

A bill for an act

relating to human services; amending child welfare provisions; changing a standard of evidence; adopting a new Interstate Compact for the Placement of Children and repealing the old compact; regulating child and adult adoptions; changing adoption records provisions; regulating voluntary foster care for treatment; amending Minnesota Statutes 2006, sections 13.46, by adding subdivisions; 13.465, subdivision 8; 144.218, subdivision 1; 144.225, subdivision 2; 144.2252; 245C.24, subdivision 2; 245C.29, 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; 260C.001, subdivision 2; 260C.007, subdivisions 5, 6, 13; 260C.101, subdivision 2; 260C.141, subdivision 2; 260C.171, subdivision 2; 260C.178, subdivision 1; 260C.205; 260C.212, subdivisions 7, 8, by adding a subdivision; 260C.317, subdivision 4; 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; 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, subdivisions 1, 4; 626.556, subdivision 10a; Laws 2007, chapter 147, article 2, section 56; proposing coding for new law in Minnesota Statutes, chapters 144; 259; 260; proposing coding for new law as Minnesota Statutes, chapter 260D; repealing Minnesota Statutes 2006, sections 259.83, subdivision 3; 259.89, subdivisions 3, 5; 260.851; 260B.241; 260C.207; Minnesota Rules, parts 9560.0092; 9560.0093, subpart 2.

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

ARTICLE 1

CHILD WELFARE

Section 1. Minnesota Statutes 2006, section 13.46, is amended by adding a subdivision to read:

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

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

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

2.18 Sec. 3. Minnesota Statutes 2007 Supplement, section 245C.14, subdivision 1, is
2.19 amended to read:

2.20 Subdivision 1. **Disqualification from direct contact.** (a) The commissioner shall
2.21 disqualify an individual who is the subject of a background study from any position
2.22 allowing direct contact with persons receiving services from the license holder or entity
2.23 identified in section 245C.03, upon receipt of information showing, or when a background
2.24 study completed under this chapter shows any of the following:

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

2.28 (2) ~~a preponderance of the~~ clear and convincing evidence indicates the individual
2.29 has committed an act or acts that meet the definition of any of the crimes listed in section
2.30 245C.15, regardless of whether the ~~preponderance of the~~ clear and convincing evidence is
2.31 for a felony, gross misdemeanor, or misdemeanor level crime; or

2.32 (3) an investigation results in an administrative determination listed under section
2.33 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. 4. 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 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.

(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. 5. 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 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. 6. 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.

(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. 7. 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), (c) and (d), 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. 8. 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 (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. 9. 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.

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

Sec. 11. Minnesota Statutes 2006, section 256.045, subdivision 3, is amended to read:

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following: (1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid; (2) any patient or relative aggrieved by an order of the commissioner under section 252.27; (3) a party aggrieved by a ruling of a prepaid health plan; (4) except as provided under chapter 245C, any individual or facility determined by a lead agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557; (5) any person whose claim for foster care payment according to a placement of

the child resulting from a child protection assessment under section 626.556 is denied or not acted upon with reasonable promptness, regardless of funding source; (6) any person to whom a right of appeal according to this section is given by other provision of law; (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15; (8) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a; (9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under section 626.556, after the individual or facility has exercised the right to administrative reconsideration under section 626.556; or (10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, on the basis of serious or recurring maltreatment; ~~a preponderance of the~~ clear and convincing evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, which has not been set aside under sections 245C.22 and 245C.23, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services referee shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment. Individuals and organizations specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause why the request was not submitted within the 30-day time limit.

The hearing for an individual or facility under clause (4), (9), or (10) is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under clause (4) apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under clause (9) apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under clause (9) is only available when there is no juvenile court or adult criminal action

pending. If such action is filed in either court while an administrative review is pending, the administrative review must be suspended until the judicial actions are completed. If the juvenile court action or criminal charge is dismissed or the criminal action overturned, the matter may be considered in an administrative hearing.

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

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

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

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

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

Sec. 12. 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.

14.1 (b) If the disqualification is affirmed, the state human services referee shall
14.2 determine whether the individual poses a risk of harm in accordance with the requirements
14.3 of section 245C.16, and whether the disqualification should be set aside or not set aside.
14.4 In determining whether the disqualification should be set aside, the human services
14.5 referee shall consider all of the characteristics that cause the individual to be disqualified,
14.6 including those characteristics that were not subject to review under paragraph (a), in
14.7 order to determine whether the individual poses a risk of harm. A decision to set aside
14.8 a disqualification that is the subject of the hearing constitutes a determination that the
14.9 individual does not pose a risk of harm and that the individual may provide direct contact
14.10 services in the individual program specified in the set aside. If a determination that the
14.11 information relied upon to disqualify an individual was correct and is conclusive under
14.12 section 245C.29, and the individual is subsequently disqualified under section 245C.14,
14.13 the individual has a right to again request reconsideration on the risk of harm under section
14.14 245C.21. Subsequent determinations regarding risk of harm are not subject to another
14.15 hearing under this section.

14.16 (c) The state human services referee shall recommend an order to the commissioner
14.17 of health, education, or human services, as applicable, who shall issue a final order. The
14.18 commissioner shall affirm, reverse, or modify the final disposition. Any order of the
14.19 commissioner issued in accordance with this subdivision is conclusive upon the parties
14.20 unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal
14.21 under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.46,
14.22 the commissioner's determination as to maltreatment is conclusive, as provided under
14.23 section 245C.29.

14.24 Sec. 13. Minnesota Statutes 2006, section 259.20, subdivision 1, is amended to read:

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

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

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

14.31 Sec. 14. Minnesota Statutes 2006, section 259.21, is amended by adding a subdivision
14.32 to read:

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

15.1 Sec. 15. Minnesota Statutes 2006, section 259.22, subdivision 2, is amended to read:

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

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

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

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

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

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

15.15 Sec. 16. Minnesota Statutes 2006, section 259.23, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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

15.31 (h) That the petitioner desires that the relationship of parent and child be established
15.32 between petitioner and the ~~child~~, ~~and that it is to the~~ person to be adopted and that adoption
15.33 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. 17. [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. 18. 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. 19. 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 prospective adoptive parent with a ~~complete, thorough, detailed, and current~~ social and medical history of the ~~birth families~~ child being adopted, ~~if information is known after~~ reasonable inquiry. Each ~~birth family~~ child social and medical history must be provided on a form ~~or forms~~ prepared by the commissioner ~~and must include background and health history specific to the child, the child's birth parents, and the child's other birth relatives.~~ ~~Applicable background and health information about the child includes: the child's current health condition, behavior, and demeanor; placement history; education history; sibling information; and birth, medical, dental, and immunization information. Redacted copies of pertinent records, assessments, and evaluations shall be attached to the child's social and medical history. Applicable background information about the child's birth parents and other birth relatives includes: general background information; education and employment history; physical health and mental health history; and reasons for the child's placement. The child's social and medical history shall be completed in a manner so that the completed form protects the identities of all individuals described in it. The commissioner shall make the form available to agencies and court administrators for public distribution. The birth~~

18.1 ~~family~~ child's social and medical history must be provided to the prospective adoptive
18.2 family prior to adoptive placement, provided to the Department of Human Services
18.3 with application for adoption assistance, if applicable, and filed with the court when the
18.4 adoption petition is filed, ~~or,~~ In a direct adoptive placement, the child's social and medical
18.5 history must be filed with the court with the motion for temporary preadoptive custody.

18.6 Sec. 20. Minnesota Statutes 2006, section 259.52, subdivision 2, is amended to read:

18.7 Subd. 2. **Requirement to search registry before adoption petition can be**
18.8 **granted; proof of search.** No petition for adoption may be granted unless the agency
18.9 supervising the adoptive placement, the birth mother of the child, or, in the case of a
18.10 stepparent or relative adoption, the county agency responsible for the report required
18.11 under section 259.53, subdivision 1, requests that the commissioner of health search the
18.12 registry to determine whether a putative father is registered in relation to a child who is
18.13 or may be the subject of an adoption petition. The search required by this subdivision
18.14 must be conducted no sooner than 31 days following the birth of the child. A search
18.15 of the registry may be proven by the production of a certified copy of the registration
18.16 form or by a certified statement of the commissioner of health that after a search no
18.17 registration of a putative father in relation to a child who is or may be the subject of
18.18 an adoption petition could be located. The filing of a certified copy of an order from a
18.19 juvenile protection matter under chapter 260C containing a finding that certification of the
18.20 requisite search of the Minnesota Fathers' Adoption Registry was filed with the court in
18.21 that matter shall also constitute proof of search. Certification that the fathers' adoption
18.22 registry has been searched must be filed with the court prior to entry of any final order of
18.23 adoption. In addition to the search required by this subdivision, the agency supervising
18.24 the adoptive placement, the birth mother of the child, or, in the case of a stepparent or
18.25 relative adoption, the ~~county~~ social services agency responsible for the report under
18.26 section 259.53, subdivision 1, or the responsible social services agency that is a petitioner
18.27 in a juvenile protection matter under chapter 260C may request that the commissioner
18.28 of health search the registry at any time.

