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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 191

01/15/2015 Authored by Kresha; Backer; Mullery; Anderson, P.; Bennett and others
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 human services; modifying screening of child maltreatment reports;
1.3 amending Minnesota Statutes 2014, section 626.556, subdivisions 7, 10e, 11c,
1.4 by adding subdivisions.

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

1.6 Section 1. Minnesota Statutes 2014, section 626.556, subdivision 7, is amended to read:

1.7 Subd. 7. **Report; information provided to parent.** (a) An oral report shall be made
1.8 immediately by telephone or otherwise. An oral report made by a person required under
1.9 subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and
1.10 holidays, by a report in writing to the appropriate police department, the county sheriff, the
1.11 agency responsible for assessing or investigating the report, or the local welfare agency.

1.12 (b) The local welfare agency shall determine if the report is accepted for an assessment
1.13 or investigation as soon as possible but in no event longer than 24 hours after the report is
1.14 received. The agency receiving the report is allowed to consider collateral information and
1.15 previous screened-out reports of alleged maltreatment when making screening decisions.

1.16 ~~(b)~~ (c) Any report shall be of sufficient content to identify the child, any person
1.17 believed to be responsible for the abuse or neglect of the child if the person is known, the
1.18 nature and extent of the abuse or neglect and the name and address of the reporter. The
1.19 local welfare agency or agency responsible for assessing or investigating the report shall
1.20 accept a report made under subdivision 3 notwithstanding refusal by a reporter to provide
1.21 the reporter's name or address as long as the report is otherwise sufficient under this
1.22 paragraph. Written reports received by a police department or the county sheriff shall be
1.23 forwarded immediately to the local welfare agency or the agency responsible for assessing
1.24 or investigating the report. The police department or the county sheriff may keep copies of

2.1 reports received by them. Copies of written reports received by a local welfare department
 2.2 or the agency responsible for assessing or investigating the report shall be forwarded
 2.3 immediately to the local police department or the county sheriff.

2.4 (e) ~~(d)~~ When requested, the agency responsible for assessing or investigating a
 2.5 report shall inform the reporter within ten days after the report was made, either orally or
 2.6 in writing, whether the report was accepted or not. If the responsible agency determines
 2.7 the report does not constitute a report under this section, the agency shall advise the
 2.8 reporter the report was screened out. A screened-out report must ~~not be used for any~~
 2.9 ~~purpose other than making an offer of social services to the subjects of the screened-out~~
 2.10 ~~report~~ be maintained in accordance with subdivision 11c, paragraph (e).

2.11 ~~(d)~~ (e) Notwithstanding paragraph (a), the commissioner of education must inform
 2.12 the parent, guardian, or legal custodian of the child who is the subject of a report of
 2.13 alleged maltreatment in a school facility within ten days of receiving the report, either
 2.14 orally or in writing, whether the commissioner is assessing or investigating the report
 2.15 of alleged maltreatment.

2.16 (e) ~~(f)~~ Regardless of whether a report is made under this subdivision, as soon as
 2.17 practicable after a school receives information regarding an incident that may constitute
 2.18 maltreatment of a child in a school facility, the school shall inform the parent, legal
 2.19 guardian, or custodian of the child that an incident has occurred that may constitute
 2.20 maltreatment of the child, when the incident occurred, and the nature of the conduct
 2.21 that may constitute maltreatment.

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

2.26 Sec. 2. Minnesota Statutes 2014, section 626.556, is amended by adding a subdivision
 2.27 to read:

2.28 Subd. 7a. **Mandatory guidance for screening reports.** (a) Child protection intake
 2.29 workers, supervisors, and others involved with child protection screening shall follow the
 2.30 guidance provided in the Department of Human Services Minnesota Child Maltreatment
 2.31 Screening Guidelines when screening maltreatment referrals, and, when notified by the
 2.32 commissioner of human services, shall immediately implement updated procedures and
 2.33 protocols.

3.1 (b) Any modifications to the screening guidelines by the county agency must be
3.2 preapproved by the commissioner of human services and must not be less protective
3.3 of children than is mandated by statute.

3.4 Sec. 3. Minnesota Statutes 2014, section 626.556, subdivision 10e, is amended to read:

3.5 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family
3.6 assessment or the investigation within 45 days of the receipt of a report. The conclusion of
3.7 the assessment or investigation may be extended to permit the completion of a criminal
3.8 investigation or the receipt of expert information requested within 45 days of the receipt
3.9 of the report.

