

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 1730

02/27/2017 Authored by Dean, M.; Zerwas and Murphy, E.,
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to health; providing for the licensure of prescribed pediatric extended care
1.3 centers by the commissioner of health; setting fees; authorizing rulemaking;
1.4 providing for criminal penalties; classifying certain data; amending Minnesota
1.5 Statutes 2016, sections 13.381, by adding a subdivision; 144.057, subdivision 1;
1.6 626.556, subdivisions 2, 3, 3c, 10d; proposing coding for new law as Minnesota
1.7 Statutes, chapter 144H.

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

1.9 Section 1. Minnesota Statutes 2016, section 13.381, is amended by adding a subdivision
1.10 to read:

1.11 Subd. 12a. Prescribed pediatric extended care centers. Data regarding prescribed
1.12 pediatric extended care center background studies is classified in section 144H.09,
1.13 subdivision 3.

1.14 Sec. 2. Minnesota Statutes 2016, section 144.057, subdivision 1, is amended to read:

1.15 Subdivision 1. **Background studies required.** The commissioner of health shall contract
1.16 with the commissioner of human services to conduct background studies of:

1.17 (1) individuals providing services which have direct contact, as defined under section
1.18 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,
1.19 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and
1.20 home care agencies licensed under chapter 144A; residential care homes licensed under
1.21 chapter 144B, and board and lodging establishments that are registered to provide supportive
1.22 or health supervision services under section 157.17;

2.1 (2) individuals specified in section 245C.03, subdivision 1, who perform direct contact
 2.2 services in a nursing home or a home care agency licensed under chapter 144A or a boarding
 2.3 care home licensed under sections 144.50 to 144.58. If the individual under study resides
 2.4 outside Minnesota, the study must include a check for substantiated findings of maltreatment
 2.5 of adults and children in the individual's state of residence when the information is made
 2.6 available by that state, and must include a check of the National Crime Information Center
 2.7 database;

2.8 (3) beginning July 1, 1999, all other employees in nursing homes licensed under chapter
 2.9 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification
 2.10 of an individual in this section shall disqualify the individual from positions allowing direct
 2.11 contact or access to patients or residents receiving services. "Access" means physical access
 2.12 to a client or the client's personal property without continuous, direct supervision as defined
 2.13 in section 245C.02, subdivision 8, when the employee's employment responsibilities do not
 2.14 include providing direct contact services;

2.15 (4) individuals employed by a supplemental nursing services agency, as defined under
 2.16 section 144A.70, who are providing services in health care facilities; ~~and~~

2.17 (5) controlling persons of a supplemental nursing services agency, as defined under
 2.18 section 144A.70; and

2.19 (6) owners, employees, and contractors of prescribed pediatric extended care centers
 2.20 licensed under chapter 144H.

2.21 If a facility or program is licensed by the Department of Human Services and subject to
 2.22 the background study provisions of chapter 245C and is also licensed by the Department
 2.23 of Health, the Department of Human Services is solely responsible for the background
 2.24 studies of individuals in the jointly licensed programs.

2.25 Sec. 3. [144H.01] DEFINITIONS.

2.26 Subdivision 1. **Application.** The terms defined in this section apply to this chapter.

2.27 Subd. 2. **Basic services.** "Basic services" includes but is not limited to:

2.28 (1) the development, implementation, and monitoring of a comprehensive protocol of
 2.29 care that is developed in conjunction with the parent or guardian of a medically complex
 2.30 or technologically dependent child and that specifies the medical, nursing, psychosocial,
 2.31 and developmental therapies required by the medically complex or technologically dependent
 2.32 child; and

3.1 (2) the caregiver training needs of the child's parent or guardian.

3.2 Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health.

3.3 Subd. 4. **Licensee.** "Licensee" means an owner of a prescribed pediatric extended care
 3.4 (PPEC) center licensed under this chapter.

3.5 Subd. 5. **Medically complex or technologically dependent child.** "Medically complex
 3.6 or technologically dependent child" means a child who, because of a medical condition,
 3.7 requires continuous therapeutic interventions or skilled nursing supervision which must be
 3.8 prescribed by a licensed physician and administered by, or under the direct supervision of,
 3.9 a licensed registered nurse.

3.10 Subd. 6. **Owner.** "Owner" means an individual whose ownership interest provides
 3.11 sufficient authority or control to affect or change decisions regarding the operation of the
 3.12 PPEC center. An owner includes a sole proprietor, a general partner, or any other individual
 3.13 whose ownership interest has the ability to affect the management and direction of the PPEC
 3.14 center's policies.

