and the responsible social services
58.30 agency shall work to complete the goals of the living plan.

58.31 (3) The court shall ensure that the responsible agency assists the child in obtaining
58.32 the following documents prior to the child's leaving foster care: a Social Security card; the
58.33 child's birth certificate; a state identification card or driver's license, green card, or school
58.34 visa; the child's school, medical, and dental records; a contact list of the child's medical,
58.35 dental, and mental health providers; and contact information for the child's siblings, if the
58.36 siblings are in foster care.

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Sec. 47. Minnesota Statutes 2006, section 260C.325, subdivision 1, is amended to read:

Subdivision 1. **Transfer of custody.** (a) If the court terminates parental rights of both parents or of the only known living parent, the court shall order the guardianship and the legal custody of the child transferred to:

~~(a)~~ (1) the commissioner of human services; ~~or~~
~~(b)~~ (2) a licensed child-placing agency; or
~~(c)~~ (3) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order transfer of guardianship and legal custody of a child to the commissioner of human services only when the responsible county social services agency had legal responsibility for planning for the permanent placement of the child and the child was in foster care under the legal responsibility of the responsible county social services agency at the time the court orders guardianship and legal custody transferred to the commissioner.

Sec. 48. Minnesota Statutes 2006, section 260C.325, subdivision 3, is amended to read:

Subd. 3. **Both parents deceased.** (a) If upon petition to the juvenile court by a reputable person, including but not limited to an agent of the commissioner of human services, and upon hearing in the manner provided in section 260C.163, the court finds that both parents or the only known legal parent are or is deceased and no appointment has been made or petition for appointment filed pursuant to sections 524.5-201 to 524.5-317, the court shall order the guardianship and legal custody of the child transferred to:

~~(a)~~ (1) the commissioner of human services;
~~(b)~~ (2) a licensed child-placing agency; or
~~(c)~~ (3) an individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

(b) The court shall order transfer of guardianship and legal custody of a child to the commissioner of human services only if there is no individual who is willing and capable of assuming the appropriate duties and responsibilities to the child.

Sec. 49. Minnesota Statutes 2006, section 524.2-114, is amended to read:

524.2-114 MEANING OF CHILD AND RELATED TERMS.

If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:

(1) An adopted ~~person~~ child is the child of an adopting parent and not of the birth parents except that adoption of a child by the spouse of a birth parent has no effect on

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the relationship between the child and that birth parent. If a parent dies and a child is subsequently adopted by a stepparent who is the spouse of a surviving parent, any rights of inheritance of the child or the child's descendant from or through the deceased parent of the child which exist at the time of the death of that parent shall not be affected by the adoption.

(2) In cases not covered by clause (1), a person is the child of the person's parents regardless of the marital status of the parents and the parent and child relationship may be established under the Parentage Act, sections 257.51 to 257.74.

Sec. 50. Minnesota Statutes 2006, section 626.556, subdivision 7, is amended to read:

Subd. 7. **Report.** An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. The local welfare agency shall determine if the report is accepted for an assessment or investigation as soon as possible but in no event longer than 24 hours after the report is received. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. If requested, the local welfare agency or the agency responsible for assessing or investigating the report shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

Sec. 51. Minnesota Statutes 2007 Supplement, section 626.556, subdivision 10a, is amended to read:

Subd. 10a. **Law enforcement agency responsibility for investigation; welfare agency reliance on law enforcement fact-finding; welfare agency offer of services.**

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

(b) The local agency may rely on the fact-finding efforts of the law enforcement investigation conducted under this subdivision to make a determination whether or not threatened ~~harm~~ injury 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. 52. **REVISOR'S INSTRUCTION.**

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
<u>259.67</u>	<u>260.851, article 5</u>	<u>260.853, article 4</u>
<u>256B.094</u>	<u>260.851</u>	<u>260.853</u>

EFFECTIVE DATE. This section is effective upon legislative enactment of the interstate compact in section 25 by no less than 35 states.

Sec. 53. **REPEALER.**

(a) Minnesota Statutes 2006, section 260.851, is repealed effective upon legislative enactment of the interstate compact in section 25 by no less than 35 states. The commissioner of human services shall inform the revisor of statutes when this occurs.

(b) Minnesota Statutes 2006, sections 260B.241; and 260C.207, are repealed.

(c) Minnesota Rules, part 9560.0092, is repealed.