18.29 Sec. 21. Minnesota Statutes 2006, section 259.53, subdivision 3, is amended to read:

18.30 Subd. 3. **Reports and records.** (a) The contents of all reports and records of the
18.31 commissioner of human services, local social services agency, or child-placing agency
18.32 bearing on the suitability of the proposed adoptive home and the child to each other shall
18.33 not be disclosed either directly or indirectly to any person other than the commissioner of
18.34 human services, the child's guardian ad litem appointed under: (1) section 260C.163 when

19.1 the guardian's appointment continues under section 260C.317, subdivision 3, paragraph
19.2 (b); or (2) section 259.65 or a judge of the court having jurisdiction of the matter, except
19.3 as provided in paragraph (b).

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

19.11 Sec. 22. Minnesota Statutes 2007 Supplement, section 259.57, subdivision 1, is
19.12 amended to read:

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

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

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

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

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

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

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

19.33 Sec. 23. 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. 24. 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. 25. 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

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

21.11 Sec. 26. Minnesota Statutes 2006, section 259.67, subdivision 3, is amended to read:

21.12 Subd. 3. ~~Annual affidavit~~ **Modification or termination of the adoption assistance**
21.13 **agreement.** ~~When adoption assistance agreements are for more than one year, the adoptive~~
21.14 ~~parents or guardian or conservator shall annually present an affidavit stating whether the~~
21.15 ~~adopted person remains under their care and whether the need for adoption assistance~~
21.16 ~~continues to exist. The commissioner may verify the affidavit.~~ The adoption assistance
21.17 agreement shall continue in accordance with its terms as long as the need for adoption
21.18 assistance continues and the adopted ~~person~~ child is the legal or financial dependent of the
21.19 adoptive parent or parents or guardian or conservator and is under 18 years of age. The
21.20 adoption assistance agreement may be extended to age 22 as allowed by rules adopted
21.21 by the commissioner. Termination or modification of the adoption assistance agreement
21.22 may be requested by the adoptive parents or subsequent guardian or conservator at any
21.23 time. When the commissioner determines that a child is eligible for adoption assistance
21.24 under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to
21.25 679a, the commissioner shall modify the adoption assistance agreement in order to obtain
21.26 the funds under that act.

21.27 Sec. 27. Minnesota Statutes 2006, section 259.67, is amended by adding a subdivision
21.28 to read:

21.29 Subd. 3a. **Recovery of overpayments.** An amount of adoption assistance paid to
21.30 an adoptive parent in excess of the payment due is recoverable by the commissioner,
21.31 even when the overpayment was caused by agency error or circumstances outside the
21.32 responsibility and control of the family or provider. Adoption assistance amounts covered
21.33 by this subdivision include basic maintenance needs payments, monthly supplemental

22.1 maintenance needs payments, reimbursement of nonrecurring adoption expenses,
22.2 reimbursement of special nonmedical costs, and reimbursement of medical costs.

22.3 Sec. 28. Minnesota Statutes 2007 Supplement, section 259.67, subdivision 4, is
22.4 amended to read:

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

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

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

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

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

22.19 (3)(i) The child ~~has been~~ is a ward of the commissioner, ~~a Minnesota-licensed~~
22.20 ~~child-placing agency,~~ or a tribal social service agency of Minnesota recognized by the
22.21 Secretary of the Interior; or (ii) the child will be adopted according to tribal law without a
22.22 termination of parental rights or relinquishment, provided that the tribe has documented
22.23 the valid reason why the child cannot or should not be returned to the home of the child's
22.24 parent. The placing agency shall not certify a child who remains under the jurisdiction
22.25 of the sending agency pursuant to section 260.851, article 5, for state-funded adoption
22.26 assistance when Minnesota is the receiving state. A child who is adopted by the child's
22.27 legal custodian or guardian shall not be eligible for state-funded adoption assistance.

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

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

22.34 (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. 29. 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. 30. 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.

Sec. 31. 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. 32. 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 the parents identified on the original birth record have filed a consent to disclosure with the commissioner of health and neither consent to disclosure has been revoked by the subsequent filing by a parent of an affidavit stating that the information should not be disclosed. If only one parent has filed a consent to disclosure and the consent has not been revoked, the commissioner of health shall disclose, to the adopted person, original birth record information on the consenting parent only.

Sec. 33. Minnesota Statutes 2006, section 259.89, is amended by adding a subdivision to read:

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

Sec. 34. [260.853] INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN.

ARTICLE I. PURPOSE

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

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

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

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

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

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

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

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

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

ARTICLE II. DEFINITIONS

As used in this compact,

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

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

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

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

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

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

G. "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims settlement Act at 43 USC §1602(c).

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

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

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

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

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

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

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

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

P. "Private child-placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates,

27.1 causes, or is involved in the placement of a child from one state to another and that is not
27.2 an instrumentality of the state or acting under color of state law.

27.3 Q. "Provisional placement" means a determination made by the public child-placing
27.4 agency in the receiving state that the proposed placement is safe and suitable, and, to the
27.5 extent allowable, the receiving state has temporarily waived its standards or requirements
27.6 otherwise applicable to prospective foster or adoptive parents so as to not delay the
27.7 placement. Completion of an assessment and the receiving state requirements regarding
27.8 training for prospective foster or adoptive parents shall not delay an otherwise safe and
27.9 suitable placement.

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

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

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

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

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

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

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

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

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

AA. "State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or 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 in a custody proceeding in which a public child placing agency is not a party, provided, the placement is not intended to effectuate an adoption.

2. 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.

3. 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.

4. 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.

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

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

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

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

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

29.9 5. A child entering the United States from a foreign country for the purpose of
29.10 adoption or leaving the United States to go to a foreign country for the purpose of
29.11 adoption in that country.

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

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

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

29.21 D. Nothing in this compact shall be construed to prohibit the concurrent application
29.22 of the provisions of this compact with other applicable interstate compacts including the
29.23 Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical
29.24 Assistance. The Interstate Commission may in cooperation with other interstate compact
29.25 commissions having responsibility for the interstate movement, placement or transfer of
29.26 children, promulgate like rules to ensure the coordination of services, timely placement
29.27 of children, and the reduction of unnecessary or duplicative administrative or procedural
29.28 requirements.

29.29 ARTICLE IV. JURISDICTION

29.30 A. Except as provided in Article IV, Section G, concerning private and independent
29.31 adoptions, and in interstate placements in which the public child placing agency is not a
29.32 party to a custody proceeding the sending state shall retain jurisdiction over a child with
29.33 respect to all matters of custody and disposition of the child which it would have had if the
29.34 child had remained in the sending state. Such jurisdiction shall also include the power to
29.35 order the return of the child to the sending state.

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

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

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

2. The child is adopted;

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE V. PLACEMENT EVALUATION

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

31.4 B. For placements by a private child-placing agency, a child may be sent or brought,
31.5 or caused to be sent or brought, into a receiving state, upon receipt and immediate review
31.6 of the required content to accompany a request for approval of a placement in both the
31.7 sending and receiving state public child-placing agency. The required content for a request
31.8 for provisional approval shall include all of the following:

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

31.11 2. The appropriate consents or relinquishments signed by the birth parents in
31.12 accordance with the laws of the sending state, or where permitted by the laws of the state
31.13 where the adoption will be finalized; and

31.14 3. Certification by a licensed attorney or other authorized agent of a private adoption
31.15 agency that the consent or relinquishment is in compliance with the applicable laws of the
31.16 sending state, or where permitted the laws of the state where finalization of the adoption
31.17 will occur; and

31.18 4. A home study; and

31.19 5. An acknowledgment of legal risk signed by the prospective adoptive parents.

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

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

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

31.30 F. Upon receipt of a request from the public child-placing agency of the sending
31.31 state, the receiving state shall initiate an assessment of the proposed placement to
31.32 determine its safety and suitability. If the proposed placement is a placement with a
31.33 relative, the public child-placing agency of the sending state may request a determination
31.34 for a provisional placement.

31.35 G. The public child-placing agency in the receiving state may request from the
31.36 public child-placing agency or the private child-placing agency in the sending state, and

32.1 shall be entitled to receive supporting or additional information necessary to complete
32.2 the assessment.

32.3 ARTICLE VI. PLACEMENT AUTHORITY

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

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

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

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

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

32.20 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

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

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

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

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

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

32.30 a. any assessment conducted by the receiving state; and

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

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

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

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

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

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

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

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

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

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

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

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

33.30 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

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

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

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

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

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

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

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

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

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

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

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

B. To provide for dispute resolution among member states.

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

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

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

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

G. To purchase and maintain insurance and bonds.

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

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

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

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

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

M. To establish a budget and make expenditures.

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

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 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 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.