3.15 Subd. 7. **Prescribed pediatric extended care center, PPEC center, or center.**
 3.16 "Prescribed pediatric extended care center," "PPEC center," or "center" means any facility
 3.17 operated on a for-profit or nonprofit basis to provide nonresidential basic services to three
 3.18 or more medically complex or technologically dependent children who require such services
 3.19 and who are not related to the owner by blood, marriage, or adoption.

3.20 Subd. 8. **Supportive services or contracted services.** "Supportive services or contracted
 3.21 services" include but are not limited to speech therapy, occupational therapy, physical
 3.22 therapy, social work services, developmental services, child life services, and psychology
 3.23 services.

3.24 Sec. 4. **[144H.02] LICENSURE REQUIRED.**

3.25 A person may not own or operate a prescribed pediatric extended care center in this state
 3.26 unless the person holds a temporary or current license issued under this chapter. A separate
 3.27 license must be obtained for each PPEC center maintained on separate premises, even if
 3.28 the same management operates the PPEC centers. Separate licenses are not required for
 3.29 separate buildings on the same grounds. A center shall not be operated on the same grounds
 3.30 as a child care center licensed under Minnesota Rules, chapter 9503.

3.31 Sec. 5. **[144H.03] EXEMPTIONS.**

3.32 This chapter does not apply to:

- 4.1 (1) a facility operated by the United States government or a federal agency; or
 4.2 (2) a health care facility licensed under chapter 144 or 144A.

4.3 **Sec. 6. [144H.04] LICENSE APPLICATION AND RENEWAL.**

4.4 Subdivision 1. **Licenses.** A person seeking licensure for a PPEC center must submit a
 4.5 completed application for licensure to the commissioner, in a form and manner determined
 4.6 by the commissioner. The applicant must also submit the application fee, in the amount
 4.7 specified in section 144H.05, subdivision 1. Effective February 1, 2019, the commissioner
 4.8 shall issue a license for a PPEC center if the commissioner determines that the applicant
 4.9 and center meet the requirements of this chapter and rules adopted under this chapter. A
 4.10 license issued under this subdivision is valid for two years.

4.11 Subd. 2. **License renewal.** A license issued under subdivision 1 may be renewed for a
 4.12 period of two years if the licensee:

4.13 (1) submits an application for renewal in a form and manner determined by the
 4.14 commissioner, at least 30 days before the license expires. An application for renewal
 4.15 submitted after the renewal deadline date must be accompanied by a late fee in the amount
 4.16 specified in section 144H.05, subdivision 3;

4.17 (2) submits the renewal fee in the amount specified in section 144H.05, subdivision 2;

4.18 (3) demonstrates that the licensee has provided basic services at the PPEC center within
 4.19 the past two years;

4.20 (4) provides evidence that the applicant meets the requirements for licensure; and

4.21 (5) provides other information required by the commissioner.

4.22 Subd. 3. **License not transferable.** A PPEC center license issued under this section is
 4.23 not transferable to another party. Before acquiring ownership of a PPEC center, a prospective
 4.24 applicant must apply to the commissioner for a new license.

4.25 **Sec. 7. [144H.05] FEES.**

4.26 Subdivision 1. **Initial application fee.** The initial application fee for PPEC center
 4.27 licensure is

4.28 Subd. 2. **License renewal.** The fee for renewal of a PPEC center license is

4.29 Subd. 3. **Late fee.** The fee for late submission of an application to renew a PPEC center
 4.30 license is

5.1 Subd. 4. **Nonrefundable; state government special revenue fund.** All fees collected
5.2 under this chapter are nonrefundable and must be deposited in the state treasury and credited
5.3 to the state government special revenue fund.

5.4 Sec. 8. [144H.06] RULEMAKING.

5.5 The commissioner shall adopt rules necessary to implement this chapter. In adopting
5.6 rules under this section, the commissioner shall ensure that services provided at PPEC
5.7 centers are family-centered and include individualized medical, developmental, and family
5.8 training services. Rules adopted under this section shall include requirements for:

5.9 (1) applying for, issuing, and renewing PPEC center licenses;

5.10 (2) nursing personnel and direct care personnel staffing ratios;

5.11 (3) a center's physical plant and maintenance, including standards for plumbing, electrical,
5.12 ventilation, heating and cooling, adequate space, accessibility, and fire protection. These
5.13 standards must be based on the size of the building and the number of children to be served
5.14 in the building;

5.15 (4) sanitary conditions in the center and its surroundings, including water supply, sewage
5.16 disposal, food handling, and general hygiene;