ARTICLE 2

DATA PRIVACY

Section 1. Minnesota Statutes 2006, section 13.02, subdivision 3a, is amended to read:

Subd. 3a. **Criminal justice agencies.** "Criminal justice agencies" means all state and local prosecution authorities, all state and local law enforcement agencies, the Sentencing Guidelines Commission, the Bureau of Criminal Apprehension, the Department of Corrections, and all probation officers who are not part of the judiciary, and fraud and crime investigation units operated or supervised by the Department of Human Services.

Sec. 2. Minnesota Statutes 2006, section 13.46, is amended by adding a subdivision to read:

Subd. 12. **Child care resource and referral programs.** This subdivision applies to data collected by child care resource and referral programs under section 119B.19. Data collected under section 119B.19 is not licensing data under subdivision 4. Data on unlicensed family child care providers is data on individuals governed by subdivision 2. In addition to the disclosures authorized by this section, the names and addresses of unlicensed family child care providers may be disclosed to the commissioner of education for purposes of promoting and evaluating school readiness.

Sec. 3. Minnesota Statutes 2006, section 13.46, is amended by adding a subdivision to read:

Subd. 13. **Family, friend, and neighbor grant program.** This subdivision applies to data collected by family, friend, and neighbor (FFN) grantees under section 119B.232. Data collected under section 119B.232 is data on individuals governed by subdivision 2. The commissioner may disclose private data collected under this section to early childhood care and education experts at the University of Minnesota to evaluate the impact of the grants under subdivision 2 on children's school readiness and to evaluate the FFN grant program. The commissioner may disclose the names and addresses of FFN caregivers to the commissioner of education for purposes of promoting and evaluating school readiness.

Sec. 4. Minnesota Statutes 2006, section 13.82, subdivision 1, is amended to read:

Subdivision 1. **Application.** This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the Bureau of Criminal Apprehension, the Minnesota State Patrol, the Board of Peace Officer Standards and Training, the

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63.1 Department of Commerce, and ~~the program integrity section of, and county human service~~
63.2 ~~agency client and provider fraud prevention and control~~ crime investigation units operated
63.3 or supervised by the Department of Human Services.

63.4 Sec. 5. Minnesota Statutes 2006, section 246.13, subdivision 2, is amended to read:

63.5 Subd. 2. **Definitions; risk assessment and management.** (a) As used in this
63.6 section:

63.7 (1) "appropriate and necessary medical and other records" includes patient medical
63.8 records and other protected health information as defined by Code of Federal Regulations,
63.9 title 45, section 164.501, relating to a patient in a state-operated services facility including,
63.10 but not limited to, the patient's treatment plan and abuse prevention plan that is pertinent
63.11 to the patient's ongoing care, treatment, or placement in a community-based treatment
63.12 facility or a health care facility that is not operated by state-operated services, and
63.13 includes information describing the level of risk posed by a patient when the patient
63.14 enters the facility;

63.15 (2) "community-based treatment" means the community support services listed in
63.16 section 253B.02, subdivision 4b;

63.17 (3) "criminal history data" means those data maintained or used by the Departments
63.18 of Corrections and Public Safety and by the supervisory authorities listed in section 13.84,
63.19 subdivision 1, that relate to an individual's criminal history or propensity for violence,
63.20 including data in the Corrections Offender Management System (COMS) and Statewide
63.21 Supervision System (S3) maintained by the Department of Corrections; the Criminal
63.22 Justice Information System (CJIS) and the Predatory Offender Registration (POR) system
63.23 maintained by the Department of Public Safety; and the CriMNet system;

63.24 (4) "designated agency" means the agency defined in section 253B.02, subdivision 5;

63.25 (5) "law enforcement agency" means the law enforcement agency having primary
63.26 jurisdiction over the location where the offender expects to reside upon release;

63.27 (6) "predatory offender" and "offender" mean a person who is required to register as
63.28 a predatory offender under section 243.166; and

63.29 (7) "treatment facility" means a facility as defined in section 253B.02, subdivision 19.

63.30 (b) To promote public safety and for the purposes and subject to the requirements of
63.31 this paragraph, the commissioner or the commissioner's designee shall have access to, and
63.32 may review and disclose, medical and criminal history data as provided by this section, as
63.33 necessary to comply with Minnesota Rules, part 1205.0400:

63.34 (1) to determine whether a patient is required under state law to register as a
63.35 predatory offender according to section 243.166;

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(2) to facilitate and expedite the responsibilities of the special review board and end-of-confinement review committees by corrections institutions and state treatment facilities;

(3) to prepare, amend, or revise the abuse prevention plans required under section 626.557, subdivision 14, and individual patient treatment plans required under section 253B.03, subdivision 7;

(4) to facilitate the custody, supervision, and transport of individuals transferred between the Department of Corrections and the Department of Human Services; or

(5) to effectively monitor and supervise individuals who are under the authority of the Department of Corrections, the Department of Human Services, and the supervisory authorities listed in section 13.84, subdivision 1, including to investigate suspected fraudulent or criminal activity; or violations of conditions of probation, supervised release, or conditional release.

