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State of Minnesota
HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2795

02/20/2018 Authored by Loon, Anselmo, Jessup, Jurgens, Peterson and others
The bill was read for the first time and referred to the Committee on Education Innovation Policy
03/08/2018 Adoption of Report: Amended and re-referred to the Committee on Transportation and Regional Governance Policy
03/14/2018 Adoption of Report: Re-referred to the Committee on Civil Law and Data Practices Policy
03/22/2018 Adoption of Report: Re-referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to education; codifying teacher code of ethics; requiring background
1.3 checks; expanding mandatory reporting; expanding grounds for teacher discharge;
1.4 expanding criminal sexual conduct offenses for persons in current or recent
1.5 positions of authority over juveniles; amending Minnesota Statutes 2016, sections
1.6 171.02, subdivision 2a; 299C.17; 609.095; 626.556, subdivision 10; 631.40,
1.7 subdivision 1a; Minnesota Statutes 2017 Supplement, sections 122A.09, subdivision
1.8 2; 122A.18, subdivision 8; 122A.187, by adding a subdivision; 122A.20,
1.9 subdivisions 1, 2; 122A.40, subdivision 13; 122A.41, subdivision 6; 123B.03,
1.10 subdivisions 1, 2; 171.02, subdivision 2b; 171.3215, subdivisions 2, 3; 626.556,
1.11 subdivisions 3, 10e; proposing coding for new law in Minnesota Statutes, chapters
1.12 122A; 299C; repealing Minnesota Statutes 2017 Supplement, section 122A.09,
1.13 subdivision 1; Minnesota Rules, part 8710.2100, subparts 1, 2.

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

1.15 Section 1. **[122A.051] CODE OF ETHICS.**

1.16 Subdivision 1. **Scope.** Each teacher, upon entering the teaching profession, assumes a
1.17 number of obligations, one of which is to adhere to a set of principles that defines professional
1.18 conduct. These principles are reflected in the code of ethics, which sets forth to the education
1.19 profession and the public it serves standards of professional conduct. This code applies to
1.20 all persons licensed according to rules established by the Professional Educator Licensing
1.21 and Standards Board.

1.22 Subd. 2. **Standards of professional conduct.** (a) A teacher must provide professional
1.23 education services in a nondiscriminatory manner.

1.24 (b) A teacher must make reasonable effort to protect students from conditions harmful
1.25 to health and safety.

2.1 (c) In accordance with state and federal laws, a teacher must disclose confidential
2.2 information about individuals only when a compelling professional purpose is served or
2.3 when required by law.

2.4 (d) A teacher must take reasonable disciplinary action in exercising the authority to
2.5 provide an atmosphere conducive to learning.

2.6 (e) A teacher must not use professional relationships with students, parents, and
2.7 colleagues to personal advantage.

2.8 (f) A teacher must delegate authority for teaching responsibilities only to licensed
2.9 personnel or as otherwise provided by law.

2.10 (g) A teacher must not deliberately suppress or distort subject matter.

2.11 (h) A teacher must not knowingly falsify or misrepresent records or facts relating to that
2.12 teacher's own qualifications or to other teachers' qualifications.

2.13 (i) A teacher must not knowingly make false or malicious statements about students or
2.14 colleagues.

2.15 (j) A teacher must accept a contract for a teaching position that requires licensing only
2.16 if properly or provisionally licensed for that position.

2.17 (k) A teacher must not engage in any sexual contact with a student.

2.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.19 Sec. 2. Minnesota Statutes 2017 Supplement, section 122A.09, subdivision 2, is amended
2.20 to read:

2.21 Subd. 2. **Advise members of profession.** The Professional Educator Licensing and
2.22 Standards Board must act in an advisory capacity to members of the profession in matters
2.23 of interpretation of the code of ethics in section 122A.051.

2.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.25 Sec. 3. Minnesota Statutes 2017 Supplement, section 122A.18, subdivision 8, is amended
2.26 to read:

2.27 Subd. 8. **Background checks.** (a) The Professional Educator Licensing and Standards
2.28 Board and the Board of School Administrators must request a criminal history background
2.29 check from the superintendent of the Bureau of Criminal Apprehension on all first-time

teaching applicants for licenses under their jurisdiction. Applicants must include with their licensure applications:

(1) an executed criminal history consent form, including fingerprints; and

(2) a money order or cashier's check payable to the Bureau of Criminal Apprehension for the fee for conducting the criminal history background check.