3.10 (b) After conducting a family assessment, the local welfare agency shall determine
3.11 whether services are needed to address the safety of the child and other family members
3.12 and the risk of subsequent maltreatment.

3.13 (c) After conducting an investigation, the local welfare agency shall make two
3.14 determinations: first, whether maltreatment has occurred; and second, whether child
3.15 protective services are needed. No determination of maltreatment shall be made when the
3.16 alleged perpetrator is a child under the age of ten.

3.17 (d) If the commissioner of education conducts an assessment or investigation,
3.18 the commissioner shall determine whether maltreatment occurred and what corrective
3.19 or protective action was taken by the school facility. If a determination is made that
3.20 maltreatment has occurred, the commissioner shall report to the employer, the school
3.21 board, and any appropriate licensing entity the determination that maltreatment occurred
3.22 and what corrective or protective action was taken by the school facility. In all other cases,
3.23 the commissioner shall inform the school board or employer that a report was received,
3.24 the subject of the report, the date of the initial report, the category of maltreatment alleged
3.25 as defined in paragraph (f), the fact that maltreatment was not determined, and a summary
3.26 of the specific reasons for the determination.

3.27 (e) When maltreatment is determined in an investigation involving a facility,
3.28 the investigating agency shall also determine whether the facility or individual was
3.29 responsible, or whether both the facility and the individual were responsible for the
3.30 maltreatment using the mitigating factors in paragraph (i). Determinations under this
3.31 subdivision must be made based on a preponderance of the evidence and are private data
3.32 on individuals or nonpublic data as maintained by the commissioner of education.

3.33 (f) For the purposes of this subdivision, "maltreatment" means any of the following
3.34 acts or omissions:

3.35 (1) physical abuse as defined in subdivision 2, paragraph (g);

- 4.1 (2) neglect as defined in subdivision 2, paragraph (f);
4.2 (3) sexual abuse as defined in subdivision 2, paragraph (d);
4.3 (4) mental injury as defined in subdivision 2, paragraph (m); or
4.4 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

4.5 (g) For the purposes of this subdivision, a determination that child protective
4.6 services are needed means that the local welfare agency has documented conditions
4.7 during the assessment or investigation sufficient to cause a child protection worker, as
4.8 defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of
4.9 maltreatment if protective intervention is not provided and that the individuals responsible
4.10 for the child's care have not taken or are not likely to take actions to protect the child
4.11 from maltreatment or risk of maltreatment.

4.12 (h) This subdivision does not mean that maltreatment has occurred solely because
4.13 the child's parent, guardian, or other person responsible for the child's care in good faith
4.14 selects and depends upon spiritual means or prayer for treatment or care of disease
4.15 or remedial care of the child, in lieu of medical care. However, if lack of medical care
4.16 may result in serious danger to the child's health, the local welfare agency may ensure
4.17 that necessary medical services are provided to the child.

4.18 (i) When determining whether the facility or individual is the responsible party, or
4.19 whether both the facility and the individual are responsible for determined maltreatment in
4.20 a facility, the investigating agency shall consider at least the following mitigating factors:

4.21 (1) whether the actions of the facility or the individual caregivers were according to,
4.22 and followed the terms of, an erroneous physician order, prescription, individual care plan,
4.23 or directive; however, this is not a mitigating factor when the facility or caregiver was
4.24 responsible for the issuance of the erroneous order, prescription, individual care plan, or
4.25 directive or knew or should have known of the errors and took no reasonable measures to
4.26 correct the defect before administering care;

4.27 (2) comparative responsibility between the facility, other caregivers, and
4.28 requirements placed upon an employee, including the facility's compliance with related
4.29 regulatory standards and the adequacy of facility policies and procedures, facility training,
4.30 an individual's participation in the training, the caregiver's supervision, and facility staffing
4.31 levels and the scope of the individual employee's authority and discretion; and

4.32 (3) whether the facility or individual followed professional standards in exercising
4.33 professional judgment.