(c) The state-operated services treatment facility must make a good faith effort to obtain written authorization from the patient before releasing information from the patient's medical record.

(d) If the patient refuses or is unable to give informed consent to authorize the release of information required above, the chief executive officer for state-operated services shall provide the appropriate and necessary medical and other records. The chief executive officer shall comply with the minimum necessary requirements.

(e) The commissioner may have access to the National Crime Information Center (NCIC) database, through the Department of Public Safety, in support of the law enforcement functions described in paragraph (b).

Sec. 6. Minnesota Statutes 2007 Supplement, 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:

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

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

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

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

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

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

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

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

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

65.34 (d) Administer and supervise all noninstitutional service to disabled persons,
65.35 including those who are visually impaired, hearing impaired, or physically impaired
65.36 or otherwise disabled. The commissioner may provide and contract for the care and

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66.1 treatment of qualified indigent children in facilities other than those located and available
66.2 at state hospitals when it is not feasible to provide the service in state hospitals.

66.3 (e) Assist and actively cooperate with other departments, agencies and institutions,
66.4 local, state, and federal, by performing services in conformity with the purposes of Laws
66.5 1939, chapter 431.

66.6 (f) Act as the agent of and cooperate with the federal government in matters of
66.7 mutual concern relative to and in conformity with the provisions of Laws 1939, chapter
66.8 431, including the administration of any federal funds granted to the state to aid in the
66.9 performance of any functions of the commissioner as specified in Laws 1939, chapter 431,
66.10 and including the promulgation of rules making uniformly available medical care benefits
66.11 to all recipients of public assistance, at such times as the federal government increases its
66.12 participation in assistance expenditures for medical care to recipients of public assistance,
66.13 the cost thereof to be borne in the same proportion as are grants of aid to said recipients.

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

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

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

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

66.34 (k) Establish county, regional, or statewide schedules of maximum fees and charges
66.35 which may be paid by county agencies for medical, dental, surgical, hospital, nursing and
66.36 nursing home care and medicine and medical supplies under all programs of medical

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67.1 care provided by the state and for congregate living care under the income maintenance
67.2 programs.

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

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

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

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

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

67.25 (1) one-half of the total amount of the disallowance shall be borne by the county
67.26 boards responsible for administering the programs. For the medical assistance and the
67.27 AFDC program formerly codified in sections 256.72 to 256.87, disallowances shall be
67.28 shared by each county board in the same proportion as that county's expenditures for the
67.29 sanctioned program are to the total of all counties' expenditures for the AFDC program
67.30 formerly codified in sections 256.72 to 256.87, and medical assistance programs. For the
67.31 food stamp program, sanctions shall be shared by each county board, with 50 percent of
67.32 the sanction being distributed to each county in the same proportion as that county's
67.33 administrative costs for food stamps are to the total of all food stamp administrative costs
67.34 for all counties, and 50 percent of the sanctions being distributed to each county in the
67.35 same proportion as that county's value of food stamp benefits issued are to the total of
67.36 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

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69.1 shortened to 20 calendar days to avoid jeopardizing compliance with federal deadlines
69.2 or risking a loss of federal funding. Only reports that are complete, legible, and in the
69.3 required format shall be accepted by the commissioner;

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

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

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

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

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

69.33 (r) Allocate federal fiscal disallowances or sanctions for audit exceptions when
69.34 federal fiscal disallowances or sanctions are based on a statewide random sample for
69.35 the foster care program under title IV-E of the Social Security Act, United States Code,

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70.1 title 42, in direct proportion to each county's title IV-E foster care maintenance claim
70.2 for that period.

70.3 (s) Be responsible for ~~ensuring~~ the detection, prevention, investigation, and
70.4 ~~resolution~~ mitigation of possible fraudulent or criminal activities or behavior by applicants,
70.5 ~~recipients, and other participants in~~ involving the human services programs administered
70.6 by the department or participants in such programs, including programs and in facilities
70.7 operated by state operated services. During the course of an active investigation or
70.8 legal proceedings involving a human services program, state and local law enforcement
70.9 agencies, local county human services agencies, and other fraud and criminal investigation
70.10 units under the authority of the commissioner shall coordinate investigative activities and
70.11 may not share public data without the authorization of a data subject.

