

SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 1762

(SENATE AUTHORS: KIFFMEYER)

DATE	D-PG	OFFICIAL STATUS
03/04/2021	692	Introduction and first reading Referred to Human Services Licensing Policy
03/10/2021	765a	Comm report: To pass as amended and re-refer to State Government Finance and Policy and Elections
03/11/2021	835	Comm report: To pass as amended and re-refer to Civil Law and Data Practices Policy
03/15/2021		Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy

1.1

A bill for an act

1.2 relating to human services; implementing certain recommendations from the Family
 1.3 Child Care Task Force; directing the commissioner of human services to include
 1.4 representatives of family child care providers in groups developing plans that
 1.5 implement recommendations from the Family Child Care Task Force; requiring
 1.6 counties to forward communications from the department regarding family child
 1.7 care matters to family child care providers; establishing the family child care
 1.8 regulation modernization project; establishing exemption from personal liability
 1.9 for municipality officers or employees; removing exception for counties to be
 1.10 liable for claims at family day care where county had actual knowledge of risk
 1.11 that led to claims; directing the commissioner of human services to develop a
 1.12 one-stop assistance network for family child care providers; appropriating funds
 1.13 for child care provider grants; appropriating funds for a child care business training
 1.14 program grant; appropriating funds for a grant to Minnesota Initiative Foundations
 1.15 to develop action plan for economic development of child care in rural communities;
 1.16 clarifying the meaning of special family day care home; establishing licensing
 1.17 provisions for alternative day care programs; permitting certain providers to operate
 1.18 up to four licensed programs in the same building; requiring a validation study of
 1.19 the Parent Aware program; adding a supervised adult to the definition of helper
 1.20 for family child care programs; permitting family child care training instructors
 1.21 to count two instruction hours for annual training hour requirements; establishing
 1.22 the Family Child Care Training Advisory Committee; creating the Office of
 1.23 Ombudsperson for Child Care Providers; directing the commissioner of human
 1.24 services to modify the ask DHS website function for family child care providers;
 1.25 providing appointments; requiring reports; appropriating money; amending
 1.26 Minnesota Statutes 2020, sections 245A.14, subdivision 4; 245A.16, subdivision
 1.27 1; 245A.50, subdivisions 1a, 7; 466.03, subdivision 6d; proposing coding for new
 1.28 law in Minnesota Statutes, chapters 119B; 245A.

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

2.2 **ARTICLE 1**

2.3 **FAMILY CHILD CARE TASK FORCE RECOMMENDATIONS; MISCELLANEOUS**

2.4 Section 1. Minnesota Statutes 2020, section 245A.16, subdivision 1, is amended to read:

2.5 **Subdivision 1. Delegation of authority to agencies.** (a) County agencies and private
2.6 agencies that have been designated or licensed by the commissioner to perform licensing
2.7 functions and activities under section 245A.04 and background studies for family child care
2.8 under chapter 245C; to recommend denial of applicants under section 245A.05; to issue
2.9 correction orders, to issue variances, and recommend a conditional license under section
2.10 245A.06; or to recommend suspending or revoking a license or issuing a fine under section
2.11 245A.07, shall comply with rules and directives of the commissioner governing those
2.12 functions and with this section. The following variances are excluded from the delegation
2.13 of variance authority and may be issued only by the commissioner:

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

2.16 (2) adult foster care maximum capacity;

2.17 (3) adult foster care minimum age requirement;

2.18 (4) child foster care maximum age requirement;

2.19 (5) variances regarding disqualified individuals except that, before the implementation
2.20 of NETStudy 2.0, county agencies may issue variances under section 245C.30 regarding
2.21 disqualified individuals when the county is responsible for conducting a consolidated
2.22 reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and
2.23 (b), of a county maltreatment determination and a disqualification based on serious or
2.24 recurring maltreatment;

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

2.27 (7) variances to requirements relating to chemical use problems of a license holder or a
2.28 household member of a license holder; and

2.29 (8) variances to section 245A.53 for a time-limited period. If the commissioner grants
2.30 a variance under this clause, the license holder must provide notice of the variance to all
2.31 parents and guardians of the children in care.

3.1 Except as provided in section 245A.14, subdivision 4, paragraph (e), a county agency must
3.2 not grant a license holder a variance to exceed the maximum allowable family child care
3.3 license capacity of 14 children.

3.4 (b) A county agency that has been designated by the commissioner to issue family child
3.5 care variances must:

3.6 (1) publish the county agency's policies and criteria for issuing variances on the county's
3.7 public website and update the policies as necessary; and

3.8 (2) annually distribute the county agency's policies and criteria for issuing variances to
3.9 all family child care license holders in the county.

3.10 (c) Before the implementation of NETStudy 2.0, county agencies must report information
3.11 about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision
3.12 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the
3.13 commissioner at least monthly in a format prescribed by the commissioner.