(b) The superintendent of the Bureau of Criminal Apprehension shall perform the background check required under paragraph (a) by retrieving criminal history data as defined in section 13.87 and shall also conduct a search of the national criminal records repository. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost to the bureau of a background check through the fee charged to the applicant under paragraph (a).

~~(c) The Professional Educator Licensing and Standards Board or the Board of School Administrators may issue a license pending completion of a background check under this subdivision, but must notify the individual and the school district or charter school employing the individual that the individual's license may be revoked based on the result of the background check.~~

Sec. 4. Minnesota Statutes 2017 Supplement, section 122A.187, is amended by adding a subdivision to read:

Subd. 7. **Background check.** The Professional Educator Licensing and Standards Board must request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on a licensed teacher applying for a renewal license who has not had a background check consistent with section 122A.18, subdivision 8, within the preceding five years.

EFFECTIVE DATE. This section is effective July 1, 2018.

Sec. 5. Minnesota Statutes 2017 Supplement, section 122A.20, subdivision 1, is amended to read:

Subdivision 1. **Grounds for revocation, suspension, or denial.** (a) The Professional Educator Licensing and Standards Board or Board of School Administrators, whichever has jurisdiction over a teacher's licensure, may, on the written complaint of the school board employing a teacher, a teacher organization, or any other interested person, refuse to issue,

4.1 refuse to renew, suspend, or revoke a teacher's license to teach for any of the following
4.2 causes:

4.3 (1) immoral character or conduct;

4.4 (2) failure, without justifiable cause, to teach for the term of the teacher's contract;

4.5 (3) gross inefficiency or willful neglect of duty;

4.6 (4) failure to meet licensure requirements; or

4.7 (5) fraud or misrepresentation in obtaining a license.

4.8 The written complaint must specify the nature and character of the charges.

4.9 (b) The Professional Educator Licensing and Standards Board or Board of School
4.10 Administrators, whichever has jurisdiction over a teacher's licensure, ~~shall~~ must refuse to
4.11 issue, refuse to renew, or automatically revoke a teacher's license to teach without the right
4.12 to a hearing upon receiving a certified copy of a conviction or a stay of adjudication showing
4.13 that the teacher has been convicted of, or received a stay of adjudication for:

4.14 (1) a qualified domestic violence-related offense, as defined in section 609.02, subdivision
4.15 16;

4.16 (2) child abuse, as defined in section 609.185;

4.17 (3) domestic assault under section 609.224;

4.18 (4) sex trafficking in the first degree under section 609.322, subdivision 1;

4.19 (5) sex trafficking in the second degree under section 609.322, subdivision 1a;

4.20 (6) engaging in hiring, or agreeing to hire a minor to engage in prostitution under section
4.21 609.324, subdivision subdivisions 1, sexual abuse 1a, and 2;

4.22 (7) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451,
4.23 subdivision 3, or 617.23, subdivision 3;

4.24 (8) solicitation of children to engage in sexual conduct or communication of sexually
4.25 explicit materials to children under section 609.352;

4.26 (9) embezzlement of public funds under section 609.54;

4.27 (10) interference with privacy under section 609.746 or stalking under section 609.749
4.28 and the victim was a minor;

4.29 (11) using minors in a sexual performance under section 617.246;

4.30 (12) possessing pornographic works involving a minor under section 617.247; or

5.1 (13) any offense listed in section 214.10, subdivision 2a; or

5.2 (14) any other offense not listed in this paragraph that requires the person to register as
5.3 a predatory offender under section 243.166, or a crime under a similar law of another state
5.4 or the United States.

5.5 The board ~~shall~~ must send notice of this licensing action to the district in which the teacher
5.6 is currently employed.