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

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

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

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71.1 (w) Have the authority to administer a supplemental drug rebate program for drugs
71.2 purchased under the medical assistance program. The commissioner may enter into
71.3 supplemental rebate contracts with pharmaceutical manufacturers and may require prior
71.4 authorization for drugs that are from manufacturers that have not signed a supplemental
71.5 rebate contract. Prior authorization of drugs shall be subject to the provisions of section
71.6 256B.0625, subdivision 13.

71.7 (x) Operate the department's communication systems account established in Laws
71.8 1993, First Special Session chapter 1, article 1, section 2, subdivision 2, to manage shared
71.9 communication costs necessary for the operation of the programs the commissioner
71.10 supervises. A communications account may also be established for each regional
71.11 treatment center which operates communications systems. Each account must be used
71.12 to manage shared communication costs necessary for the operations of the programs the
71.13 commissioner supervises. The commissioner may distribute the costs of operating and
71.14 maintaining communication systems to participants in a manner that reflects actual usage.
71.15 Costs may include acquisition, licensing, insurance, maintenance, repair, staff time and
71.16 other costs as determined by the commissioner. Nonprofit organizations and state, county,
71.17 and local government agencies involved in the operation of programs the commissioner
71.18 supervises may participate in the use of the department's communications technology and
71.19 share in the cost of operation. The commissioner may accept on behalf of the state any
71.20 gift, bequest, devise or personal property of any kind, or money tendered to the state for
71.21 any lawful purpose pertaining to the communication activities of the department. Any
71.22 money received for this purpose must be deposited in the department's communication
71.23 systems accounts. Money collected by the commissioner for the use of communication
71.24 systems must be deposited in the state communication systems account and is appropriated
71.25 to the commissioner for purposes of this section.

71.26 (y) Receive any federal matching money that is made available through the medical
71.27 assistance program for the consumer satisfaction survey. Any federal money received for
71.28 the survey is appropriated to the commissioner for this purpose. The commissioner may
71.29 expend the federal money received for the consumer satisfaction survey in either year of
71.30 the biennium.

71.31 (z) Designate community information and referral call centers and incorporate
71.32 cost reimbursement claims from the designated community information and referral
71.33 call centers into the federal cost reimbursement claiming processes of the department
71.34 according to federal law, rule, and regulations. Existing information and referral centers
71.35 provided by Greater Twin Cities United Way or existing call centers for which Greater
71.36 Twin Cities United Way has legal authority to represent, shall be included in these

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72.1 designations upon review by the commissioner and assurance that these services are
72.2 accredited and in compliance with national standards. Any reimbursement is appropriated
72.3 to the commissioner and all designated information and referral centers shall receive
72.4 payments according to normal department schedules established by the commissioner
72.5 upon final approval of allocation methodologies from the United States Department of
72.6 Health and Human Services Division of Cost Allocation or other appropriate authorities.

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

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

72.14 (cc) Have the authority to administer a drug rebate program for drugs purchased for
72.15 persons eligible for general assistance medical care under section 256D.03, subdivision 3.
72.16 For manufacturers that agree to participate in the general assistance medical care rebate
72.17 program, the commissioner shall enter into a rebate agreement for covered drugs as
72.18 defined in section 256B.0625, subdivisions 13 and 13d. For each drug, the amount of the
72.19 rebate shall be equal to the rebate as defined for purposes of the federal rebate program in
72.20 United States Code, title 42, section 1396r-8. The manufacturers must provide payment
72.21 within the terms and conditions used for the federal rebate program established under
72.22 section 1927 of title XIX of the Social Security Act. The rebate program shall utilize
72.23 the terms and conditions used for the federal rebate program established under section
72.24 1927 of title XIX of the Social Security Act.

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

72.27 (1) are covered under the medical assistance program as described in section
72.28 256B.0625, subdivisions 13 and 13d; and

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

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

Sec. 7. Laws 2007, chapter 147, article 2, section 56, is amended to read:

Sec. 56. COMMISSIONER OF HUMAN SERVICES DUTIES; EARLY CHILDHOOD AND SCHOOL-AGE PROFESSIONAL DEVELOPMENT TRAINING.

Subdivision 1. **Development and implementation of an early childhood and school-age professional development system.** (a) The commissioner of human services, in cooperation with the commissioners of education and health, shall develop and phase-in the implementation of a professional development system for practitioners serving children in early childhood and school-age programs. The system shall provide training options and supports for practitioners to voluntarily choose, as they complete or exceed existing licensing requirements.