3.14 (d) For family child care programs, the commissioner shall require a county agency to
3.15 conduct one unannounced licensing review at least annually.

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

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

3.19 (g) During implementation of chapter 245D, the commissioner shall consider:

3.20 (1) the role of counties in quality assurance;

3.21 (2) the duties of county licensing staff; and

3.22 (3) the possible use of joint powers agreements, according to section 471.59, with counties
3.23 through which some licensing duties under chapter 245D may be delegated by the
3.24 commissioner to the counties.

3.25 Any consideration related to this paragraph must meet all of the requirements of the corrective
3.26 action plan ordered by the federal Centers for Medicare and Medicaid Services.

3.27 (h) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or
3.28 successor provisions; and section 245D.061 or successor provisions, for family child foster
3.29 care programs providing out-of-home respite, as identified in section 245D.03, subdivision
3.30 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and
3.31 private agencies.

4.1 (i) A county agency shall report to the commissioner, in a manner prescribed by the
4.2 commissioner, the following information for a licensed family child care program:

4.3 (1) the results of each licensing review completed, including the date of the review, and
4.4 any licensing correction order issued;

4.5 (2) any death, serious injury, or determination of substantiated maltreatment; and

4.6 (3) any fires that require the service of a fire department within 48 hours of the fire. The
4.7 information under this clause must also be reported to the state fire marshal within two
4.8 business days of receiving notice from a licensed family child care provider.

4.9 (j) A county agency shall forward to all family child care providers in the county any
4.10 communication, including any communication containing information specifically about
4.11 the county, from the Department of Human Services regarding family child care.

4.12 **Sec. 2. DIRECTION TO COMMISSIONER OF HUMAN SERVICES; FAMILY**
4.13 **CHILD CARE TASK FORCE RECOMMENDATIONS IMPLEMENTATION PLAN.**

4.14 The commissioner of human services shall include individuals representing family child
4.15 care providers in any group that develops a plan for implementing the recommendations of
4.16 the Family Child Care Task Force.

4.17 **ARTICLE 2**

4.18 **FAMILY CHILD CARE TASK FORCE RECOMMENDATIONS; DUTY 2**

4.19 **Section 1. FAMILY CHILD CARE REGULATION MODERNIZATION.**

4.20 (a) The commissioner of human services shall contract with an experienced and
4.21 independent organization or individual consultant to conduct the work outlined in this
4.22 section. If practicable, the commissioner must contract with the National Association for
4.23 Regulatory Administration.

4.24 (b) The consultant must develop a proposal for a risk-based model for monitoring
4.25 compliance with family child care licensing standards, grounded in national regulatory best
4.26 practices. Violations in the new model must be weighted to reflect the potential risk they
4.27 pose to children's health and safety, and licensing sanctions must be tied to the potential
4.28 risk. The proposed new model must protect the health and safety of children in family child
4.29 care programs and be child-centered, family-friendly, and fair to providers.

4.30 (c) The consultant shall develop and implement a stakeholder engagement process that
4.31 solicits input from parents, licensed family child care providers, county licensors, staff of

5.1 the Department of Human Services, and experts in child development about appropriate
5.2 licensing standards, appropriate tiers for violations of the standards based on the potential
5.3 risk of harm that each violation poses, and appropriate licensing sanctions for each tier.

5.4 (d) The consultant shall solicit input from parents, licensed family child care providers,
5.5 county licensors, and staff of the Department of Human Services about which family child
5.6 care providers should be eligible for abbreviated inspections that predict compliance with
5.7 other licensing standards for licensed family child care providers using key indicators
5.8 previously identified by an empirically based statistical methodology developed by the
5.9 National Association for Regulatory Administration and the Research Institute for Key
5.10 Indicators.

5.11 (e) No later than February 1, 2024, the commissioner shall submit a report and proposed
5.12 legislation required to implement the new licensing model to the chairs and ranking minority
5.13 members of the legislative committees with jurisdiction over child care regulation.

5.14 **Sec. 2. APPROPRIATION; FAMILY CHILD CARE REGULATION**
5.15 **MODERNIZATION.**

5.16 \$1,500,000 in fiscal year 2022 is appropriated from the general fund to the commissioner
5.17 of human services for the family child care regulation modernization project under section
5.18 1. This is a onetime appropriation and remains available until June 30, 2024.