5.17 (5) physician-prescribed supportive services or contracted services;

5.18 (6) transportation services;

5.19 (7) infection control;

5.20 (8) fire safety and emergency procedures;

5.21 (9) programs offered at the center to promote and maintain the health and development
5.22 of children served and to meet the training needs of parents and legal guardians;

5.23 (10) prescribed diets that meet the requirements of Minnesota Rules, part 9503.0145,
5.24 subpart 5;

5.25 (11) written policies for the admission, discharge, and transfer of children;

5.26 (12) duties of medical directors;

5.27 (13) medical records and nursing protocols of care developed and maintained by centers;

5.28 (14) quality assurance reviews conducted by quality assurance committees; and

5.29 (15) limits to fines imposed by the commissioner for violations of this chapter or rules
5.30 adopted under this chapter.

6.1 **Sec. 9. [144H.07] SERVICES; LIMITATIONS.**

6.2 Subdivision 1. **Services.** A PPEC center must provide basic services to medically complex
 6.3 or technologically dependent children, based on a protocol of care established for each child.
 6.4 A PPEC center may provide services up to 24 hours a day and up to seven days a week.

6.5 Subd. 2. **Limitations.** A PPEC center must comply with the following standards related
 6.6 to services:

6.7 (1) a child is prohibited from attending a PPEC center for more than 14 hours within a
 6.8 24-hour period;

6.9 (2) a PPEC center is prohibited from providing services other than those provided to
 6.10 medically complex or technologically dependent children; and

6.11 (3) the maximum capacity for medically complex or technologically dependent children
 6.12 at a center shall not exceed 45 children.

6.13 **Sec. 10. [144H.08] ADMINISTRATION AND MANAGEMENT.**

6.14 Subdivision 1. **Duties of owner.** (a) The owner of a PPEC center shall have full legal
 6.15 authority and responsibility for the operation of the center. A PPEC center must be organized
 6.16 according to a written table of organization, describing the lines of authority and
 6.17 communication to the child care level. The organizational structure must be designed to
 6.18 ensure an integrated continuum of services for the children served.

6.19 (b) The owner must designate one person as a center administrator, who is responsible
 6.20 and accountable for overall management of the center.

6.21 Subd. 2. **Duties of administrator.** The center administrator is responsible and accountable
 6.22 for overall management of the center. The administrator must:

6.23 (1) designate in writing a person to be responsible for the center when the administrator
 6.24 is absent from the center for more than 24 hours;

6.25 (2) maintain the following written records, in a place and form and using a system that
 6.26 allows for inspection of the records by the commissioner during normal business hours:

6.27 (i) a daily census record, which indicates the number of children currently receiving
 6.28 services at the center;

6.29 (ii) a record of all accidents or unusual incidents involving any child or staff member
 6.30 that caused, or had the potential to cause, injury or harm to a person at the center or to center
 6.31 property;

7.1 (iii) copies of all current agreements with providers of supportive services or contracted
7.2 services;

7.3 (iv) copies of all current agreements with consultants employed by the center,
7.4 documentation of each consultant's visits, and written, dated reports; and

7.5 (v) a personnel record for each employee, which must include an application for
7.6 employment, references, employment history for the preceding five years, copies of all
7.7 performance evaluations, and evidence of having completed a background study according
7.8 to section 144H.09;

7.9 (3) develop and maintain a current job description for each employee;

7.10 (4) provide necessary qualified personnel and ancillary services to ensure the health,
7.11 safety, and proper care for each child; and

7.12 (5) develop and implement infection control policies that comply with rules adopted by
7.13 the commissioner regarding infection control.

7.14 **Sec. 11. [144H.09] BACKGROUND STUDIES.**

7.15 Subdivision 1. **Owners and administrators.** Before the commissioner issues or renews
7.16 a license, all owners and the administrator of a PPEC center must complete a background
7.17 study under section 144.057. No person may be involved in the management, operation, or
7.18 control of a PPEC center if the person has been disqualified under chapter 245C. A person
7.19 disqualified under chapter 245C may request a reconsideration, and if the disqualification
7.20 is set aside, is then eligible to be involved in the management, operation, or control of the
7.21 center.

7.22 Subd. 2. **Employees and contractors.** Employees and contractors of a PPEC center
7.23 must complete a background study under section 144.057. No person may be an employee
7.24 or contractor of a PPEC center if the person has been disqualified under chapter 245C. A
7.25 person disqualified under chapter 245C may request a reconsideration, and if the
7.26 disqualification is set aside, is then eligible to be an employee or contractor of a center.