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

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

- 39.7 1. Transition rules
- 39.8 2. Forms and procedures
- 39.9 3. Time lines
- 39.10 4. Data collection and reporting
- 39.11 5. Rulemaking
- 39.12 6. Visitation
- 39.13 7. Progress reports/supervision
- 39.14 8. Sharing of information/confidentiality
- 39.15 9. Financing of the Interstate Commission
- 39.16 10. Mediation, arbitration and dispute resolution
- 39.17 11. Education, training and technical assistance
- 39.18 12. Enforcement
- 39.19 13. Coordination with other interstate compacts

39.20 I. Upon determination by a majority of the members of the Interstate Commission
39.21 that an emergency exists:

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

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

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

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

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

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

39.35 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

39.36 A. Oversight

40.1 1. The Interstate Commission shall oversee the administration and operation of the
40.2 compact.

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

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

40.11 4. The Interstate Commission shall be entitled to receive service of process in any
40.12 action in which the validity of a compact provision or rule is the issue for which a judicial
40.13 determination has been sought and shall have standing to intervene in any proceedings.
40.14 Failure to provide service of process to the Interstate Commission shall render any
40.15 judgment, order or other determination, however so captioned or classified, void as to the
40.16 Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

40.17 B. Dispute Resolution

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

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

40.24 C. Enforcement

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

40.28 a. Provide remedial training and specific technical assistance; or

40.29 b. Provide written notice to the defaulting state and other member states, of the
40.30 nature of the default and the means of curing the default. The Interstate Commission shall
40.31 specify the conditions by which the defaulting state must cure its default; or

40.32 c. By majority vote of the members, initiate against a defaulting member state legal
40.33 action in the United State District Court for the District of Columbia or, at the discretion
40.34 of the Interstate Commission, in the federal district where the Interstate Commission has
40.35 its principal office, to enforce compliance with the provisions of the compact, its bylaws
40.36 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 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 all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

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

Sec. 35. Minnesota Statutes 2006, section 260C.001, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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

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

(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. 36. 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. 37. 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 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 who entered foster care under a voluntary release by~~ placement agreement between the parent and the responsible social services agency 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;

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

46.3 (13) is a runaway;

46.4 (14) is a habitual truant; or

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

46.9 Sec. 38. Minnesota Statutes 2006, section 260C.007, subdivision 13, is amended to
46.10 read:

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

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

46.14 (2) subjection of a minor family or household member by an adult family or
46.15 household member to any act which constitutes a violation of sections 609.321 to 609.324,
46.16 609.342, 609.343, 609.344, 609.345, or 617.246; or

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

46.18 Sec. 39. Minnesota Statutes 2006, section 260C.101, subdivision 2, is amended to read:

46.19 Subd. 2. **Jurisdiction over other matters relating to children.** Except as provided
46.20 in clause (d), the juvenile court has original and exclusive jurisdiction in proceedings
46.21 concerning:

46.22 (a) The termination of parental rights to a child in accordance with the provisions of
46.23 sections 260C.301 to 260C.328.

46.24 (b) The appointment and removal of a juvenile court guardian for a child, where
46.25 parental rights have been terminated under the provisions of sections 260C.301 to
46.26 260C.328.

46.27 (c) Judicial consent to the marriage of a child when required by law.

46.28 (d) The juvenile court in those counties in which the judge of the probate-juvenile
46.29 court has been admitted to the practice of law in this state shall proceed under the laws
46.30 relating to adoptions in all adoption matters. In those counties in which the judge of the
46.31 probate-juvenile court has not been admitted to the practice of law in this state the district
46.32 court shall proceed under the laws relating to adoptions in all adoption matters.

46.33 (e) The review of the foster care status placement of a child who ~~has been placed is~~
46.34 ~~in a residential facility, as defined in section 260C.212, subdivision 1, foster care pursuant~~

to a voluntary ~~release by~~ placement agreement between the child's parent or parents and the responsible social services agency under section 260C.212, subdivision 8.

(f) The review of voluntary foster care placement of a child for treatment under chapter 260D according to the review requirements of that chapter.

Sec. 40. Minnesota Statutes 2006, section 260C.141, subdivision 2, is amended to read:

Subd. 2. **Review of foster care status.** ~~Except for a child in foster care due solely to the child's developmental disability or emotional disturbance,~~ When a child continues in voluntary ~~placement~~ foster care according to section 260C.212, subdivision 8, a petition shall be filed alleging the child to be in need of protection or services or seeking termination of parental rights or other permanent placement of the child away from the parent within 90 days of the date of the voluntary placement agreement. The petition shall state the reasons why the child is in ~~placement~~ foster care, the progress on the out-of-home placement plan required under section 260C.212, subdivision 1, and the statutory basis for the petition under section 260C.007, subdivision 6, 260C.201, subdivision 11, or 260C.301.

(1) In the case of a petition alleging the child to be in need of protection or services filed under this paragraph, if all parties agree and the court finds it is in the best interests of the child, the court may find the petition states a prima facie case that:

- (i) the child's needs are being met;
- (ii) the placement of the child in foster care is in the best interests of the child;
- (iii) reasonable efforts to reunify the child and the parent or guardian are being made; and
- (iv) the child will be returned home in the next three months.

(2) If the court makes findings under paragraph (1), the court shall approve the voluntary arrangement and continue the matter for up to three more months to ensure the child returns to the parents' home. The responsible social services agency shall:

- (i) report to the court when the child returns home and the progress made by the parent on the out-of-home placement plan required under section 260C.212, in which case the court shall dismiss jurisdiction;
- (ii) report to the court that the child has not returned home, in which case the matter shall be returned to the court for further proceedings under section 260C.163; or
- (iii) if any party does not agree to continue the matter under this paragraph and paragraph (1), the matter shall proceed under section 260C.163.

Sec. 41. 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.

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

Sec. 42. Minnesota Statutes 2006, section 260C.171, subdivision 2, is amended to read:

Subd. 2. **Public inspection of records.** (a) ~~The following~~ records from proceedings or portions of proceedings involving a child in need of protection or services ~~that,~~ permanency, or termination of parental rights are open accessible to the public as

authorized by ~~Supreme Court order and court rules are accessible to the public unless the court determines that access should be restricted because of the intensely personal nature of the information.~~ the Minnesota Rules of Juvenile Protection Procedure.

- ~~(1) the summons and petition;~~
- ~~(2) affidavits of publication and service;~~
- ~~(3) certificates of representation;~~
- ~~(4) court orders;~~
- ~~(5) hearing and trial notices, witness lists, and subpoenas;~~
- ~~(6) motions and legal memoranda;~~
- ~~(7) exhibits introduced at hearings or trial that are not inaccessible under paragraph (b);~~
- ~~(8) birth records; and~~
- ~~(9) all other documents not listed as inaccessible to the public under paragraph (b).~~
- ~~(b) The following records are not accessible to the public under paragraph (a):~~
 - ~~(1) written, audiotaped, or videotaped information from the social services agency, except to the extent the information appears in the petition, court orders, or other documents that are accessible under paragraph (a);~~
 - ~~(2) child protection intake or screening notes;~~
 - ~~(3) documents identifying reporters of maltreatment, unless the names and other identifying information are redacted;~~
 - ~~(4) guardian ad litem reports;~~
 - ~~(5) victim statements and addresses and telephone numbers;~~
 - ~~(6) documents identifying nonparty witnesses under the age of 18, unless the names and other identifying information are redacted;~~
 - ~~(7) transcripts of testimony taken during closed hearing;~~
 - ~~(8) fingerprinting materials;~~
 - ~~(9) psychological, psychiatric, and chemical dependency evaluations;~~
 - ~~(10) presentence evaluations of juveniles and probation reports;~~
 - ~~(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. 43. 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 or otherwise not remain in the care or control of the person to whose lawful custody the child is released, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) If the court determines 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 or otherwise not remain in the care or control of the person to whose lawful custody the child is released; or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules; or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

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

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

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

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. When reasonable efforts to prevent placement are required and there are services or other efforts

that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph ~~(e)~~ (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

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

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

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

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

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

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

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

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

~~(f)~~ (h) When a petition to terminate parental rights is required under section 260C.301, subdivision 3 or 4, but the county attorney has determined not to proceed with a termination of parental rights petition, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section 260C.201, subdivision 11, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

~~(g)~~ (i) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition

except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.201, subdivision 3.