The system must, at a minimum, include the following features:

(1) a continuum of training content based on the early childhood and school-age care practitioner core competencies that translates knowledge into improved practice to support children's school success;

(2) training strategies that provide direct feedback about practice to practitioners through ongoing consultation, mentoring, or coaching with special emphasis on early literacy and early mathematics;

(3) an approval process for trainers;

(4) a professional development registry for early childhood and school-age care practitioners that will provide tracking and recognition of practitioner training/career development progress;

(5) a career lattice that includes a range of professional development and educational opportunities that provide appropriate coursework and degree pathways;

(6) development of a plan with public higher education institutions for an articulated system of education, training, and professional development that includes credit for prior learning and development of equivalences to two- and four-year degrees;

(7) incentives and supports for early childhood and school-age care practitioners to seek additional training and education, including TEACH, other scholarships, and career guidance; and

(8) coordinated and accessible delivery of training to early childhood and school-age care practitioners.

(b) By January 1, 2008, the commissioner, in consultation with the organizations named in subdivision 2 shall develop additional opportunities in order to qualify more licensed family child care providers under section 119B.13, subdivision 3a.

(c) The commissioner of human services must evaluate the professional development system and make continuous improvements.

(d) Beginning July 1, 2007, as appropriations permit, the commissioner shall phase-in the professional development system.

Subd. 2. **Two-hour early childhood training.** By January 15, 2008, the commissioner of human services, with input from the Minnesota Licensed Family Child Care Association and the Minnesota Professional Development Council, shall identify trainings that qualify for the two-hour early childhood development training requirement for new child care practitioners under Minnesota Statutes, section 245A.14, subdivision 9a, paragraphs (a) and (b). For licensed family child care, the commissioner shall also seek the input of labor unions that serve licensed family child care providers, if the union has been recognized by a county to serve licensed family child care providers.

Subd. 3. **Data classification for child care practitioner professional development system.** This subdivision applies to data collected under this section by the child care practitioner professional development system. Data collected under this section is welfare data under section 13.46 but is not licensing data under section 13.46, subdivision 4. Data on individuals who are licensed family child care providers is private data on individuals governed by section 13.46, subdivision 2. The commissioner may disclose nonpublic data collected under this section as described in section 13.46, subdivision 2. The commissioner also may disclose private and nonpublic data collected under this section to the following entities:

(1) personnel of the welfare system who require the data for child care licensing purposes;

(2) personnel of the welfare system who require the data to administer or evaluate the child care assistance program;

(3) the commissioner of education for purposes of implementing, administering, and evaluating the child care practitioner professional development system;

(4) the commissioner of health for purposes of implementing and administering this section; and

(5) an individual's employer for purposes of tracking and verifying employee training, education, and expertise.

APPENDIX
Article locations in H3564-1

ARTICLE 1	CHILD WELFARE	Page.Ln 1.25
ARTICLE 2	DATA PRIVACY	Page.Ln 62.1

260.851 INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN.

The Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

ARTICLE 1

PURPOSE AND POLICY

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis on which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE 2

DEFINITIONS

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or persons having epilepsy or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE 3

CONDITIONS FOR PLACEMENT

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE 4

PENALTY FOR ILLEGAL PLACEMENT

APPENDIX

Repealed Minnesota Statutes: H3564-1

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE 5

RETENTION OF JURISDICTION

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE 6

INSTITUTIONAL CARE OF DELINQUENT CHILDREN

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE 7

COMPACT ADMINISTRATOR

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE 8

LIMITATIONS

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE 9

ENACTMENT AND WITHDRAWAL

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party

APPENDIX

Repealed Minnesota Statutes: H3564-1

jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE 10

CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

260B.241 REPORTS ON ACHIEVEMENT OF GOALS OF COURT-ORDERED OUT-OF-HOME PLACEMENTS.

By January 15, 2002, and each January 15 after that, the commissioners of corrections and human services shall report to the legislature on the extent to which the goals of court-ordered out-of-home placements required under section 260B.193, subdivision 4, are being met.

260C.207 REPORTS ON ACHIEVEMENT OF GOALS OF COURT-ORDERED OUT-OF-HOME PLACEMENTS.

By January 15, 2002, and each January 15 after that, the commissioners of corrections and human services shall report to the legislature on the extent to which the goals of court-ordered out-of-home placements required under section 260C.193, subdivision 5, are being met.