7.27 Subd. 3. **Classification of data.** Data collected under this section is classified as private
7.28 data on individuals as defined in section 13.02, subdivision 12.

8.1 Sec. 12. **[144H.10] ADMISSION, TRANSFER, AND DISCHARGE POLICIES;**
8.2 **CONSENT FORM.**

8.3 Subdivision 1. **Written policies.** A PPEC center must have written policies and
8.4 procedures governing the admission, transfer, and discharge of children.

8.5 Subd. 2. **Consent form.** A parent or guardian must sign a consent form outlining the
8.6 purpose of a PPEC center, specifying family responsibilities, authorizing treatment and
8.7 services, providing appropriate liability releases, and specifying emergency disposition
8.8 plans, before the child's admission to the center. The center must provide the child's parents
8.9 or guardians with a copy of the consent form and must maintain the consent form in the
8.10 child's medical record.

8.11 Sec. 13. **[144H.11] MEDICAL DIRECTOR.**

8.12 A PPEC center must have a medical director who is a physician licensed in Minnesota
8.13 and certified by the American Board of Pediatrics.

8.14 Sec. 14. **[144H.12] NURSING SERVICES.**

8.15 Subdivision 1. **Nursing director.** A PPEC center must have a nursing director who is
8.16 a registered nurse licensed in Minnesota, holds a current certification in cardiopulmonary
8.17 resuscitation, and has at least four years of general pediatric nursing experience, at least
8.18 one year of which must have been spent caring for medically fragile infants or children in
8.19 a pediatric intensive care, neonatal intensive care, PPEC center, or home care setting during
8.20 the previous five years. The nursing director is responsible for the daily operation of the
8.21 PPEC center.

8.22 Subd. 2. **Registered nurses.** A registered nurse employed by a PPEC center must be a
8.23 registered nurse licensed in Minnesota, hold a current certification in cardiopulmonary
8.24 resuscitation, and have experience in the previous 24 months in being responsible for the
8.25 care of acutely ill or chronically ill children.

8.26 Subd. 3. **Licensed practical nurses.** A licensed practical nurse employed by a PPEC
8.27 center must be supervised by a registered nurse and must be a licensed practical nurse
8.28 licensed in Minnesota, have at least two years of experience in pediatrics, and hold a current
8.29 certification in cardiopulmonary resuscitation.

8.30 Subd. 4. **Other direct care personnel.** (a) Direct care personnel governed by this
8.31 subdivision include nursing assistants and individuals with training and experience in the
8.32 field of education, social services, or child care.

9.1 (b) All direct care personnel employed by a PPEC center must work under the supervision
9.2 of a registered nurse and are responsible for providing direct care to children at the center.
9.3 Direct care personnel must have extensive, documented education and skills training in
9.4 providing care to infants and toddlers, provide employment references documenting skill
9.5 in the care of infants and children, and hold a current certification in cardiopulmonary
9.6 resuscitation.

9.7 **Sec. 15. [144H.13] TOTAL STAFFING FOR NURSING SERVICES AND DIRECT**
9.8 **CARE PERSONNEL.**

9.9 A PPEC center must provide total staffing for nursing services and direct care personnel
9.10 at a ratio of one staff person for every three children at the center. The staffing ratio required
9.11 in this section is the minimum staffing permitted.

9.12 **Sec. 16. [144H.14] MEDICAL RECORD; PROTOCOL OF CARE.**

9.13 A medical record and an individualized nursing protocol of care must be developed for
9.14 each child admitted to a PPEC center, must be maintained for each child, and must be signed
9.15 by authorized personnel.

9.16 **Sec. 17. [144H.15] QUALITY ASSURANCE PROGRAM.**

9.17 A PPEC center must have a quality assurance program, in which quarterly reviews are
9.18 conducted of the PPEC center's medical records and protocols of care for at least half of
9.19 the children served by the PPEC center. The quarterly review sample must be randomly
9.20 selected so each child at the center has an equal opportunity to be included in the review.
9.21 The committee conducting quality assurance reviews must include the medical director,
9.22 administrator, nursing director, and three other committee members determined by the PPEC
9.23 center.

9.24 **Sec. 18. [144H.16] INSPECTIONS.**

9.25 (a) The commissioner may inspect a PPEC center, including records held at the center,
9.26 at reasonable times as necessary to ensure compliance with this chapter and the rules adopted
9.27 under this chapter. During an inspection, a center must provide the commissioner with
9.28 access to all center records.

9.29 (b) The commissioner must inspect a PPEC center before issuing or renewing a license
9.30 under this chapter.