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

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

Sec. 44. Minnesota Statutes 2006, section 260C.205, is amended to read:

**260C.205 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS
FOR TREATMENT.**

~~Unless the court disposes of the petition under section 260C.141, subdivision 2,~~
Upon a petition ~~for review of the foster care status of a~~ by a parent or guardian under
section 260C.141, subdivision 1, paragraph (b), regarding a child in voluntary foster care
for treatment under chapter 260D, the court may:

~~(a) find that the child's needs are not being met, in which case the court shall order the social services agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social services agency of services to the parents which would enable the child to live at home, and order a disposition under section 260C.201.~~

~~(b) Find that the child has been abandoned by parents financially or emotionally, or that the developmentally disabled child does not require out-of-home care because of the disabling condition, in which case the court shall order the social services agency to file an appropriate petition pursuant to section 260C.141, subdivision 1, or 260C.307.~~

~~(c) When a child is in placement due solely to the child's developmental disability or emotional disturbance and the court finds that there are compelling reasons which permit the court to approve the continued voluntary placement of the child and retain jurisdiction to conduct reviews as required under section 260C.141, subdivision 2, the court shall give the parent notice by registered United States mail of the review requirements of section 260C.141, subdivision 2, in the event the child continues in placement 12 months or longer.~~

~~Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260C.141, subdivision 1 or 4, sooner than required by court order pursuant to this section.~~

Sec. 45. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 1, is amended to read:

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

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

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

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

55.1 of a substantiated allegation of, child or vulnerable-adult maltreatment within the past
55.2 ten years.

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

55.9 Sec. 46. Minnesota Statutes 2007 Supplement, section 260C.209, subdivision 2,
55.10 is amended to read:

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

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

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

55.18 (3) sex;

55.19 (4) date of birth; and

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

55.21 (b) When notified by the ~~commissioner or the~~ responsible social services agency that
55.22 it is ~~conducting an assessment under this section~~ accessing information under subdivision
55.23 1, the Bureau of Criminal Apprehension, commissioners of health and human services,
55.24 law enforcement, and county agencies must provide ~~the commissioner or the~~ responsible
55.25 social services agency or county attorney with the following information on the individual
55.26 being assessed: criminal history data, local law enforcement data about the household,
55.27 reports about the maltreatment of adults substantiated under section 626.557, and reports
55.28 of maltreatment of minors substantiated under section 626.556.

55.29 Sec. 47. Minnesota Statutes 2007 Supplement, section 260C.209, is amended by
55.30 adding a subdivision to read:

55.31 Subd. 5. **Assessment for emergency relative placement.** The responsible social
55.32 services agency may obtain household members' criminal history and the history of
55.33 maltreatment of a child or adult and use the history to assess whether putting the child
55.34 in the household would endanger the child's health, safety, or welfare and to assess the

56.1 suitability of a relative prior to an emergency placement. This assessment does not
56.2 substitute for the background study required under chapter 245C and does not supersede
56.3 requirements related to emergency placement under section 245A.035.

56.4 Sec. 48. Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 1,
56.5 is amended to read:

56.6 Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan
56.7 shall be prepared within 30 days after any child is placed in ~~a residential facility~~ foster
56.8 care by court order or by the a voluntary release of the child by placement agreement
56.9 between the responsible social services agency and the child's parent or parents pursuant
56.10 to subdivision 8 or chapter 260D.

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

56.16 (b) An out-of-home placement plan means a written document which is prepared by
56.17 the responsible social services agency jointly with the parent or parents or guardian of the
56.18 child and in consultation with the child's guardian ad litem, the child's tribe, if the child is
56.19 an Indian child, the child's foster parent or representative of the residential facility, and,
56.20 where appropriate, the child. For a child in ~~placement due solely or in part to the child's~~
56.21 ~~emotional disturbance~~ voluntary foster care for treatment under chapter 260D, preparation
56.22 of the out-of-home placement plan shall additionally include the child's mental health
56.23 treatment provider. As appropriate, the plan shall be:

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

56.25 (2) ordered by the court, either as presented or modified after hearing, under section
56.26 260C.178, subdivision 7, or 260C.201, subdivision 6; and

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

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

56.32 (1) a description of the residential facility including how the out-of-home placement
56.33 plan is designed to achieve a safe placement for the child in the least restrictive, most
56.34 family-like, setting available which is in close proximity to the home of the parent or
56.35 parents or guardian of the child when the case plan goal is reunification, and how the

placement is consistent with the best interests and special needs of the child according to the factors under subdivision 2, paragraph (b);

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

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

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

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

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

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

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

(7) the health and educational records of the child including the most recent information available regarding:

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

(ii) the child's grade level performance;

(iii) the child's school record;

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

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

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

(vii) the child's medications; and

(viii) any other relevant health and education information;

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

(i) educational, vocational, or employment planning;

(ii) health care planning and medical coverage;

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

(iv) money management;

(v) planning for housing;

(vi) social and recreational skills; and

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

(9) for a child in ~~placement due solely or in part to the child's emotional disturbance~~ voluntary foster care for treatment under chapter 260D, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes.

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

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

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

Sec. 49. Minnesota Statutes 2007 Supplement, section 260C.212, subdivision 4, is amended to read:

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

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

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

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

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

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

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

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

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

(b) The responsible social services agency shall give notice to the parent ~~or parents~~ or guardian of each child in a ~~residential facility~~ foster care, other than a child in ~~placement due solely to that child's developmental disability or emotional disturbance~~ voluntary foster care for treatment under chapter 260D, of the following information:

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

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

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

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

(5) the first consideration for placement with relatives;

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

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

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

(c) The responsible social services agency shall inform a parent considering voluntary placement of a child ~~who is not developmentally disabled or emotionally disturbed~~ under subdivision 8 of the following information:

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

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

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

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

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

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

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

Sec. 50. Minnesota Statutes 2006, section 260C.212, is amended by adding a subdivision to read:

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

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

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

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

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

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

Sec. 51. Minnesota Statutes 2006, section 260C.212, subdivision 7, is amended to read:

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

63.1 the requirement for ~~an administrative~~ the review so long as the other requirements of
63.2 this section are met.

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

63.6 (1) the safety, permanency needs, and well-being of the child;

63.7 (2) the continuing necessity for and appropriateness of the placement;

63.8 (3) the extent of compliance with the out-of-home placement plan;

63.9 (4) ~~where appropriate,~~ the extent of progress which has been made toward alleviating
63.10 or mitigating the causes necessitating placement in a residential facility foster care;

63.11 (5) ~~where appropriate,~~ the projected date by which the child may be returned to and
63.12 safely maintained in the home or placed permanently away from the care of the parent or
63.13 parents or guardian; and

63.14 (6) the appropriateness of the services provided to the child.

63.15 (d) When a child is age 16 or older, in addition to any administrative review
63.16 conducted by the agency, at the review required under section 260C.201, subdivision 11,
63.17 paragraph (d), clause (3), unit (iii); or 260C.317, subdivision 3, clause (3), the court shall
63.18 review the independent living plan required under subdivision 1, paragraph (c), clause
63.19 (8), and the provision of services to the child related to the well-being of the child as the
63.20 child prepares to leave foster care. The review shall include the actual plans related to
63.21 each item in the plan necessary to the child's future safety and well-being when the child is
63.22 no longer in foster care.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

64.21 Sec. 52. Minnesota Statutes 2006, section 260C.212, subdivision 8, is amended to read:

64.22 Subd. 8. **Review of Voluntary placements foster care; required court review.**

64.23 ~~Except for a child in placement due solely to the child's developmental disability or~~
64.24 ~~emotional disturbance, if~~ When the responsible social services agency and the child's

64.25 parent or guardian agree that the child's safety, health, and best interests require that the

64.26 child be in foster care, the agency and the parent or guardian may enter into a voluntary

64.27 agreement for the placement of the child in foster care. The voluntary agreement must be

64.28 in writing and in a form approved by the commissioner. When the child has been placed in

64.29 ~~a residential facility foster care pursuant to a voluntary release by foster care agreement~~

64.30 between the agency and the parent or parents, under this subdivision and the child is not

64.31 returned home within 90 days after initial placement in the residential facility foster care,

64.32 ~~the social services~~ agency responsible for the child's placement in foster care shall:

64.33 (1) return the child to the home of the parent or parents; or

64.34 (2) file a petition according to section 260C.141, subdivision 1 or 2, which may:

(i) ask the court to review the child's placement in foster care and approve it as continued voluntary foster care for up to an additional 90 days;

(ii) ask the court to order continued ~~out-of-home placement~~ foster care according to sections 260C.178 and 260C.201; or

(iii) ask the court to terminate parental rights under section 260C.301.

The out-of-home placement plan must be updated and filed along with the petition.

If the court approves ~~continued out-of-home placement~~ continuing the child in foster care for up to 90 more days on a voluntary basis, at the end of the court-approved 90-day period, the child must be returned to the parent's home. If the child is not returned home, the responsible social services agency must proceed on the petition filed alleging the child in need of protection or services or the petition for termination of parental rights or other permanent placement of the child away from the parent. The court must find a statutory basis to order the placement of the child under section 260C.178; 260C.201; or 260C.317.

Sec. 53. 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. 54. 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:

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

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

66.8 Sec. 55. **[260D.001] CHILD IN VOLUNTARY FOSTER CARE FOR**
66.9 **TREATMENT.**

66.10 (a) Sections 260D.001 to 260D.301 may be cited as the "child in voluntary foster
66.11 care for treatment" provisions of the Juvenile Court Act.