5.7 (c) A person whose license to teach has been revoked, not issued, or not renewed under
5.8 paragraph (b), may petition the board to reconsider the licensing action if the person's
5.9 conviction for child abuse or sexual abuse is reversed by a final decision of the Court of
5.10 Appeals or the Supreme Court or if the person has received a pardon for the offense. The
5.11 petitioner ~~shall~~ must attach a certified copy of the appellate court's final decision or the
5.12 pardon to the petition. Upon receiving the petition and its attachment, the board ~~shall~~ must
5.13 schedule and hold a disciplinary hearing on the matter under section 214.10, subdivision 2,
5.14 unless the petitioner waives the right to a hearing. If the board finds that, notwithstanding
5.15 the reversal of the petitioner's criminal conviction or the issuance of a pardon, the petitioner
5.16 is disqualified from teaching under paragraph (a), clause (1), the board ~~shall~~ must affirm
5.17 its previous licensing action. If the board finds that the petitioner is not disqualified from
5.18 teaching under paragraph (a), clause (1), it ~~shall~~ must reverse its previous licensing action.

5.19 (d) The Professional Educator Licensing and Standards Board or Board of School
5.20 Administrators, whichever has jurisdiction over a teacher's licensure, must refuse to issue,
5.21 refuse to renew, or revoke a teacher's license to teach if the teacher has been convicted of
5.22 either a felony or a gross misdemeanor involving a minor. A person whose license to teach
5.23 has been revoked, not issued, or not renewed under this paragraph may petition the board
5.24 to reconsider for good cause shown, in accordance with procedures adopted by the board.

5.25 (e) The Professional Educator Licensing and Standards Board or Board of School
5.26 Administrators, whichever has jurisdiction over a teacher's licensure, must refuse to issue,
5.27 refuse to renew, or revoke a teacher's license to teach if the teacher has engaged in sexual
5.28 penetration as defined in section 609.321, subdivision 11, with a student enrolled in a school
5.29 where the teacher works or volunteers.

5.30 (f) A decision by the Professional Educator Licensing and Standards Board to refuse to
5.31 issue, refuse to renew, suspend, or revoke a license under this subdivision is not subject to
5.32 review under section 122A.188.

5.33 (g) The Professional Educator Licensing and Standards Board or Board of School
5.34 Administrators, whichever has jurisdiction over a teacher's licensure, may suspend a teacher's

6.1 license pending an investigation into a report of conduct that would be grounds for revocation
6.2 under paragraph (b), (d), or (e).

6.3 ~~(d)~~ (h) For purposes of this subdivision, the Professional Educator Licensing and
6.4 Standards Board is delegated the authority to suspend or revoke coaching licenses.

6.5 **EFFECTIVE DATE.** This section is effective July 1, 2018.

6.6 Sec. 6. Minnesota Statutes 2017 Supplement, section 122A.20, subdivision 2, is amended
6.7 to read:

6.8 Subd. 2. **Mandatory reporting.** (a) A school board must report to the Professional
6.9 Educator Licensing and Standards Board, the Board of School Administrators, or the Board
6.10 of Trustees of the Minnesota State Colleges and Universities, whichever has jurisdiction
6.11 over the teacher's or administrator's license, when its teacher or administrator is discharged
6.12 or resigns from employment after a charge is filed with the school board under section
6.13 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7, or after charges are filed that are
6.14 grounds for discharge under section 122A.40, subdivision 13, paragraph (a), clauses (1) to
6.15 (5), or when a teacher or administrator is suspended or resigns while an investigation is
6.16 pending under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5); 122A.41,
6.17 subdivisions 6, clauses (1), (2), and (3), and 7; or 626.556, or when a teacher or administrator
6.18 is suspended without an investigation under section 122A.41, subdivisions 6, paragraph (a),
6.19 clauses (1), (2), and (3), and 7; or 626.556. The report must be made to the appropriate
6.20 licensing board within ten days after the discharge, suspension, or resignation has occurred.
6.21 The licensing board to which the report is made must investigate the report for violation of
6.22 subdivision 1 and the reporting board must cooperate in the investigation. Notwithstanding
6.23 any provision in chapter 13 or any law to the contrary, upon written request from the licensing
6.24 board having jurisdiction over the license, a board or school superintendent ~~shall~~ must
6.25 provide the licensing board with information about the teacher or administrator from the
6.26 district's files, any termination or disciplinary proceeding, any settlement or compromise,
6.27 or any investigative file. Upon written request from the appropriate licensing board, a board
6.28 or school superintendent may, at the discretion of the board or school superintendent, solicit
6.29 the written consent of a student and the student's parent to provide the licensing board with
6.30 information that may aid the licensing board in its investigation and license proceedings.
6.31 The licensing board's request need not identify a student or parent by name. The consent
6.32 of the student and the student's parent must meet the requirements of chapter 13 and Code
6.33 of Federal Regulations, title 34, section 99.30. The licensing board may provide a consent
6.34 form to the district. Any data transmitted to any board under this section is private data