10.1 Sec. 19. **[144H.17] COMPLIANCE WITH OTHER LAWS.**

10.2 Subdivision 1. Reporting of maltreatment of minors. A PPEC center must develop
10.3 policies and procedures for reporting suspected child maltreatment that fulfill the
10.4 requirements of section 626.556. The policies and procedures must include the telephone
10.5 numbers of the local county child protection agency for reporting suspected maltreatment.
10.6 The policies and procedures specified in this subdivision must be provided to the parents
10.7 or guardians of all children at the time of admission to the PPEC center and must be available
10.8 upon request.

10.9 Subd. 2. Crib safety requirements. A PPEC center must comply with the crib safety
10.10 requirements in section 245A.146, to the extent they are applicable.

10.11 Sec. 20. **[144H.18] DENIAL, SUSPENSION, REVOCATION, REFUSAL TO RENEW**
10.12 **A LICENSE.**

10.13 (a) The commissioner may deny, suspend, revoke, or refuse to renew a license issued
10.14 under this chapter for:

10.15 (1) a violation of this chapter or rules adopted under this chapter; or

10.16 (2) an intentional or negligent act by an employee or contractor at the center that
10.17 materially affects the health or safety of children at the PPEC center.

10.18 (b) Prior to any suspension, revocation, or refusal to renew a license, a licensee shall be
10.19 entitled to a hearing and review as provided in sections 14.57 to 14.69.

10.20 Sec. 21. **[144H.19] FINES; CORRECTIVE ACTION PLANS.**

10.21 Subdivision 1. Corrective action plans. If the commissioner determines that a PPEC
10.22 center is not in compliance with this chapter or rules adopted under this chapter, the
10.23 commissioner may require the center to submit a corrective action plan that demonstrates
10.24 a good-faith effort to remedy each violation by a specific date, subject to approval by the
10.25 commissioner.

10.26 Subd. 2. Fines. The commissioner may issue a fine to a PPEC center, employee, or
10.27 contractor if the commissioner determines the center, employee, or contractor violated this
10.28 chapter or rules adopted under this chapter. The fine amount shall not exceed an amount
10.29 for each violation and an aggregate amount established by the commissioner in rule. The
10.30 failure to correct a violation by the date set by the commissioner, or a failure to comply
10.31 with an approved corrective action plan, constitutes a separate violation for each day the
10.32 failure continues, unless the commissioner approves an extension to a specific date. In

11.1 determining if a fine is to be imposed and establishing the amount of the fine, the
 11.2 commissioner shall consider:

11.3 (1) the gravity of the violation, including the probability that death or serious physical
 11.4 or emotional harm to a child will result or has resulted, the severity of the actual or potential
 11.5 harm, and the extent to which the applicable laws were violated;

11.6 (2) actions taken by the owner or administrator to correct violations;

11.7 (3) any previous violations; and

11.8 (4) the financial benefit to the PPEC center of committing or continuing the violation.

11.9 Sec. 22. **[144H.20] PROHIBITED ACT; PENALTY.**

11.10 Any person who owns or operates a PPEC center without obtaining a license under this
 11.11 chapter is guilty of a misdemeanor. Each day of a continuing violation constitutes a separate
 11.12 offense.

11.13 Sec. 23. **[144H.21] CLOSING A PPEC CENTER.**

11.14 When a PPEC center voluntarily closes, it must, at least 30 days before closure, inform
 11.15 each child's parents or guardians of the closure and when the closure will occur.

11.16 Sec. 24. Minnesota Statutes 2016, section 626.556, subdivision 2, is amended to read:

11.17 Subd. 2. **Definitions.** As used in this section, the following terms have the meanings
 11.18 given them unless the specific content indicates otherwise:

11.19 (a) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence
 11.20 or event which:

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

11.22 (2) if occurring while a child is receiving services from a facility, happens when the
 11.23 facility and the employee or person providing services in the facility are in compliance with
 11.24 the laws and rules relevant to the occurrence or event.

11.25 (b) "Commissioner" means the commissioner of human services.

11.26 (c) "Facility" means:

11.27 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
 11.28 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
 11.29 144.58, 241.021, or 245A.01 to 245A.16, or chapter 144H or 245D;

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

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

12.5 (d) "Family assessment" means a comprehensive assessment of child safety, risk of
12.6 subsequent child maltreatment, and family strengths and needs that is applied to a child
12.7 maltreatment report that does not allege sexual abuse or substantial child endangerment.
12.8 Family assessment does not include a determination as to whether child maltreatment
12.9 occurred but does determine the need for services to address the safety of family members
12.10 and the risk of subsequent maltreatment.