66.12 (b) The juvenile court has original and exclusive jurisdiction over a child in
66.13 voluntary foster care for treatment upon the filing of a report or petition required under
66.14 this chapter. All obligations of the agency to a child and family in foster care contained in
66.15 chapter 260C not inconsistent with this chapter are also obligations of the agency with
66.16 regard to a child in foster care for treatment under this chapter.

66.17 (c) This chapter shall be construed consistently with the mission of the children's
66.18 mental health service system as set out in section 245.487, subdivision 3, and the duties of
66.19 an agency under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016,
66.20 to meet the needs of a child with a developmental disability or related condition. This
66.21 chapter:

66.22 (1) establishes voluntary foster care through a voluntary foster care agreement as the
66.23 means for an agency and a parent to provide needed treatment when the child must be in
66.24 foster care to receive necessary treatment for an emotional disturbance or developmental
66.25 disability or related condition;

66.26 (2) establishes court review requirements for a child in voluntary foster care for
66.27 treatment due to emotional disturbance or developmental disability or a related condition;

66.28 (3) establishes the ongoing responsibility of the parent as legal custodian to visit the
66.29 child, to plan together with the agency for the child's treatment needs, to be available and
66.30 accessible to the agency to make treatment decisions, and to obtain necessary medical,
66.31 dental, and other care for the child; and

66.32 (4) applies to voluntary foster care when the child's parent and the agency agree that
66.33 the child's treatment needs require foster care either:

66.34 (i) due to a level of care determination by the agency's screening team informed by
66.35 the diagnostic and functional assessment under section 245.4885; or

(ii) due to a determination regarding the level of services needed by the responsible social services' screening team under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016.

(d) This chapter does not apply when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than treatment for the child's emotional disturbance or developmental disability or related condition. When there is a determination under section 626.556 that the child requires child protective services based on an assessment that there are safety and risk issues for the child that have not been mitigated through the parent's engagement in services or otherwise, or when the child is in foster care for any reason other than the child's emotional disturbance or developmental disability or related condition, the provisions of chapter 260C apply.

(e) The paramount consideration in all proceedings concerning a child in voluntary foster care for treatment is the safety, health, and best interests of the child. The purpose of this chapter is:

(1) to ensure a child with a disability is provided the services necessary to treat or ameliorate the symptoms of the child's disability;

(2) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, approving the child's placement away from the child's parents only when the child's need for care or treatment requires it, and the child cannot be maintained in the home of the parent; and

(3) to ensure the child's parent retains legal custody of the child and associated decision-making authority unless the child's parent willfully fails or is unable to make decisions that meet the child's safety, health, and best interests. The court may not find the parent willfully fails or is unable to make decisions that meet the child's needs solely because the parent disagrees with the agency's choice of foster care facility, unless the agency files a petition under chapter 260C, and establishes by clear and convincing evidence that the child is in need of protection or services.

(f) The legal parent-child relationship shall be supported under this chapter by maintaining the parent's legal authority and responsibility for ongoing planning for the child and by the agency's assisting the parent, where necessary, to exercise the parent's ongoing right and obligation to visit or to have reasonable contact with the child. Ongoing planning means:

(1) actively participating in the planning and provision of educational services, medical care, and dental care for the child;

(2) actively planning and participating with the agency and the foster care facility for the child's treatment needs; and

(3) planning to meet the child's need for safety, stability, and permanency, and the child's need to stay connected to the child's family and community.

(g) The provisions of section 260.012 to ensure placement prevention, family reunification, and all active and reasonable effort requirements of that section apply. This chapter shall be construed consistently with the requirements of the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et al, and the provisions of the Minnesota Indian Family Preservation Act, sections 260.071 to 260.835.

Sec. 56. **[260D.005] DEFINITIONS.**

Subdivision 1. Definitions. The definitions in this section supplement the definitions in section 260C.007. The definitions in section 260C.007 apply to this chapter and have the same meaning for purposes of this chapter as for chapter 260C.

Subd. 2. Agency. "Agency" means the responsible social services agency or a licensed child-placing agency.

Subd. 3. Case plan. "Case plan" means any plan for the delivery of services to a child and parent, or when reunification is not required, the child alone, that is developed according to the requirements of sections 245.4871, subdivision 19 or 21; 245.492, subdivision 16; 256B.092; 260C.212, subdivision 1; 626.556, subdivision 10; and Minnesota Rules, parts 9525.0004 to 9525.0016.

Subd. 4. Child. "Child" means an individual under 18 years of age.

Subd. 5. Child in voluntary foster care for treatment. "Child in voluntary foster care for treatment" means a child who is emotionally disturbed or developmentally disabled or has a related condition and is in foster care under a voluntary foster care agreement between the child's parent and the agency due to concurrence between the agency and the parent that the child's level of care requires placement in foster care either:

(1) due to a determination by the agency's screening team based on its review of the diagnostic and functional assessment under section 245.4885; or

(2) due to a determination by the agency's screening team under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016.

A child is not in voluntary foster care for treatment under this chapter when there is a current determination under section 626.556 that the child requires child protective services or when the child is in foster care for any reason other than the child's emotional or developmental disability or related condition.

69.1 Subd. 6. **Compelling reasons.** "Compelling reasons" has the same meaning given
69.2 in section 260C.007, subdivision 8. The agency may determine compelling reasons when
69.3 the child is in foster care for treatment and no grounds to terminate parental rights exist
69.4 because the child must be in placement to access treatment, the child's individual treatment
69.5 needs cannot be met in the child's home or through community-based care, and the parent
69.6 continues to be responsible for planning together with the agency for the child's needs and
69.7 maintains appropriate contact with the child.

69.8 Subd. 7. **Court.** "Court" means juvenile court unless otherwise specified in this
69.9 section.

69.10 Subd. 8. **Development disability.** "Developmental disability" means developmental
69.11 disability as defined in United States Code, title 42, section 6001(8).

69.12 Subd. 9. **Emotionally disturbed or emotional disturbance.** "Emotionally
69.13 disturbed" or "emotional disturbance" means emotional disturbance as described in
69.14 section 245.4871, subdivision 15.

69.15 Subd. 10. **Foster care.** "Foster care" means 24-hour substitute care for children
69.16 placed away from their parents and for whom an agency has placement and care
69.17 responsibility. Foster care includes, but is not limited to, placement in foster family homes,
69.18 foster homes of relatives, group homes, emergency shelters, residential facilities not
69.19 excluded in this subdivision, child care institutions, and preadoptive homes. A child is in
69.20 foster care under this definition, regardless of whether the facility is licensed and payments
69.21 are made for the cost of care. Nothing in this definition creates any authority to place a
69.22 child in a home or facility that is required to be licensed that is not licensed. Foster care
69.23 does not include placement in any of the following facilities: hospitals, inpatient chemical
69.24 dependency treatment facilities, facilities that are primarily for delinquent children,
69.25 any corrections facility or program within a particular corrections facility not meeting
69.26 requirements for Title IV-E facilities as determined by the commissioner, facilities to
69.27 which a child is committed under the provision of chapter 253B, forestry camps, or jails.

69.28 Subd. 11. **Legal authority to place the child.** "Legal authority to place the child"
69.29 means the agency has legal responsibility for the care and control of the child while the
69.30 child is in foster care. The agency may acquire legal authority to place a child through
69.31 a voluntary placement agreement between the agency and the child's parent under this
69.32 chapter. Legal authority to place the child does not mean the agency has authority to make
69.33 major life decisions regarding the child, including major medical decisions. A parent with
69.34 legal custody of the child continues to have legal authority to make major life decisions
69.35 regarding the child, including major medical decisions.

69.36 Subd. 12. **Minor.** "Minor" means an individual under 18 years of age.

Subd. 13. **Parent.** "Parent" means the birth or adoptive parent of a minor. Parent also means the child's legal guardian or any individual who has legal authority to make decisions and plans for the child. For an Indian child, parent includes any Indian person who has adopted a child by tribal law or custom, as provided in section 260.755, subdivision 14.

Subd. 14. **Reasonable efforts to finalize a permanent plan for the child.** "Reasonable efforts to finalize a permanent plan for the child" has the same meaning under this chapter as provided in section 260.012, paragraph (e).

Sec. 57. **[260D.101] VOLUNTARY FOSTER CARE.**

Subdivision 1. **Voluntary foster care.** When the agency's screening team, based upon the diagnostic and functional assessment under section 245.4885 or 256B.092, subdivision 7, determines the child's need for treatment due to emotional disturbance or developmental disability or related condition requires foster care placement of the child, a voluntary foster care agreement between the child's parent and the agency gives the agency legal authority to place the child in foster care.