under section 13.02, subdivision 12, notwithstanding any other classification of the data when it was in the possession of any other agency.

(b) The licensing board to which a report is made must transmit to the Attorney General's Office any record or data it receives under this subdivision for the sole purpose of having the Attorney General's Office assist that board in its investigation. When the Attorney General's Office has informed an employee of the appropriate licensing board in writing that grounds exist to suspend or revoke a teacher's license to teach, that licensing board must consider suspending or revoking or decline to suspend or revoke the teacher's or administrator's license within 45 days of receiving a stipulation executed by the teacher or administrator under investigation or a recommendation from an administrative law judge that disciplinary action be taken.

(c) The Professional Educator Licensing and Standards Board and Board of School Administrators must report to the appropriate law enforcement authorities a revocation, suspension, or agreement involving a loss of license, relating to a teacher or administrator's inappropriate sexual conduct with a minor. For purposes of this section, "law enforcement authority" means a police department, county sheriff, or tribal police department. A report by the Professional Educator Licensing and Standards Board or the Board of School Administrators to appropriate law enforcement authorities does not diminish, modify, or otherwise affect the responsibilities of a licensing board, school board, or any person mandated to report abuse under section 626.556.

(d) The Professional Educator Licensing and Standards Board and Board of School Administrators must, immediately upon receiving information that gives the board reason to believe a child has at any time been neglected or physically or sexually abused, as defined in section 626.556, subdivision 2, report the information to:

(1) the local welfare agency, agency responsible for assessing or investigating the report, or tribal social services agency; and

(2) the police department, county sheriff, or tribal police department.

A report under this paragraph does not diminish, modify, or otherwise affect the responsibilities of a licensing board under section 626.556.

EFFECTIVE DATE. This section is effective July 1, 2018.

8.1 Sec. 7. Minnesota Statutes 2017 Supplement, section 122A.40, subdivision 13, is amended
8.2 to read:

8.3 Subd. 13. **Immediate discharge.** (a) Except as otherwise provided in paragraph (b), a
8.4 board may discharge a continuing-contract teacher, effective immediately, upon any of the
8.5 following grounds:

8.6 (1) immoral conduct, insubordination, or conviction of a felony;

8.7 (2) conduct unbecoming a teacher which requires the immediate removal of the teacher
8.8 from classroom or other duties;

8.9 (3) failure without justifiable cause to teach without first securing the written release of
8.10 the school board;

8.11 (4) gross inefficiency which the teacher has failed to correct after reasonable written
8.12 notice;

8.13 (5) willful neglect of duty; or

8.14 (6) continuing physical or mental disability subsequent to a 12 months leave of absence
8.15 and inability to qualify for reinstatement in accordance with subdivision 12.

8.16 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair
8.17 discriminatory practice described in section 363A.13.

8.18 Prior to discharging a teacher under this paragraph, the board must notify the teacher in
8.19 writing and state its ground for the proposed discharge in reasonable detail. Within ten days
8.20 after receipt of this notification the teacher may make a written request for a hearing before
8.21 the board and it ~~shall~~ must be granted before final action is taken. The board may suspend
8.22 a teacher with pay pending the conclusion of the hearing and determination of the issues
8.23 raised in the hearing after charges have been filed which constitute ground for discharge.
8.24 If a teacher has been charged with a felony and the underlying conduct that is the subject
8.25 of the felony charge is a ground for a proposed immediate discharge, the suspension pending
8.26 the conclusion of the hearing and determination of the issues may be without pay. If a
8.27 hearing under this paragraph is held, the board must reimburse the teacher for any salary
8.28 or compensation withheld if the final decision of the board or the arbitrator does not result
8.29 in a penalty to or suspension, termination, or discharge of the teacher.