5.19 **ARTICLE 3**
5.20 **FAMILY CHILD CARE TASK FORCE RECOMMENDATIONS; DUTY 3**

5.21 Section 1. Minnesota Statutes 2020, section 466.03, subdivision 6d, is amended to read:

5.22 Subd. 6d. **Licensing of providers.** (a) A claim against a municipality based on the failure
5.23 of a provider to meet the standards needed for a license to operate a day care facility under
5.24 chapter 245A for children, unless the municipality had actual knowledge of a failure to meet
5.25 licensing standards that resulted in a dangerous condition that foreseeably threatened the
5.26 plaintiff. A municipality shall be immune from liability for a claim arising out of a provider's
5.27 use of a swimming pool located at a family day care or group family day care home under
5.28 section 245A.14, subdivision 10 11, unless the municipality had actual knowledge of a
5.29 provider's failure to meet the licensing standards under section 245A.14, subdivision 10 11,
5.30 paragraph (a), clauses (1) to (3), that resulted in a dangerous condition that foreseeably
5.31 threatened the plaintiff. An officer or employee of a municipality shall be immune from
5.32 liability for a claim based on the failure of a provider to meet the necessary standards for a

6.1 license to operate a day care facility for children under chapter 245A, unless the officer or
6.2 employee is found guilty of malfeasance in office, willful neglect of duty, or bad faith.

6.3 (b) For purposes of paragraph (a), the fact that a licensing variance had been granted for
6.4 a day care facility for children under chapter 245A shall not constitute:

6.5 (1) actual knowledge by the municipality that granted the variance of a failure to meet
6.6 licensing standards that resulted in a dangerous condition that foreseeably threatened the
6.7 plaintiff; or

6.8 (2) malfeasance in office, willful neglect of duty, or bad faith by an officer or employee
6.9 of a municipality involved in granting the variance.

6.10 **ARTICLE 4**

6.11 **FAMILY CHILD CARE TASK FORCE RECOMMENDATIONS; DUTY 4**

6.12 Section 1. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; FAMILY**
6.13 **CHILD CARE ONE-STOP ASSISTANCE NETWORK.**

6.14 By January 1, 2022, the commissioner of human services shall, in consultation with
6.15 county agencies, providers, and other relevant stakeholders, develop a proposal to create,
6.16 advertise, and implement a one-stop regional assistance network comprised of individuals
6.17 who have experience starting a licensed family or group family day care or technical expertise
6.18 regarding the applicable licensing statutes and procedures, in order to assist individuals with
6.19 matters relating to starting or sustaining a licensed family or group family day care program.
6.20 The proposal shall include an estimated timeline for implementation of the assistance
6.21 network, an estimated budget of the cost of the assistance network, and any necessary
6.22 legislative proposals to implement the assistance network. The proposal shall also include
6.23 a plan to raise awareness and distribute contact information for the assistance network to
6.24 all licensed family or group family day care providers.

6.25 Sec. 2. **APPROPRIATION; CHILD CARE PROVIDER GRANTS.**

6.26 (a) \$..... in fiscal year 2022 is appropriated from the general fund to the commissioner
6.27 of employment and economic development for grants to local communities to increase the
6.28 supply of quality child care providers to support economic development. At least 60 percent
6.29 of grant funds must go to communities located outside of the seven-county metropolitan
6.30 area as defined under Minnesota Statutes, section 473.121, subdivision 2. Grant recipients
6.31 must obtain a 50 percent nonstate match to grant funds in either cash or in-kind contributions.
6.32 Grant funds available under this section must be used to implement projects to reduce the

7.1 child care shortage in the state, including but not limited to funding for child care business
7.2 start-ups or expansion, training, facility modifications or improvements required for licensing,
7.3 and assistance with licensing and other regulatory requirements. In awarding grants, the
7.4 commissioner must give priority to communities that have demonstrated a shortage of child
7.5 care providers in the area. This is a onetime appropriation.

7.6 (b) Within one year of receiving grant funds, grant recipients must report to the
7.7 commissioner on the outcomes of the grant program, including but not limited to the number
7.8 of new providers, the number of additional child care provider jobs created, the number of
7.9 additional child care slots, and the amount of cash and in-kind local funds invested.

7.10 **Sec. 3. APPROPRIATION; CHILD CARE BUSINESS TRAINING PROGRAM.**

7.11 \$..... in fiscal year 2022 is appropriated from the general fund to the commissioner of
7.12 employment and economic development for a grant, through a competitive bidding process,
7.13 to a nonprofit organization with expertise in small business advising to operate a business
7.14 training program for child care providers and to create materials that could be used, free of
7.15 charge, for start-up, expansion, and operation of child care businesses statewide, with the
7.16 goal of helping new and existing child care businesses in underserved areas of the state
7.17 become profitable and sustainable. The commissioner shall report data on outcomes and
7.18 recommendations for replication of this training program throughout Minnesota to the
7.19 governor and the committees of the house of representatives and the senate with jurisdiction
7.20 over child care by December 15, 2023. This is a onetime appropriation and is available until
7.21 June 30, 2023.

7.22 **Sec. 4. APPROPRIATION; MINNESOTA INITIATIVE FOUNDATIONS.**

7.23 (a) \$..... in fiscal year 2022 is appropriated from the general fund to the commissioner
7.24 of employment and economic development for a grant to the Minnesota Initiative
7.25 Foundations. This is a onetime appropriation and is available until June 30, 2025.