Subd. 2. **Voluntary foster care agreement.** A voluntary foster care agreement shall be used to provide the agency the legal authority to place a child in foster care for treatment due to the child's disability. The agreement must be in writing and signed by both the child's parent and the agency. The agreement must be in a form approved by the commissioner of human services, and shall contain notice to parents of the consequences to the parent and to the child of being in voluntary foster care.

Sec. 58. **[260D.102] REQUIRED INFORMATION FOR CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

An agency with authority to place a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or related condition shall inform the child age 12 or older of the following:

(a) The child has the right to be consulted in the preparation of the out-of-home placement plan required under section 260C.212, subdivision 1, and the administrative review required under section 260C.212, subdivision 7.

(b) The child has the right to visit the parent and the right to visit the child's siblings as determined safe and appropriate by the parent and the agency.

(c) If the child disagrees with the foster care facility or services provided under the out-of-home placement plan required under section 260C.212, subdivision 1, the agency shall include information about the nature of the child's disagreement and, to the

71.1 extent possible, the agency's understanding of the basis of the child's disagreement in the
71.2 information provided to the court in the report required under section 260D.105.

71.3 (d) The child has the rights established under Minnesota Rules, part 2960.0050, as a
71.4 resident of a facility licensed by the state.

71.5 Sec. 59. **[260D.103] ADMINISTRATIVE REVIEW OF CHILD IN VOLUNTARY**
71.6 **FOSTER CARE FOR TREATMENT.**

71.7 The administrative reviews required under section 260C.212, subdivision 7, must
71.8 be conducted for a child in voluntary foster care for treatment, except that the initial
71.9 administrative review must take place prior to the submission of the report to the court
71.10 required under section 260D.105, subdivision 2.

71.11 Sec. 60. **[260D.105] AGENCY REPORT TO THE COURT AND COURT**
71.12 **REVIEW OF CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT DUE**
71.13 **TO DISABILITY.**

71.14 Subdivision 1. **Judicial review.** In the case of a child in voluntary foster care for
71.15 treatment due to disability under section 260D.101, the agency shall obtain judicial review
71.16 of the child's voluntary foster care placement within 165 days of the placement.

71.17 Subd. 2. **Agency report to court; court review.** The agency shall obtain judicial
71.18 review by reporting to the court according to the following procedures:

71.19 (a) A written report shall be forwarded to the court within 165 days of the date of the
71.20 voluntary placement agreement. The written report shall contain or have attached:

71.21 (1) a statement of facts that necessitate the child's foster care placement;

71.22 (2) the child's name, date of birth, race, gender, and current address;

71.23 (3) the names, race, date of birth, residence, and post office addresses of the child's
71.24 parents or legal custodian;

71.25 (4) a statement regarding the child's eligibility for membership or enrollment in an
71.26 Indian tribe and the agency's compliance with applicable provisions of sections 260.751 to
71.27 260.835;

71.28 (5) the names and addresses of the foster parents or chief administrator of the facility
71.29 in which the child is placed, if the child is not in a family foster home or group home;

71.30 (6) a copy of the out-of-home placement plan required under section 260C.212,
71.31 subdivision 1;

71.32 (7) a written summary of the proceedings of any administrative review required
71.33 under section 260C.212, subdivision 7; and

72.1 (8) any other information the agency, parent or legal custodian, child or foster parent,
72.2 or other residential facility wants the court to consider.

72.3 (b) In the case of a child in placement due to emotional disturbance, the written
72.4 report shall include as an attachment the child's individual treatment plan developed by
72.5 the child's treatment professional, as provided in section 245.4871, subdivision 21, or
72.6 the child's individual interagency intervention plan, as provided in section 125A.023,
72.7 subdivision 3, paragraph (c).

72.8 (c) In the case of a child in placement due to developmental disability or a related
72.9 condition, the written report shall include as an attachment the child's individual service
72.10 plan, as provided in section 256B.092, subdivision 1b; the child's individual program
72.11 plan, as provided in Minnesota Rules, part 9525.0004, subpart 11; the child's waiver
72.12 care plan; or the child's individual interagency intervention plan, as provided in section
72.13 125A.023, subdivision 3, paragraph (c).

72.14 (d) The agency must inform the child age 12 or older, the child's parent, and the
72.15 foster parent or foster care facility of the reporting and court review requirements of this
72.16 section and of their right to submit information to the court:

72.17 (1) if the child or the child's parent or the foster care provider wants to send
72.18 information to the court, the agency shall advise those persons of the reporting date and
72.19 the date by which the agency must receive the information they want forwarded to the
72.20 court so the agency is timely able to submit it with the agency's report required under
72.21 this subdivision;

72.22 (2) the agency must also inform the child age 12 or older, the child's parent, and the
72.23 foster care facility that they have the right to be heard in person by the court and how to
72.24 exercise that right;

72.25 (3) the agency must also inform the child age 12 or older, the child's parent, and
72.26 the foster care provider that an in-court hearing will be held if requested by the child,
72.27 the parent, or the foster care provider; and

72.28 (4) if, at the time required for the report under this section, a child age 12 or older
72.29 disagrees about the foster care facility or services provided under the out-of-home
72.30 placement plan required under section 260C.212, subdivision 1, the agency shall include
72.31 information regarding the child's disagreement, and to the extent possible, the basis for the
72.32 child's disagreement in the report required under this section.

72.33 (e) After receiving the required report, the court has jurisdiction to make the
72.34 following determinations and must do so within ten days of receiving the forwarded
72.35 report, whether a hearing is requested:

72.36 (1) whether the voluntary foster care arrangement is in the child's best interests;

(2) whether the parent and agency are appropriately planning for the child; and
(3) in the case of a child age 12 or older who disagrees with the foster care facility or services provided under the out-of-home placement plan, whether it is appropriate to appoint counsel and a guardian ad litem for the child using standards and procedures under section 260C.163.

(f) Unless requested by a parent, representative of the foster care facility, or the child, no in-court hearing is required in order for the court to make findings and issue an order as required in paragraph (e).

(g) If the court finds that the voluntary foster care arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child, the court shall issue an order containing explicit, individualized findings to support its determination. The individualized findings shall be based on the agency's written report and other materials submitted to the court. The court may make this determination notwithstanding the child's disagreement, if any, reported under paragraph (d).

(h) The court shall send a copy of the order to the county attorney, agency, parent, child age 12 or older, and foster parent or foster care facility.

(i) The court shall also send the parent, child age 12 or older, foster parent, or representative of the foster care facility notice of the permanency review hearing required under section 260D.107, paragraph (e).

(j) If the court finds continuing the voluntary foster care arrangement is not in the child's best interests or that the agency or the parent are not appropriately planning for the child, the court shall notify the agency, parent, foster parent or foster care facility, child age 12 or older, and county attorney of the court's determinations and the basis for the court's determinations. In this case, the court shall set the matter for hearing and appoint a guardian ad litem for the child under section 260C.163, subdivision 5.

Sec. 61. **[260D.107] REQUIRED PERMANENCY REVIEW HEARING.**

(a) When the court has found that the voluntary arrangement is in the child's best interests and that the agency and parent are appropriately planning for the child pursuant to the report submitted under section 260D.105, and the child continues in voluntary foster care as defined in section 260D.007, subdivision 10, for 13 months from the date of the voluntary foster care agreement, or has been in placement for 15 of the last 22 months, the agency must:

(1) terminate the voluntary foster care agreement and return the child home;

74.1 (2) determine whether there are compelling reasons to continue the voluntary foster
74.2 care arrangement and, if the agency determines there are compelling reasons, seek judicial
74.3 approval if its determination; or

74.4 (3) file a petition for the termination of parental rights.

74.5 (b) When the agency is asking for the court's approval of its determination that there
74.6 are compelling reasons to continue the child in the voluntary foster care arrangement, the
74.7 agency shall file a "Petition for Permanency Review Regarding a Child in Voluntary
74.8 Foster Care for Treatment" and ask the court to proceed under this section.

74.9 (c) The "Petition for Permanency Review Regarding a Child in Voluntary Foster
74.10 Care for Treatment" shall be drafted or approved by the county attorney and be under
74.11 oath. The petition shall include:

74.12 (1) the date of the voluntary placement agreement;

74.13 (2) whether the petition is due to the child's developmental disability or emotional
74.14 disturbance;

74.15 (3) the plan for the ongoing care of the child and the parent's participation in the plan;

74.16 (4) a description of the parent's visitation and contact with the child;

74.17 (5) the date of the court finding that the foster care placement was in the best
74.18 interests of the child, if required under section 260D.105, or the date the agency filed the
74.19 motion under section 260D.201, paragraph (b);

74.20 (6) the agency's reasonable efforts to finalize the permanent plan for the child,
74.21 including returning the child to the care of the child's family; and

74.22 (7) a citation to this chapter as the basis for the petition.

74.23 (d) An updated copy of the out-of-home placement plan required under section
74.24 260C.212, subdivision 1, shall be filed with the petition.