4.34 The evaluation of the facility's responsibility under clause (2) must not be based on the
4.35 completeness of the risk assessment or risk reduction plan required under section 245A.66,

5.1 but must be based on the facility's compliance with the regulatory standards for policies and
5.2 procedures, training, and supervision as cited in Minnesota Statutes and Minnesota Rules.

5.3 (j) Notwithstanding paragraph (i), when maltreatment is determined to have been
5.4 committed by an individual who is also the facility license holder, both the individual and
5.5 the facility must be determined responsible for the maltreatment, and both the background
5.6 study disqualification standards under section 245C.15, subdivision 4, and the licensing
5.7 actions under sections 245A.06 or 245A.07 apply.

5.8 ~~(k) Individual counties may implement more detailed definitions or criteria that~~
5.9 ~~indicate which allegations to investigate, as long as a county's policies are consistent~~
5.10 ~~with the definitions in the statutes and rules and are approved by the county board. Each~~
5.11 ~~local welfare agency shall periodically inform mandated reporters under subdivision 3~~
5.12 ~~who work in the county of the definitions of maltreatment in the statutes and rules and any~~
5.13 ~~additional definitions or criteria that have been approved by the county board.~~

5.14 Sec. 4. Minnesota Statutes 2014, section 626.556, subdivision 11c, is amended to read:

5.15 Subd. 11c. **Welfare, court services agency, and school records maintained;**
5.16 **county agency duties to maintain screened-out reports.** Notwithstanding sections
5.17 138.163 and 138.17, records maintained or records derived from reports of abuse by
5.18 local welfare agencies, agencies responsible for assessing or investigating the report,
5.19 court services agencies, or schools under this section shall be destroyed as provided in
5.20 paragraphs (a) to (d) by the responsible authority.

5.21 (a) For family assessment cases and cases where an investigation results in no
5.22 determination of maltreatment or the need for child protective services, the assessment or
5.23 investigation records must be maintained for a period of four years after the date of the final
5.24 entry in the case record. Records under this paragraph may not be used for employment,
5.25 background checks, or purposes other than to assist in future risk and safety assessments.

5.26 (b) All records relating to reports which, upon investigation, indicate either
5.27 maltreatment or a need for child protective services shall be maintained for ten years after
5.28 the date of the final entry in the case record.

5.29 (c) All records regarding a report of maltreatment, including any notification of intent
5.30 to interview which was received by a school under subdivision 10, paragraph (d), shall be
5.31 destroyed by the school when ordered to do so by the agency conducting the assessment or
5.32 investigation. The agency shall order the destruction of the notification when other records
5.33 relating to the report under investigation or assessment are destroyed under this subdivision.

5.34 (d) Private or confidential data released to a court services agency under subdivision
5.35 10h must be destroyed by the court services agency when ordered to do so by the local

6.1 welfare agency that released the data. The local welfare agency or agency responsible for
 6.2 assessing or investigating the report shall order destruction of the data when other records
 6.3 relating to the assessment or investigation are destroyed under this subdivision.

6.4 (e) For reports alleging child maltreatment that were not accepted for assessment
 6.5 or investigation, counties shall:

6.6 (1) maintain sufficient information to identify repeat reports alleging maltreatment
 6.7 of the same child or children for ~~365 days~~ five years from the date the report was screened
 6.8 out, and the commissioner of human services shall specify to the counties the minimum
 6.9 information needed to accomplish this purpose. ~~Counties shall;~~

6.10 (2) document the reason as to why the report was screened out; and

6.11 (3) enter this the data under clauses (1) and (2) into the state social services
 6.12 information system.

6.13 Sec. 5. Minnesota Statutes 2014, section 626.556, is amended by adding a subdivision
 6.14 to read:

6.15 Subd. 16. **Commissioner's duty to provide oversight; quality assurance reviews;**
 6.16 **annual summary results of reviews.** (a) The commissioner shall develop a plan to
 6.17 perform quality assurance reviews of county agency screening practices and decisions.
 6.18 The commissioner shall provide oversight and guidance to counties to ensure consistent
 6.19 application of screening guidelines, thorough and appropriate screening decisions, and
 6.20 correct documentation and maintenance of reports.

6.21 (b) The commissioner shall produce an annual report of the summary results of
 6.22 the reviews. The report is public information and must be provided to the chairs and
 6.23 ranking minority members of the legislative committees having jurisdiction over child
 6.24 protection issues.