12.11 (e) "Investigation" means fact gathering related to the current safety of a child and the
12.12 risk of subsequent maltreatment that determines whether child maltreatment occurred and
12.13 whether child protective services are needed. An investigation must be used when reports
12.14 involve sexual abuse or substantial child endangerment, and for reports of maltreatment in
12.15 facilities required to be licensed under chapter 245A or 245D; under sections 144.50 to
12.16 144.58 and 241.021; in a school as defined in section 120A.05, subdivisions 9, 11, and 13,
12.17 and chapter 124E; or in a nonlicensed personal care provider association as defined in section
12.18 256B.0625, subdivision 19a.

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

12.23 (g) "Neglect" means the commission or omission of any of the acts specified under
12.24 clauses (1) to (9), other than by accidental means:

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

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

12.32 (3) failure to provide for necessary supervision or child care arrangements appropriate
12.33 for a child after considering factors as the child's age, mental ability, physical condition,

13.1 length of absence, or environment, when the child is unable to care for the child's own basic
13.2 needs or safety, or the basic needs or safety of another child in their care;

13.3 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
13.4 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
13.5 child with sympathomimetic medications, consistent with section 125A.091, subdivision
13.6 5;

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

13.15 (6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision
13.16 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in
13.17 the child at birth, results of a toxicology test performed on the mother at delivery or the
13.18 child at birth, medical effects or developmental delays during the child's first year of life
13.19 that medically indicate prenatal exposure to a controlled substance, or the presence of a
13.20 fetal alcohol spectrum disorder;

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

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

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

13.29 (h) "Nonmaltreatment mistake" means:

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

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

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

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

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

14.9 This definition only applies to child care centers licensed under Minnesota Rules, chapter
14.10 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated
14.11 maltreatment by the individual, the commissioner of human services shall determine that a
14.12 nonmaltreatment mistake was made by the individual.

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

14.14 (j) "Person responsible for the child's care" means (1) an individual functioning within
14.15 the family unit and having responsibilities for the care of the child such as a parent, guardian,
14.16 or other person having similar care responsibilities, or (2) an individual functioning outside
14.17 the family unit and having responsibilities for the care of the child such as a teacher, school
14.18 administrator, other school employees or agents, or other lawful custodian of a child having
14.19 either full-time or short-term care responsibilities including, but not limited to, day care,
14.20 babysitting whether paid or unpaid, counseling, teaching, and coaching.

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

14.26 Abuse does not include reasonable and moderate physical discipline of a child
14.27 administered by a parent or legal guardian which does not result in an injury. Abuse does
14.28 not include the use of reasonable force by a teacher, principal, or school employee as allowed
14.29 by section 121A.582. Actions which are not reasonable and moderate include, but are not
14.30 limited to, any of the following:

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

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

14.33 (3) shaking a child under age three;

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

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

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

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

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

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

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

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

15.18 (l) "Practice of social services," for the purposes of subdivision 3, includes but is not
15.19 limited to employee assistance counseling and the provision of guardian ad litem and
15.20 parenting time expeditor services.

15.21 (m) "Report" means any communication received by the local welfare agency, police
15.22 department, county sheriff, or agency responsible for child protection pursuant to this section
15.23 that describes neglect or physical or sexual abuse of a child and contains sufficient content
15.24 to identify the child and any person believed to be responsible for the neglect or abuse, if
15.25 known.

15.26 (n) "Sexual abuse" means the subjection of a child by a person responsible for the child's
15.27 care, by a person who has a significant relationship to the child, as defined in section 609.341,
15.28 or by a person in a position of authority, as defined in section 609.341, subdivision 10, to
15.29 any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first
15.30 degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual
15.31 conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or
15.32 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act
15.33 which involves a minor which constitutes a violation of prostitution offenses under sections

16.1 609.321 to 609.324 or 617.246. Effective May 29, 2017, sexual abuse includes all reports
16.2 of known or suspected child sex trafficking involving a child who is identified as a victim
16.3 of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321,
16.4 subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse which includes the
16.5 status of a parent or household member who has committed a violation which requires
16.6 registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or
16.7 required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

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

16.11 (1) egregious harm as defined in section 260C.007, subdivision 14;

16.12 (2) abandonment under section 260C.301, subdivision 2;

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

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

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

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

16.19 (7) solicitation, inducement, and promotion of prostitution under section 609.322;

16.20 (8) criminal sexual conduct under sections 609.342 to 609.3451;

16.21 (9) solicitation of children to engage in sexual conduct under section 609.352;

16.22 (10) malicious punishment or neglect or endangerment of a child under section 609.377
16.23 or 609.378;

16.24 (11) use of a minor in sexual performance under section 617.246; or

16.25 (12) parental behavior, status, or condition which mandates that the county attorney file
16.26 a termination of parental rights petition under section 260C.503, subdivision 2.