7.26 (b) The Minnesota Initiative Foundations must use grant funds under this section to:

7.27 (1) facilitate planning processes for rural communities resulting in a community solution
7.28 action plan that guides decision making to sustain and increase the supply of quality child
7.29 care in the region to support economic development;

7.30 (2) engage the private sector to invest local resources to support the community solution
7.31 action plan and ensure quality child care is a vital component of additional regional economic
7.32 development planning processes;

8.1 (3) provide locally based training and technical assistance to rural child care business
8.2 owners individually or through a learning cohort. Access to financial and business
8.3 development assistance must prepare child care businesses for quality engagement and
8.4 improvement by stabilizing operations, leveraging funding from other sources, and fostering
8.5 business acumen that allows child care businesses to plan for and afford the cost of providing
8.6 quality child care; or

8.7 (4) recruit child care programs to participate in Parent Aware, Minnesota's quality and
8.8 improvement rating system, by providing targeted resources designed to encourage high
8.9 levels of participation in Parent Aware. The Minnesota Initiative Foundations must work
8.10 with local partners to provide low-cost training, professional development opportunities,
8.11 and continuing education curricula. The Minnesota Initiative Foundations must fund, through
8.12 local partners, an enhanced level of coaching to rural child care providers to obtain a quality
8.13 rating through Parent Aware.

ARTICLE 5

FAMILY CHILD CARE TASK FORCE RECOMMENDATIONS; DUTY 5

8.16 Section 1. Minnesota Statutes 2020, section 245A.14, subdivision 4, is amended to read:

8.17 **Subd. 4. Special family day care homes.** (a) Nonresidential child care programs serving
8.18 14 or fewer children that are conducted at a location other than the license holder's own
8.19 residence shall be licensed under this section and the rules governing family day care or
8.20 group family day care if:

8.21 (a) the license holder is the primary provider of care and the nonresidential child care
8.22 program is conducted in a dwelling other than the license holder's own residence that is
8.23 located on a residential lot;_

8.24 (b) the license holder is an employer who may or may not be the primary provider of
8.25 care, and the purpose for the child care program is to provide child care services to children
8.26 of the license holder's employees;

8.27 (c) the license holder is a church or religious organization;

8.28 (d) the license holder is a community collaborative child care provider. For purposes of
8.29 this subdivision, a community collaborative child care provider is a provider participating
8.30 in a cooperative agreement with a community action agency as defined in section 256E.31;

8.31 (e) the license holder is a not-for-profit agency that provides child care in a dwelling
8.32 located on a residential lot and the license holder maintains two or more contracts with

9.1 ~~community employers or other community organizations to provide child care services.~~

9.2 ~~The county licensing agency may grant a capacity variance to a license holder licensed~~
9.3 ~~under this paragraph to exceed the licensed capacity of 14 children by no more than five~~
9.4 ~~children during transition periods related to the work schedules of parents, if the license~~
9.5 ~~holder meets the following requirements:~~

9.6 (1) ~~the program does not exceed a capacity of 14 children more than a cumulative total~~
9.7 ~~of four hours per day;~~

9.8 (2) ~~the program meets a one to seven staff to child ratio during the variance period;~~

9.9 (3) ~~all employees receive at least an extra four hours of training per year than required~~
9.10 ~~in the rules governing family child care each year;~~

9.11 (4) ~~the facility has square footage required per child under Minnesota Rules, part~~
9.12 ~~9502.0425;~~

9.13 (5) ~~the program is in compliance with local zoning regulations;~~

9.14 (6) ~~the program is in compliance with the applicable fire code as follows:~~

9.15 (i) ~~if the program serves more than five children older than 2 1/2 years of age, but no~~
9.16 ~~more than five children 2 1/2 years of age or less, the applicable fire code is educational~~
9.17 ~~occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015,~~
9.18 ~~Section 202; or~~

9.19 (ii) ~~if the program serves more than five children 2 1/2 years of age or less, the applicable~~
9.20 ~~fire code is Group I-4 Occupancies, as provided in the Minnesota State Fire Code 2015,~~
9.21 ~~Section 202, unless the rooms in which the children are cared for are located on a level of~~
9.22 ~~exit discharge and each of these child care rooms has an exit door directly to the exterior,~~
9.23 ~~then the applicable fire code is Group E occupancies, as provided in the Minnesota State~~
9.24 ~~Fire Code 2015, Section 202; and~~

9.25 (7) ~~any age and capacity limitations required by the fire code inspection and square~~
9.26 ~~footage determinations shall be printed on the license; or~~

9.27 (f) ~~the license holder is the primary provider of care and has located the licensed child~~
9.28 ~~care program in a commercial space, if the license holder meets the following requirements:~~