74.25 (e) The court shall set the date for the permanency review hearing no later than 14
74.26 months after the child has been in placement or within 30 days of the petition filing date
74.27 when the child has been in placement 15 of the last 22 months. The court shall serve the
74.28 petition together with a notice of hearing by United States mail on the parent; the child
74.29 age 12 or older; the child's guardian ad litem, if one has been appointed; the agency; the
74.30 county attorney; and counsel for any party.

74.31 (f) The court shall conduct the permanency review hearing on the petition no later
74.32 than 14 months after the date of the voluntary placement agreement, within 30 days of the
74.33 filing of the petition when the child has been in placement 15 of the last 22 months, or
74.34 within 15 days of a motion to terminate jurisdiction and to dismiss an order for foster care
74.35 under chapter 260C, as provided in section 260D.201, paragraph (b).

74.36 (g) At the permanency review hearing, the court shall:

75.1 (1) inquire of the parent if the parent has reviewed the "Petition for Permanency
75.2 Review Regarding a Child in Voluntary Foster Care for Treatment," whether the petition is
75.3 accurate, and whether the parent agrees to the continued voluntary foster care arrangement
75.4 as being in the child's best interests;

75.5 (2) inquire of the parent if the parent is satisfied with the agency's reasonable efforts
75.6 to finalize the permanent plan for the child, including whether there are services available
75.7 and accessible to the parent that might allow the child to safely be with the child's family;

75.8 (3) inquire of the parent if the parent consents to the court entering an order that:

75.9 (i) approves the responsible agency's reasonable efforts to finalize the permanent
75.10 plan for the child, which includes ongoing future planning for the safety, health, and best
75.11 interests of the child; and

75.12 (ii) approves the responsible agency's determination that there are compelling
75.13 reasons why the continued voluntary foster care arrangement is in the child's best interests;

75.14 (4) inquire of the child's guardian ad litem and any other party whether the guardian
75.15 or the party agrees that:

75.16 (i) the court should approve the responsible agency's reasonable efforts to finalize
75.17 the permanent plan for the child, which includes ongoing and future planning for the
75.18 safety, health, and best interests of the child; and

75.19 (ii) the court should approve of the responsible agency's determination that there
75.20 are compelling reasons why the continued voluntary foster care arrangement is in the
75.21 child's best interests.

75.22 (h) At a permanency review hearing under this section, the court may take the
75.23 following actions based on the contents of the sworn petition and the consent of the parent:

75.24 (1) approve the agency's compelling reasons that the voluntary foster care
75.25 arrangement is in the best interests of the child; and

75.26 (2) find that the agency has made reasonable efforts to finalize the permanent plan
75.27 for the child.

75.28 (i) A child age 12 or older may object to the agency's request that the court approve
75.29 its compelling reasons for the continued voluntary arrangement and may be heard on the
75.30 reasons for the objection. Notwithstanding the child's objection, the court may approve
75.31 the agency's compelling reasons and the voluntary arrangement.

75.32 (j) If the court does not approve the voluntary arrangement after hearing from the
75.33 child or the child's guardian ad litem, the court shall dismiss the petition. In this case,
75.34 either:

75.35 (1) the child must be returned to the care of the parent; or

(2) the agency must file a petition under section 260C.141 asking for appropriate relief under section 260C.201, subdivision 11, or 260C.301.

(k) When the court approves the agency's compelling reasons for the child to continue in voluntary foster care for treatment, and finds that the agency has made reasonable efforts to finalize a permanent plan for the child, the court shall approve the continued voluntary foster care arrangement, and continue the matter under the court's jurisdiction for the purposes of reviewing the child's placement every 12 months while the child is in foster care.

(l) A finding that the court approves the continued voluntary placement means the agency has continued legal authority to place the child while a voluntary placement agreement remains in effect. The parent or the agency may terminate a voluntary agreement as provided in section 260D.301. Termination of a voluntary foster care placement of an Indian child is governed by section 260.765, subdivision 4.

Sec. 62. **[260D.109] ANNUAL REVIEW.**

(a) After the court conducts a permanency review hearing under section 260D.107, the matter must be returned to the court for further review of the child's foster care placement at least every 12 months while the child is in foster care. The court shall give notice to the parent and child age 12 or older and the foster parents of the continued review requirements under this section at the permanency review hearing.

(b) Every 12 months, the court shall determine whether the agency made reasonable efforts to finalize the permanent plan for the child, which means the exercise of due diligence by the agency to:

(1) ensure that the agreement for voluntary foster care is the most appropriate legal arrangement to meet the child's safety, health, and best interests;

(2) engage and support the parent in continued involvement in planning and decision making for the needs of the child;

(3) strengthen the child's ties to the parent, relatives, and community;

(4) implement the out-of-home placement plan required under section 260C.212, subdivision 1, and ensure that the plan requires the provision of appropriate services to address the physical health, mental health, and educational needs of the child; and

(5) ensure appropriate planning for the child's safe, permanent, and independent living arrangement after the child's 18th birthday.

Sec. 63. **[260D.201] PERMANENCY REVIEW AFTER ADJUDICATION UNDER CHAPTER 260C.**

(a) If a child has been ordered into foster care under section 260C.178 or 260C.201, subdivision 1, and the conditions that led to the court's order have been corrected so that the child could safely return home, except for the child's need to continue in foster care for treatment due to the child's disability, the child's parent and the agency may enter into a voluntary foster care agreement under this chapter using the procedure described in paragraph (b).

(b) When the agency and the parent agree to enter into a voluntary foster care agreement under this chapter, the agency must file a motion to terminate jurisdiction under section 260C.193, subdivision 6, and to dismiss the order for foster care under section 260C.178 or 260C.201, subdivision 1, together with the petition required under section 260D.107, paragraph (b), for permanency review and the court's approval of the voluntary arrangement.

(c) The court shall send the motion and the petition filed under subdivision 2 together with a notice of hearing by mail as required in section 260D.107, paragraph (e).

(d) The petition and motion under this section must be filed no later than the time the agency is required to file a petition for permanent placement under section 260C.201, subdivision 11, but may be filed as soon as the agency and the parent agree that the child should remain in foster care under a voluntary foster care agreement, because the child needs treatment and voluntary foster care is in the child's best interests.

(e) In order for the agency to have continuous legal authority to place the child, the parent and the agency must execute a voluntary foster care agreement for the child's continuation in foster care for treatment prior to the termination of the order for foster care under section 260C.178 or 260C.201, subdivision 1. The parent and agency may execute the voluntary foster care agreement at or before the permanency review hearing required under this section. The voluntary foster care agreement shall not be effective until the court terminates jurisdiction under section 260C.193, subdivision 6, and dismisses the order for foster care under section 260C.178 or 260C.201, subdivision 1. Unless the agency and the parent execute a voluntary placement agreement for the child to continue in voluntary foster care for treatment, the agency shall not have legal authority to place the child after the court terminates jurisdiction under chapter 260C.

Sec. 64. **[260D.301] TERMINATION OF VOLUNTARY PLACEMENT AGREEMENT.**

(a) The child's parent may terminate a voluntary placement agreement under this chapter upon written notice to the agency of the termination of the agreement. The

78.1 termination of a voluntary foster care agreement regarding an Indian child shall be
78.2 governed by section 260.765, subdivision 4.

78.3 (b) The agency may terminate a voluntary placement agreement under this section
78.4 upon written notice of the termination of the agreement to the parent. Prior to sending
78.5 notice of termination of the voluntary foster care placement agreement, the agency shall
78.6 contact the parent regarding transition planning under paragraph (e). Written notice by
78.7 the agency shall be considered received by the parent three business days after mailing
78.8 by the agency.

78.9 (c) Upon receipt of notice of the termination of the voluntary foster care agreement,
78.10 the agency, the parent, and the facility may agree to a time that the child shall return home.
78.11 The scheduled time to return home shall meet the child's need for safety and reasonable
78.12 transition. Unless otherwise agreed to by the parent and the agency, the child's return
78.13 home shall not occur sooner than 72 hours and not later than 30 days after written notice
78.14 of termination is received or sent by the agency.

78.15 (d) A parent who disagrees with the termination of a voluntary foster care agreement
78.16 by the agency under this chapter has the right to a fair hearing under section 256.045 to
78.17 appeal the termination of the voluntary foster care agreement. When the agency gives
78.18 written notice to the parent of the termination of the agreement, the agency must also give
78.19 the parent notice of the parent's right to a fair hearing under section 256.045 to appeal the
78.20 agency's decision to terminate the voluntary foster care agreement.

78.21 (e) The agency and the child's parents shall engage in transition planning for the
78.22 child's return home, including establishing a scheduled time for the child to return home,
78.23 an increased visitation plan between the parent and child, and a plan for what services
78.24 will be provided and in place upon the child's return home.

78.25 (f) Notice of termination of voluntary foster care agreement does not terminate the
78.26 agreement. The voluntary foster care agreement and the agency's legal authority to place
78.27 the child are terminated by the child's return home or by court order.