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

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

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

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

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

17.12 A child is the subject of a report of threatened injury when the responsible social services
17.13 agency receives birth match data under paragraph (q) from the Department of Human
17.14 Services.

17.15 (q) Upon receiving data under section 144.225, subdivision 2b, contained in a birth
17.16 record or recognition of parentage identifying a child who is subject to threatened injury
17.17 under paragraph (p), the Department of Human Services shall send the data to the responsible
17.18 social services agency. The data is known as "birth match" data. Unless the responsible
17.19 social services agency has already begun an investigation or assessment of the report due
17.20 to the birth of the child or execution of the recognition of parentage and the parent's previous
17.21 history with child protection, the agency shall accept the birth match data as a report under
17.22 this section. The agency may use either a family assessment or investigation to determine
17.23 whether the child is safe. All of the provisions of this section apply. If the child is determined
17.24 to be safe, the agency shall consult with the county attorney to determine the appropriateness
17.25 of filing a petition alleging the child is in need of protection or services under section
17.26 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is
17.27 determined not to be safe, the agency and the county attorney shall take appropriate action
17.28 as required under section 260C.503, subdivision 2.

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

18.1 Sec. 25. Minnesota Statutes 2016, section 626.556, subdivision 3, is amended to read:

18.2 Subd. 3. **Persons mandated to report; persons voluntarily reporting.** (a) A person
18.3 who knows or has reason to believe a child is being neglected or physically or sexually
18.4 abused, as defined in subdivision 2, or has been neglected or physically or sexually abused
18.5 within the preceding three years, shall immediately report the information to the local welfare
18.6 agency, agency responsible for assessing or investigating the report, police department,
18.7 county sheriff, tribal social services agency, or tribal police department if the person is:

18.8 (1) a professional or professional's delegate who is engaged in the practice of the healing
18.9 arts, social services, hospital administration, psychological or psychiatric treatment, child
18.10 care, education, correctional supervision, probation and correctional services, or law
18.11 enforcement; or

18.12 (2) employed as a member of the clergy and received the information while engaged in
18.13 ministerial duties, provided that a member of the clergy is not required by this subdivision
18.14 to report information that is otherwise privileged under section 595.02, subdivision 1,
18.15 paragraph (c).

18.16 (b) Any person may voluntarily report to the local welfare agency, agency responsible
18.17 for assessing or investigating the report, police department, county sheriff, tribal social
18.18 services agency, or tribal police department if the person knows, has reason to believe, or
18.19 suspects a child is being or has been neglected or subjected to physical or sexual abuse.

18.20 (c) A person mandated to report physical or sexual child abuse or neglect occurring
18.21 within a licensed facility shall report the information to the agency responsible for licensing
18.22 the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 144H
18.23 or 245D; or a nonlicensed personal care provider organization as defined in section
18.24 256B.0625, subdivision ~~19~~ 19a. A health or corrections agency receiving a report may
18.25 request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and
18.26 10b. A board or other entity whose licensees perform work within a school facility, upon
18.27 receiving a complaint of alleged maltreatment, shall provide information about the
18.28 circumstances of the alleged maltreatment to the commissioner of education. Section 13.03,
18.29 subdivision 4, applies to data received by the commissioner of education from a licensing
18.30 entity.

18.31 (d) Notification requirements under subdivision 10 apply to all reports received under
18.32 this section.

18.33 (e) For purposes of this section, "immediately" means as soon as possible but in no event
18.34 longer than 24 hours.

19.1 Sec. 26. Minnesota Statutes 2016, section 626.556, subdivision 3c, is amended to read:

19.2 Subd. 3c. **Local welfare agency, Department of Human Services or Department of**
19.3 **Health responsible for assessing or investigating reports of maltreatment.** (a) The county
19.4 local welfare agency is the agency responsible for assessing or investigating allegations of
19.5 maltreatment in child foster care, family child care, legally unlicensed child care, juvenile
19.6 correctional facilities licensed under section 241.021 located in the local welfare agency's
19.7 county, and reports involving children served by an unlicensed personal care provider
19.8 organization under section 256B.0659. Copies of findings related to personal care provider
19.9 organizations under section 256B.0659 must be forwarded to the Department of Human
19.10 Services provider enrollment.