9.29 (1) ~~the program is in compliance with local zoning regulations;~~

9.30 (2) ~~the program is in compliance with the applicable fire code as follows:~~

9.31 (i) ~~if the program serves more than five children older than 2 1/2 years of age, but no~~
9.32 ~~more than five children 2 1/2 years of age or less, the applicable fire code is educational~~

10.1 ~~occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015,~~
10.2 ~~Section 202; or~~

10.3 ~~(ii) if the program serves more than five children 2 1/2 years of age or less, the applicable~~
10.4 ~~fire code is Group I-4 Occupancies, as provided under the Minnesota State Fire Code 2015,~~
10.5 ~~Section 202;~~

10.6 ~~(3) any age and capacity limitations required by the fire code inspection and square~~
10.7 ~~footage determinations are printed on the license; and~~

10.8 ~~(4) the license holder prominently displays the license issued by the commissioner which~~
10.9 ~~contains the statement "This special family child care provider is not licensed as a child~~
10.10 ~~care center."~~

10.11 ~~(g) The commissioner may approve two or more licenses under paragraphs (a) to (f) to~~
10.12 ~~be issued at the same location or under one contiguous roof, if each license holder is able~~
10.13 ~~to demonstrate compliance with all applicable rules and laws. Each license holder must~~
10.14 ~~operate the license holder's respective licensed program as a distinct program and within~~
10.15 ~~the capacity, age, and ratio distributions of each license.~~

10.16 ~~(h) (b) The commissioner may grant variances to this section to allow a primary provider~~
10.17 ~~of care, a not-for-profit organization, a church or religious organization, an employer, or a~~
10.18 ~~community collaborative to be licensed to provide child care under paragraphs (e) and (f)~~
10.19 ~~section 245A.141, subdivision 1, paragraph (a), clauses (4) and (5), if the license holder~~
10.20 ~~meets the other requirements of the statute.~~

10.21 **Sec. 2. [245A.141] ALTERNATIVE DAY CARE PROGRAM LICENSING.**

10.22 Subdivision 1. Alternative day care programs. (a) The following child care programs
10.23 serving 14 or fewer children that are conducted at a location other than the license holder's
10.24 own residence shall be licensed under this section:

10.25 (1) the license holder is an employer who may or may not be the primary provider of
10.26 care, and the purpose for the child care program is to provide child care services to children
10.27 of the license holder's employees;

10.28 (2) the license holder is a church or religious organization;

10.29 (3) the license holder is a community collaborative child care provider. For purposes of
10.30 this subdivision, a community collaborative child care provider is a provider participating
10.31 in a cooperative agreement with a community action agency as defined in section 256E.31;

11.1 (4) the license holder is a not-for-profit agency that provides child care in a dwelling
11.2 located on a residential lot and the license holder maintains two or more contracts with
11.3 community employers or other community organizations to provide child care services.
11.4 The county licensing agency may grant a capacity variance to a license holder licensed
11.5 under this paragraph to exceed the licensed capacity of 14 children by no more than five
11.6 children during transition periods related to the work schedules of parents, if the license
11.7 holder meets the following requirements:

11.8 (i) the program does not exceed a capacity of 14 children more than a cumulative total
11.9 of four hours per day;

11.10 (ii) the program meets a one-to-seven staff-to-child ratio during the variance period;

11.11 (iii) all employees receive at least an extra four hours of training per year than are required
11.12 in the rules governing family child care each year;

11.13 (iv) the facility has square footage required per child under Minnesota Rules, part
11.14 9502.0425;

11.15 (v) the program is in compliance with local zoning regulations;

11.16 (vi) the program is in compliance with the applicable fire code as follows:

11.17 (A) if the program serves more than five children older than 2-1/2 years of age, but no
11.18 more than five children 2-1/2 years of age or younger, the applicable fire code is educational
11.19 occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015,
11.20 Section 202; or

11.21 (B) if the program serves more than five children 2-1/2 years of age or younger, the
11.22 applicable fire code is Group I-4 Occupancies, as provided in the Minnesota State Fire Code
11.23 2015, Section 202, unless the rooms in which the children are cared for are located on a
11.24 level of exit discharge and each of these child care rooms has an exit door directly to the
11.25 exterior, then the applicable fire code is Group E Occupancies, as provided in the Minnesota
11.26 State Fire Code 2015, Section 202; and

11.27 (vii) any age and capacity limitations required by the fire code inspection and square
11.28 footage determinations shall be printed on the license; or

11.29 (5) the license holder is the primary provider of care and has located the licensed child
11.30 care program in a commercial space, if the license holder meets the following requirements:

11.31 (i) the program is in compliance with local zoning regulations;

11.32 (ii) the program is in compliance with the applicable fire code as follows:

12.1 (A) if the program serves more than five children older than 2-1/2 years of age, but no
12.2 more than five children 2-1/2 years of age or younger, the applicable fire code is educational
12.3 occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015,
12.4 Section 202; or

12.5 (B) if the program serves more than five children 2-1/2 years of age or younger, the
12.6 applicable fire code is Group I-4 Occupancies, as provided under the Minnesota State Fire
12.7 Code 2015, Section 202;

12.8 (iii) any age and capacity limitations required by the fire code inspection and square
12.9 footage determinations are printed on the license; and

12.10 (iv) the license holder prominently displays the license issued by the commissioner that
12.11 contains the statement "This special family child care provider is not licensed as a child
12.12 care center."