78.28 Sec. 65. Minnesota Statutes 2006, section 524.2-114, is amended to read:

78.29 **524.2-114 MEANING OF CHILD AND RELATED TERMS.**

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

78.32 (1) An adopted ~~person~~ child is the child of an adopting parent and not of the birth
78.33 parents except that adoption of a child by the spouse of a birth parent has no effect on
78.34 the relationship between the child and that birth parent. If a parent dies and a child is
78.35 subsequently adopted by a stepparent who is the spouse of a surviving parent, any rights

79.1 of inheritance of the child or the child's descendant from or through the deceased parent
79.2 of the child which exist at the time of the death of that parent shall not be affected by
79.3 the adoption.

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

79.7 Sec. 66. Minnesota Statutes 2006, section 626.556, subdivision 7, is amended to read:

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

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

79.32 Sec. 67. Minnesota Statutes 2007 Supplement, section 626.556, subdivision 10a,
79.33 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. 68. 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 Minnesota Statutes, 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 Minnesota Statutes, section 13.46, but is not licensing data under Minnesota Statutes, section 13.46, subdivision 4. Data on individuals who are licensed family child care providers is private data on individuals governed by Minnesota Statutes, section 13.46, subdivision 2. The commissioner may disclose nonpublic data collected

under this section as described in Minnesota Statutes, 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.

Sec. 69. **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 34 by no less than 35 states.

Sec. 70. **REPEALER.**

(a) Minnesota Statutes 2006, section 260.851, is repealed effective upon legislative enactment of the interstate compact in section 34 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, parts 9560.0092; and 9560.0093, subpart 2, are repealed.

ARTICLE 2
ADOPTION RECORDS

Section 1. Minnesota Statutes 2006, section 13.465, subdivision 8, is amended to read:

83.1 Subd. 8. **Adoption records.** Various adoption records are classified under section
83.2 259.53, subdivision 1. Access to the original birth record of a person who has been
83.3 adopted is governed by section ~~259.89~~ 144.2253.

83.4 Sec. 2. Minnesota Statutes 2006, section 144.218, subdivision 1, is amended to read:

83.5 Subdivision 1. **Adoption.** (a) Upon receipt of a certified copy of an order, decree,
83.6 or certificate of adoption, the state registrar shall register a replacement vital record in
83.7 the new name of the adopted person. Except as provided in paragraph (b), the original
83.8 record of birth is confidential pursuant to private data on individuals as defined in section
83.9 13.02, subdivision 3 12, and shall not be disclosed except pursuant to court order or
83.10 section 144.2252 or 144.2253.

83.11 (b) The information contained on the original birth record, except for the registration
83.12 number, shall be provided on request to: (1) a parent who is named on the original birth
83.13 record; or (2) the adopted person who is subject of the record if the person is at least 19
83.14 years of age, unless there is an affidavit of nondisclosure on file with the state registrar.
83.15 Upon the receipt of a certified copy of a court order of annulment of adoption the state
83.16 registrar shall restore the original vital record to its original place in the file.

83.17 Sec. 3. Minnesota Statutes 2006, section 144.225, subdivision 2, is amended to read:

83.18 Subd. 2. **Data about births.** (a) Except as otherwise provided in this subdivision,
83.19 data pertaining to the birth of a child to a woman who was not married to the child's father
83.20 when the child was conceived nor when the child was born, including the original record
83.21 of birth and the certified vital record, are confidential data. At the time of the birth of a
83.22 child to a woman who was not married to the child's father when the child was conceived
83.23 nor when the child was born, the mother may designate demographic data pertaining to
83.24 the birth as public. Notwithstanding the designation of the data as confidential, it may
83.25 be disclosed:

83.26 (1) to a parent or guardian of the child;
83.27 (2) to the child when the child is 16 years of age or older;
83.28 (3) under paragraph (b) or (e); or
83.29 (4) pursuant to a court order. For purposes of this section, a subpoena does not
83.30 constitute a court order.

83.31 (b) Unless the child is adopted, data pertaining to the birth of a child that are not
83.32 accessible to the public become public data if 100 years have elapsed since the birth of
83.33 the child who is the subject of the data, or as provided under section 13.10, whichever
83.34 occurs first.

(c) If a child is adopted, data pertaining to the child's birth are governed by the provisions relating to adoption records, including sections 13.10, subdivision 5; 144.218, subdivision 1; 144.2252; 144.2253; and 259.89.

(d) The name and address of a mother under paragraph (a) and the child's date of birth may be disclosed to the county social services or public health member of a family services collaborative for purposes of providing services under section 124D.23.

(e) The commissioner of human services shall have access to birth records for:

(1) the purposes of administering medical assistance, general assistance medical care, and the MinnesotaCare program;

(2) child support enforcement purposes; and

(3) other public health purposes as determined by the commissioner of health.

Sec. 4. Minnesota Statutes 2006, section 144.2252, is amended to read:

144.2252 ACCESS TO ORIGINAL BIRTH RECORD AFTER ADOPTION.

(a) Whenever an adopted person requests the state registrar to disclose the information on the adopted person's original birth record, the state registrar shall act according to section ~~259.89~~ 144.2253.

(b) The state registrar shall provide a transcript of an adopted person's original birth record to an authorized representative of a federally recognized American Indian tribe for the sole purpose of determining the adopted person's eligibility for enrollment or membership. Information contained in the birth record may not be used to provide the adopted person information about the person's birth parents, except as provided in this section or section ~~259.83~~ 144.2253.

Sec. 5. [144.2253] ACCESS TO ORIGINAL BIRTH RECORDS BY ADOPTED PERSON; DEPARTMENT DUTIES.

Subdivision 1. **Affidavits.** The department shall prepare affidavit of disclosure and nondisclosure forms under which a birth parent may agree to or object to the release of the original birth record to the adopted person. The department shall make the forms readily accessible to birth parents on the department's Web site.

Subd. 2. **Disclosure.** Upon request, the state registrar shall provide a noncertified copy of the original birth record to an adopted person age 19 or older unless there is an affidavit of nondisclosure on file. The state registrar must comply with the terms of the affidavits of disclosure or affidavits of nondisclosure.

Subd. 3. **Rescission of affidavit.** A birth parent may rescind an affidavit of disclosure or an affidavit of nondisclosure at any time.

85.1 Subd. 4. **Affidavit of nondisclosure; access to birth record.** (a) An adopted person
85.2 age 19 or older may petition the appropriate court for disclosure of the original birth record
85.3 pursuant to section 259.61, and the court shall grant the petition, if, after consideration of
85.4 the interests of all known persons involved, the court determines that disclosure of the
85.5 information would be of greater benefit than nondisclosure.

85.6 (b) An adopted person age 19 or older may request the state registrar search the state
85.7 death records to determine if the birth parent is deceased. The state registrar may impose a
85.8 fee for the record search. If the birth parent is deceased, a noncertified copy of the original
85.9 birth record must be released only to the adopted person making the request.

85.10 Subd. 5. **Information provided.** (a) The department shall, in consultation with
85.11 adoption agencies and adoption advocates, provide information and educational materials
85.12 to adopted persons and birth parents about the changes in the law affecting accessibility
85.13 to birth records. For purposes of this subdivision, an adoption advocate is a nonprofit
85.14 organization that works with adoption issues in Minnesota.

85.15 (b) The department shall provide notice on the department Web site about the change
85.16 in the law, and will direct individuals to private agencies and advocates for post-adoption
85.17 resources.

85.18 Sec. 6. Minnesota Statutes 2006, section 260C.317, subdivision 4, is amended to read:

85.19 **Subd. 4. **Rights of terminated parent.**** Upon entry of an order terminating the
85.20 parental rights of any person who is identified as a parent on the original birth record of
85.21 the child as to whom the parental rights are terminated, the court shall cause written
85.22 notice to be made to that person setting forth:

85.23 (1) the right of the person to file at any time with the state registrar of vital statistics
85.24 a consent to disclosure, as defined in section 144.212, subdivision 11;

85.25 (2) the right of the person to file at any time with the state registrar of vital statistics
85.26 an affidavit stating that the information on the original birth record shall not be disclosed
85.27 as provided in section ~~144.2252~~ 144.2253; and

85.28 (3) the effect of a failure to file either a consent to disclosure, as defined in section
85.29 144.212, subdivision 11, or an affidavit stating that the information on the original birth
85.30 record shall not be disclosed.

85.31 Sec. 7. **ADOPTION AGENCIES; FEE.**

85.32 Adoption agencies may charge a fee for counseling and support services provided to
85.33 adopted persons and birth parents.

86.1 Sec. 8. **REPEALER.**
86.2 Minnesota Statutes 2006, sections 259.83, subdivision 3; and 259.89, subdivisions 3
86.3 and 5, are repealed.

86.4 Sec. 9. **EFFECTIVE DATE.**
86.5 This article is effective July 1, 2009.