19.11 (b) The Department of Human Services is the agency responsible for assessing or
19.12 investigating allegations of maltreatment in facilities licensed under chapters 245A and
19.13 245D, except for child foster care and family child care.

19.14 (c) The Department of Health is the agency responsible for assessing or investigating
19.15 allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58 and
19.16 144A.43 to 144A.482 or chapter 144H.

19.17 Sec. 27. Minnesota Statutes 2016, section 626.556, subdivision 10d, is amended to read:

19.18 Subd. 10d. **Notification of neglect or abuse in facility.** (a) When a report is received
19.19 that alleges neglect, physical abuse, sexual abuse, or maltreatment of a child while in the
19.20 care of a licensed or unlicensed day care facility, residential facility, agency, hospital,
19.21 sanitarium, or other facility or institution required to be licensed according to sections 144.50
19.22 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 144H or 245D, or a school as defined
19.23 in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal
19.24 care provider organization as defined in section 256B.0625, subdivision 19a, the
19.25 commissioner of the agency responsible for assessing or investigating the report or local
19.26 welfare agency investigating the report shall provide the following information to the parent,
19.27 guardian, or legal custodian of a child alleged to have been neglected, physically abused,
19.28 sexually abused, or the victim of maltreatment of a child in the facility: the name of the
19.29 facility; the fact that a report alleging neglect, physical abuse, sexual abuse, or maltreatment
19.30 of a child in the facility has been received; the nature of the alleged neglect, physical abuse,
19.31 sexual abuse, or maltreatment of a child in the facility; that the agency is conducting an
19.32 assessment or investigation; any protective or corrective measures being taken pending the
19.33 outcome of the investigation; and that a written memorandum will be provided when the
19.34 investigation is completed.

20.1 (b) The commissioner of the agency responsible for assessing or investigating the report
20.2 or local welfare agency may also provide the information in paragraph (a) to the parent,
20.3 guardian, or legal custodian of any other child in the facility if the investigative agency
20.4 knows or has reason to believe the alleged neglect, physical abuse, sexual abuse, or
20.5 maltreatment of a child in the facility has occurred. In determining whether to exercise this
20.6 authority, the commissioner of the agency responsible for assessing or investigating the
20.7 report or local welfare agency shall consider the seriousness of the alleged neglect, physical
20.8 abuse, sexual abuse, or maltreatment of a child in the facility; the number of children
20.9 allegedly neglected, physically abused, sexually abused, or victims of maltreatment of a
20.10 child in the facility; the number of alleged perpetrators; and the length of the investigation.
20.11 The facility shall be notified whenever this discretion is exercised.

20.12 (c) When the commissioner of the agency responsible for assessing or investigating the
20.13 report or local welfare agency has completed its investigation, every parent, guardian, or
20.14 legal custodian previously notified of the investigation by the commissioner or local welfare
20.15 agency shall be provided with the following information in a written memorandum: the
20.16 name of the facility investigated; the nature of the alleged neglect, physical abuse, sexual
20.17 abuse, or maltreatment of a child in the facility; the investigator's name; a summary of the
20.18 investigation findings; a statement whether maltreatment was found; and the protective or
20.19 corrective measures that are being or will be taken. The memorandum shall be written in a
20.20 manner that protects the identity of the reporter and the child and shall not contain the name,
20.21 or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed
20.22 during the investigation. If maltreatment is determined to exist, the commissioner or local
20.23 welfare agency shall also provide the written memorandum to the parent, guardian, or legal
20.24 custodian of each child in the facility who had contact with the individual responsible for
20.25 the maltreatment. When the facility is the responsible party for maltreatment, the
20.26 commissioner or local welfare agency shall also provide the written memorandum to the
20.27 parent, guardian, or legal custodian of each child who received services in the population
20.28 of the facility where the maltreatment occurred. This notification must be provided to the
20.29 parent, guardian, or legal custodian of each child receiving services from the time the
20.30 maltreatment occurred until either the individual responsible for maltreatment is no longer
20.31 in contact with a child or children in the facility or the conclusion of the investigation. In
20.32 the case of maltreatment within a school facility, as defined in section 120A.05, subdivisions
20.33 9, 11, and 13, and chapter 124E, the commissioner of education need not provide notification
20.34 to parents, guardians, or legal custodians of each child in the facility, but shall, within ten
20.35 days after the investigation is completed, provide written notification to the parent, guardian,
20.36 or legal custodian of any student alleged to have been maltreated. The commissioner of

- 21.1 education may notify the parent, guardian, or legal custodian of any student involved as a
- 21.2 witness to alleged maltreatment.