12.13 (b) Programs licensed under this section shall be subject to the rules governing family
12.14 day care or group family day care.

12.15 (c) Programs licensed under this section shall be monitored by county licensing agencies
12.16 under section 245A.16.

12.17 **Subd. 2. Multiple license approval.** The commissioner may approve up to four licenses
12.18 under subdivision 1, paragraph (a), clause (1) or (2), to be issued at the same location or
12.19 under one contiguous roof, if each license holder is able to demonstrate compliance with
12.20 all applicable rules and laws. Each license holder must operate the license holder's respective
12.21 licensed program as a distinct program and within the capacity, age, and ratio distributions
12.22 of each license.

12.23 **Subd. 3. Variances.** The commissioner may grant variances to this section to allow a
12.24 primary provider of care, a not-for-profit organization, a church or religious organization,
12.25 an employer, or a community collaborative to be licensed to provide child care under
12.26 subdivision 1, paragraph (a), clauses (4) and (5), if the license holder meets the other
12.27 requirements of the statute.

ARTICLE 6

FAMILY CHILD CARE TASK FORCE RECOMMENDATIONS; DUTY 6

12.30 Section 1. **APPROPRIATION; PARENT AWARE VALIDATION STUDY.**

12.31 (a) \$..... is appropriated in fiscal year 2022 from the general fund to the commissioner
12.32 of human services to conduct a validation study of the Parent Aware program to evaluate

13.1 whether the program's standards, indicators, and other measures are effectively measuring
13.2 program quality and educational outcomes. This is a onetime appropriation.

13.3 (b) The commissioner shall complete the validation study and report on its results to the
13.4 chairs and ranking minority members of the legislative committees with jurisdiction over
13.5 child care by February 1, 2022. The commissioner shall not update current Parent Aware
13.6 standards and indicators until the validation study is complete.

ARTICLE 7

FAMILY CHILD CARE TASK FORCE RECOMMENDATIONS; DUTY 7

13.9 Section 1. Minnesota Statutes 2020, section 245A.50, subdivision 1a, is amended to read:

13.10 **Subd. 1a. Definitions and general provisions.** For the purposes of this section, the
13.11 following terms have the meanings given:

13.12 (1) "second adult caregiver" means an adult who cares for children in the licensed
13.13 program along with the license holder for a cumulative total of more than 500 hours annually;

13.14 (2) "helper" means a minor, ages 13 to 17, who assists in caring for children, or an adult
13.15 who cares for children exclusively under the direct supervision of the license holder; and

13.16 (3) "substitute" means an adult who assumes responsibility for a license holder for a
13.17 cumulative total of not more than 500 hours annually.

13.18 An adult who cares for children in the licensed program along with the license holder for
13.19 a cumulative total of not more than 500 hours annually has the same training requirements
13.20 as a substitute.

13.21 Sec. 2. Minnesota Statutes 2020, section 245A.50, subdivision 7, is amended to read:

13.22 **Subd. 7. Training requirements for family and group family child care.** (a) For
13.23 purposes of family and group family child care, the license holder and each second adult
13.24 caregiver must complete 16 hours of ongoing training each year. Repeat of topical training
13.25 requirements in subdivisions 2 to 8 shall count toward the annual 16-hour training
13.26 requirement. Additional ongoing training subjects to meet the annual 16-hour training
13.27 requirement must be selected from the following areas:

13.28 (1) child development and learning training in understanding how a child develops
13.29 physically, cognitively, emotionally, and socially, and how a child learns as part of the
13.30 child's family, culture, and community;

14.1 (2) developmentally appropriate learning experiences, including training in creating
14.2 positive learning experiences, promoting cognitive development, promoting social and
14.3 emotional development, promoting physical development, promoting creative development;
14.4 and behavior guidance;

14.5 (3) relationships with families, including training in building a positive, respectful
14.6 relationship with the child's family;

14.7 (4) assessment, evaluation, and individualization, including training in observing,
14.8 recording, and assessing development; assessing and using information to plan; and assessing
14.9 and using information to enhance and maintain program quality;

14.10 (5) historical and contemporary development of early childhood education, including
14.11 training in past and current practices in early childhood education and how current events
14.12 and issues affect children, families, and programs;

14.13 (6) professionalism, including training in knowledge, skills, and abilities that promote
14.14 ongoing professional development; and

14.15 (7) health, safety, and nutrition, including training in establishing healthy practices;
14.16 ensuring safety; and providing healthy nutrition.