8.30 (b) A board must discharge a continuing-contract teacher, effective immediately, upon
8.31 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
8.32 license has been revoked due to a conviction or stay of adjudication for:

- 9.1 (1) child abuse, as defined in section 609.185;
- 9.2 (2) sex trafficking in the first degree under section 609.322, subdivision 1;
- 9.3 (3) sex trafficking in the second degree under section 609.322, subdivision 1a;
- 9.4 (4) engaging in hiring or agreeing to hire a minor to engage in prostitution under section
9.5 609.324, subdivision 1;
- 9.6 (5) sexual abuse under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision
9.7 3, or 617.23, subdivision 3;
- 9.8 (6) solicitation of children to engage in sexual conduct or communication of sexually
9.9 explicit materials to children under section 609.352;
- 9.10 (7) interference with privacy under section 609.746 or stalking under section 609.749
9.11 and the victim was a minor;
- 9.12 (8) using minors in a sexual performance under section 617.246;
- 9.13 (9) possessing pornographic works involving a minor under section 617.247; ~~or~~
- 9.14 (10) any other offense not listed in this paragraph that requires the person to register as
9.15 a predatory offender under section 243.166, or a crime under a similar law of another state
9.16 or the United States; or
- 9.17 (11) any other offense not listed in this paragraph that requires notice of a licensing
9.18 action to the district in accordance with section 122A.20, subdivision 1, paragraph (b).

9.19 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes
9.20 a final determination of child maltreatment involving a teacher under section 626.556,
9.21 subdivision 11, the school principal or other person having administrative control of the
9.22 school must include in the teacher's employment record the information contained in the
9.23 record of the disciplinary action or the final maltreatment determination, consistent with
9.24 the definition of public data under section 13.41, subdivision 5, and must provide the
9.25 Professional Educator Licensing and Standards Board and the licensing division at the
9.26 department with the necessary and relevant information to enable the Professional Educator
9.27 Licensing and Standards Board and the department's licensing division to fulfill their statutory
9.28 and administrative duties related to issuing, renewing, suspending, or revoking a teacher's
9.29 license. Information received by the Professional Educator Licensing and Standards Board
9.30 or the licensing division at the department under this paragraph is governed by section 13.41
9.31 or other applicable law governing data of the receiving entity. In addition to the background
9.32 check required under section 123B.03, a school board or other school hiring authority must

contact the Professional Educator Licensing and Standards Board and the department to determine whether the teacher's license has been suspended or revoked, consistent with the discharge and final maltreatment determinations identified in this paragraph. Unless restricted by federal or state data practices law or by the terms of a collective bargaining agreement, the responsible authority for a school district must disseminate to another school district private personnel data on a current or former teacher employee or contractor of the district, including the results of background investigations, if the requesting school district seeks the information because the subject of the data has applied for employment with the requesting school district.

EFFECTIVE DATE. This section is effective for the 2018-2019 school year and later.

Sec. 8. Minnesota Statutes 2017 Supplement, section 122A.41, subdivision 6, is amended to read:

Subd. 6. **Grounds for discharge or demotion.** (a) Except as otherwise provided in paragraph (b), causes for the discharge or demotion of a teacher either during or after the probationary period must be:

(1) immoral character, conduct unbecoming a teacher, or insubordination;

(2) failure without justifiable cause to teach without first securing the written release of the school board having the care, management, or control of the school in which the teacher is employed;

(3) inefficiency in teaching or in the management of a school, consistent with subdivision 5, paragraph (b);

(4) affliction with a communicable disease must be considered as cause for removal or suspension while the teacher is suffering from such disability; or

(5) discontinuance of position or lack of pupils.

For purposes of this paragraph, conduct unbecoming a teacher includes an unfair discriminatory practice described in section 363A.13.