14.17 (b) A provider who is approved as a trainer through the Develop data system may count
14.18 up to two hours of training instruction toward the annual 16-hour training requirement in
14.19 paragraph (a). The provider may only count training instruction hours for the first instance
14.20 in which they deliver a particular content-specific training during each licensing year. Hours
14.21 counted as training instruction must be approved through the Develop data system with
14.22 attendance verified on the trainer's individual learning record and must be in Knowledge
14.23 and Competency Framework content area VII A (Establishing Healthy Practices) or B
14.24 (Ensuring Safety).

14.25 **Sec. 3. FAMILY CHILD CARE TRAINING ADVISORY COMMITTEE.**

14.26 Subdivision 1. Formation; duties. (a) The Family Child Care Training Advisory
14.27 Committee shall advise the commissioner of human services on the training requirements
14.28 for licensed family and group family child care providers. Beginning January 1, 2022, the
14.29 advisory committee shall meet at least twice per year. The advisory committee shall annually
14.30 elect a chair from among its members who shall establish the agenda for each meeting. The
14.31 commissioner or commissioner's designee shall attend all advisory committee meetings.

14.32 (b) The Family Child Care Training Advisory Committee shall advise and make
14.33 recommendations to the commissioner of human services on:

15.1 (1) updates to the rules and statutes governing family child care training, including
15.2 technical updates to facilitate providers' understanding of training requirements;
15.3 (2) modernization of family child care training requirements, including substantive
15.4 changes to the training subject areas;
15.5 (3) difficulties facing family child care providers in completing training requirements,
15.6 including proposed solutions to provider difficulties; and
15.7 (4) any other aspect of family child care training, as requested by:
15.8 (i) a committee member, who may request an item to be placed on the agenda for a future
15.9 meeting. The request may be considered by the committee and voted upon. If the motion
15.10 carries, the meeting agenda item may be developed for presentation to the committee;
15.11 (ii) a member of the public, who may approach the committee by letter or e-mail
15.12 requesting that an item be placed on a future meeting agenda. The request may be considered
15.13 by the committee and voted upon. If the motion carries, the agenda item may be developed
15.14 for presentation to the committee; or
15.15 (iii) the commissioner of human services or the commissioner's designee.
15.16 (c) The Family Child Care Training Advisory Committee shall expire December 1, 2025.
15.17 Subd. 2. **Advisory committee members.** (a) The Family Child Care Training Advisory
15.18 Committee consists of:
15.19 (1) four members who are family child care providers from greater Minnesota, including
15.20 one member appointed by the speaker of the house, one member appointed by the senate
15.21 majority leader, one member appointed by the Minnesota Association of Child Care
15.22 Professionals, and one member appointed by the Minnesota Child Care Provider Network;
15.23 (2) four members who are family child care providers from the metropolitan area as
15.24 defined in Minnesota Statutes, section 473.121, subdivision 2, including one member
15.25 appointed by the speaker of the house, one member appointed by the senate majority leader,
15.26 one member appointed by the Minnesota Association of Child Care Professionals, and one
15.27 member appointed by the Minnesota Child Care Provider Network; and
15.28 (3) up to seven members who have expertise in child development, instructional design,
15.29 or training delivery, including up to two members appointed by the speaker of the house,
15.30 up to two members appointed by the senate majority leader, one member appointed by the
15.31 Minnesota Association of Child Care Professionals, one member appointed by the Minnesota

16.1 Child Care Provider Network, and one member appointed by the Greater Minnesota
16.2 Partnership.

16.3 (b) Advisory committee members shall not be employed by the Department of Human
16.4 Services. Advisory committee members shall receive no compensation.

16.5 (c) Advisory committee members must include representatives of diverse cultural
16.6 communities.

16.7 (d) Advisory committee members shall serve two-year terms. Initial appointments to
16.8 the advisory committee must be made by December 1, 2021. Subsequent appointments to
16.9 the advisory committee must be made by December 1 of the year in which the member's
16.10 term expires.

16.11 (e) The commissioner of human services must convene the first meeting of the advisory
16.12 committee by March 1, 2022.

16.13 Subd. 3. **Commissioner report.** The commissioner of human services shall report to
16.14 the chairs and ranking minority members of the legislative committees with jurisdiction
16.15 over child care on any recommendations from the Family Child Care Training Advisory
16.16 Committee, including any draft legislation necessary to implement the recommendations.