(b) A probationary or continuing-contract teacher must be discharged immediately upon receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's license has been revoked due to a conviction or stay of adjudication for:

(1) child abuse, as defined in section 609.185;

(2) sex trafficking in the first degree under section 609.322, subdivision 1;

- 11.1 (3) sex trafficking in the second degree under section 609.322, subdivision 1a;
- 11.2 (4) engaging in hiring or agreeing to hire a minor to engage in prostitution under section
11.3 609.324, subdivision 1;
- 11.4 (5) sexual abuse under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision
11.5 3, or 617.23, subdivision 3;
- 11.6 (6) solicitation of children to engage in sexual conduct or communication of sexually
11.7 explicit materials to children under section 609.352;
- 11.8 (7) interference with privacy under section 609.746 or stalking under section 609.749
11.9 and the victim was a minor;
- 11.10 (8) using minors in a sexual performance under section 617.246;
- 11.11 (9) possessing pornographic works involving a minor under section 617.247; ~~or~~
- 11.12 (10) any other offense not listed in this paragraph that requires the person to register as
11.13 a predatory offender under section 243.166, or a crime under a similar law of another state
11.14 or the United States; or
- 11.15 (11) any other offense not listed in this paragraph that requires notice of a licensing
11.16 action to the district in accordance with section 122A.20, subdivision 1, paragraph (b).
- 11.17 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes
11.18 a final determination of child maltreatment involving a teacher under section 626.556,
11.19 subdivision 11, the school principal or other person having administrative control of the
11.20 school must include in the teacher's employment record the information contained in the
11.21 record of the disciplinary action or the final maltreatment determination, consistent with
11.22 the definition of public data under section 13.41, subdivision 5, and must provide the
11.23 Professional Educator Licensing and Standards Board and the licensing division at the
11.24 department with the necessary and relevant information to enable the Professional Educator
11.25 Licensing and Standards Board and the department's licensing division to fulfill their statutory
11.26 and administrative duties related to issuing, renewing, suspending, or revoking a teacher's
11.27 license. Information received by the Professional Educator Licensing and Standards Board
11.28 or the licensing division at the department under this paragraph is governed by section 13.41
11.29 or other applicable law governing data of the receiving entity. In addition to the background
11.30 check required under section 123B.03, a school board or other school hiring authority must
11.31 contact the Professional Educator Licensing and Standards Board and the department to
11.32 determine whether the teacher's license has been suspended or revoked, consistent with the
11.33 discharge and final maltreatment determinations identified in this paragraph. Unless restricted

12.1 by federal or state data practices law or by the terms of a collective bargaining agreement,
12.2 the responsible authority for a school district must disseminate to another school district
12.3 private personnel data on a current or former teacher employee or contractor of the district,
12.4 including the results of background investigations, if the requesting school district seeks
12.5 the information because the subject of the data has applied for employment with the
12.6 requesting school district.

12.7 **EFFECTIVE DATE.** This section is effective for the 2018-2019 school year and later.

12.8 Sec. 9. Minnesota Statutes 2017 Supplement, section 123B.03, subdivision 1, is amended
12.9 to read:

12.10 Subdivision 1. **Background check required.** (a) A school hiring authority ~~shall~~ must
12.11 request a criminal history background check from the superintendent of the Bureau of
12.12 Criminal Apprehension on all individuals who are offered employment in a school and on
12.13 all individuals, except enrolled student volunteers, who are offered the opportunity to provide
12.14 athletic coaching services or other extracurricular academic coaching services to a school,
12.15 regardless of whether any compensation is paid. In order for an individual to be eligible for
12.16 employment or to provide the services, the individual must provide an executed criminal
12.17 history consent form and a money order or check payable to either the Bureau of Criminal
12.18 Apprehension or the school hiring authority, at the discretion of the school hiring authority,
12.19 in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school
12.20 district of conducting the criminal history background check. A school hiring authority
12.21 deciding to receive payment may, at its discretion, accept payment in the form of a negotiable
12.22 instrument other than a money order or check and shall pay the superintendent of the Bureau
12.23 of Criminal Apprehension directly to conduct the background check. The superintendent
12.24 of the Bureau of Criminal Apprehension shall conduct the background check by retrieving
12.25 criminal history data as defined in section 13.87. A school hiring authority, at its discretion,
12.26 may decide not to request a criminal history background check on an individual who holds
12.27 an initial entrance license issued by the Professional Educator Licensing and Standards
12.28 Board or the commissioner of education within the 12 months preceding an offer of
12.29 employment.