ARTICLE 8

FAMILY CHILD CARE TASK FORCE RECOMMENDATIONS; DUTY 8

16.19 Section 1. [119B.27] OMBUDSPERSON FOR CHILD CARE PROVIDERS.

16.20 Subdivision 1. **Appointment.** The governor shall appoint an ombudsperson in the
16.21 classified service to assist child care providers, including family child care providers and
16.22 legal nonlicensed child care providers, with licensing, compliance, and other issues facing
16.23 child care providers. The ombudsperson must be selected without regard to the person's
16.24 political affiliation. The ombudsperson shall serve a term of two years and may be removed
16.25 prior to the end of the term for just cause.

16.26 Subd. 2. **Duties.** (a) The ombudsperson's duties shall include:

16.27 (1) addressing all areas of concern to child care providers related to the provision of
16.28 child care services, including licensing, correction orders, penalty assessments, complaint
16.29 investigations, and other interactions with agency staff;

16.30 (2) providing recommendations for child care improvement or child care provider
16.31 education;

17.1 (3) operating a telephone line to answer questions and provide guidance to child care

17.2 providers; and

17.3 (4) assisting child care license applicants.

17.4 (b) The ombudsperson must report annually by December 31 to the commissioner and
17.5 the chairs and ranking minority members of the legislative committees with jurisdiction
17.6 over child care on the services provided by the ombudsperson to child care providers,
17.7 including the number, types, and locations of child care providers served, and the activities
17.8 of the ombudsperson to carry out the duties under this section. The commissioner shall
17.9 determine the form of the report and may specify additional reporting requirements.

17.10 Subd. 3. **Staff.** The ombudsperson may appoint and compensate out of available funds
17.11 a deputy, confidential secretary, and other employees in the unclassified service as authorized
17.12 by law. The ombudsperson and the full-time staff are members of the Minnesota State
17.13 Retirement Association. The ombudsperson may delegate to members of the staff any
17.14 authority or duties of the office except the duty to formally make recommendations to a
17.15 child care provider or reports to the commissioner or the legislature.

17.16 Subd. 4. **Access to records.** (a) The ombudsperson or designee, excluding volunteers,
17.17 has access to data of a state agency necessary for the discharge of the ombudsperson's duties,
17.18 including records classified as confidential data on individuals or private data on individuals
17.19 under chapter 13 or any other law. The ombudsperson's data request must relate to a specific
17.20 case. If the data concerns an individual, the ombudsperson or designee shall first obtain the
17.21 individual's consent. If the individual cannot consent and has no legal guardian, then access
17.22 to the data is authorized by this section.

17.23 (b) On a quarterly basis, each state agency responsible for licensing, regulating, and
17.24 enforcing state and federal laws and regulations concerning child care providers must provide
17.25 the ombudsperson with copies of all correction orders, penalty assessments, and complaint
17.26 investigation reports for all child care providers.

17.27 Subd. 5. **Independence of action.** In carrying out the duties under this section, the
17.28 ombudsperson may act independently of the department to provide testimony to the
17.29 legislature, make periodic reports to the legislature, and address areas of concern to child
17.30 care providers.

17.31 Subd. 6. **Civil actions.** The ombudsperson or designee is not civilly liable for any action
17.32 taken under this section if the action was taken in good faith, was within the scope of the
17.33 ombudsperson's authority, and did not constitute willful or reckless misconduct.

18.1 Subd. 7. Qualifications. The ombudsperson must be a person who has knowledge and
18.2 experience concerning the provision of child care. The ombudsperson must be experienced
18.3 in dealing with governmental entities, interpretation of laws and regulations, investigations,
18.4 record keeping, report writing, public speaking, and management. A person is not eligible
18.5 to serve as the ombudsperson while holding public office.

18.6 Subd. 8. Office support. The commissioner shall provide the ombudsperson with the
18.7 necessary office space, supplies, equipment, and clerical support to effectively perform the
18.8 duties under this section.

18.9 Subd. 9. Posting. (a) The commissioner shall post on the department's website the address
18.10 and telephone number for the office of the ombudsperson. The commissioner shall provide
18.11 all child care providers with the address and telephone number of the office. Counties must
18.12 provide child care providers with the name, address, and telephone number of the office.

18.13 (b) The ombudsperson must approve all posting and notice required by the department
18.14 and counties under this subdivision.

18.15 Sec. 2. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; ASK DHS**
18.16 **WEBSITE MODIFICATIONS.**

18.17 By October 1, 2021, the commissioner of human services shall modify the "Ask DHS"
18.18 function on its website available to family child care providers to permit providers to submit
18.19 the form anonymously and without identifying the provider's licensor. The commissioner
18.20 shall not require identification of the provider or the provider's licensor in order to submit
18.21 the form.

18.22 Sec. 3. **APPROPRIATION.**

18.23 \$..... in fiscal year 2022 and \$..... in fiscal year 2023 are appropriated from the general
18.24 fund to the commissioner of human services for the ombudsperson for child care providers
18.25 under Minnesota Statutes, section 119B.27.

18.26 **EFFECTIVE DATE.** This section is effective July 1, 2021.