12.30 (b) A school hiring authority may use the results of a criminal background check
12.31 conducted at the request of another school hiring authority if:

12.32 (1) the results of the criminal background check are on file with the other school hiring
12.33 authority or otherwise accessible;

13.1 (2) the other school hiring authority conducted a criminal background check within the
13.2 previous 12 months;

13.3 (3) the individual who is the subject of the criminal background check executes a written
13.4 consent form giving a school hiring authority access to the results of the check; and

13.5 (4) there is no reason to believe that the individual has committed an act subsequent to
13.6 the check that would disqualify the individual for employment.

13.7 (c) A school hiring authority may, at its discretion, request a criminal history background
13.8 check from the superintendent of the Bureau of Criminal Apprehension on any individual
13.9 who seeks to enter a school or its grounds for the purpose of serving as a school volunteer
13.10 or working as an independent contractor or student employee. In order for an individual to
13.11 enter a school or its grounds under this paragraph when the school hiring authority decides
13.12 to request a criminal history background check on the individual, the individual first must
13.13 provide an executed criminal history consent form and a money order, check, or other
13.14 negotiable instrument payable to the school district in an amount equal to the actual cost to
13.15 the Bureau of Criminal Apprehension and the school district of conducting the criminal
13.16 history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the
13.17 criminal history background check under this paragraph is the responsibility of the individual
13.18 unless a school hiring authority decides to pay the costs of conducting a background check
13.19 under this paragraph. If the school hiring authority pays the costs, the individual who is the
13.20 subject of the background check need not pay for it.

13.21 (d) In addition to the initial background check required for all individuals offered
13.22 employment in accordance with paragraph (a), a school hiring authority must request a new
13.23 criminal history background check from the superintendent of the Bureau of Criminal
13.24 Apprehension on all employees every three years. Notwithstanding any law to the contrary,
13.25 in order for an individual to be eligible for continued employment, an individual must
13.26 provide an executed criminal history consent form and a money order or check payable to
13.27 either the Bureau of Criminal Apprehension or the school hiring authority, at the discretion
13.28 of the school hiring authority, in an amount equal to the actual cost to the Bureau of Criminal
13.29 Apprehension and the school district of conducting the criminal history background check.
13.30 A school hiring authority deciding to receive payment may, at its discretion, accept payment
13.31 in the form of a negotiable instrument other than a money order or check and shall pay the
13.32 superintendent of the Bureau of Criminal Apprehension directly to conduct the background
13.33 check. A school hiring authority, at its discretion, may decide not to request a criminal
13.34 history background check on an employee who provides the hiring authority with a copy
13.35 of the results of a criminal history background check conducted within the previous 36

14.1 months. A school hiring authority may, at its discretion, decide to pay the costs of conducting
14.2 a background check under this paragraph.

14.3 ~~(d)~~ (e) For all nonstate residents who are offered employment in a school, a school hiring
14.4 authority shall request a criminal history background check on such individuals from the
14.5 superintendent of the Bureau of Criminal Apprehension and from the government agency
14.6 performing the same function in the resident state or, if no government entity performs the
14.7 same function in the resident state, from the Federal Bureau of Investigation. Such individuals
14.8 must provide an executed criminal history consent form and a money order, check, or other
14.9 negotiable instrument payable to the school hiring authority in an amount equal to the actual
14.10 cost to the government agencies and the school district of conducting the criminal history
14.11 background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal
14.12 history background check under this paragraph is the responsibility of the individual.

14.13 ~~(e)~~ (f) At the beginning of each school year or when a student enrolls, a school hiring
14.14 authority must notify parents and guardians about the school hiring authority's policy
14.15 requiring a criminal history background check on employees and other individuals who
14.16 provide services to the school, and identify those positions subject to a background check
14.17 and the extent of the hiring authority's discretion in requiring a background check. The
14.18 school hiring authority may include the notice in the student handbook, a school policy
14.19 guide, or other similar communication. Nothing in this paragraph affects a school hiring
14.20 authority's ability to request a criminal history background check on an individual under
14.21 paragraph (c).

14.22 Sec. 10. Minnesota Statutes 2017 Supplement, section 123B.03, subdivision 2, is amended
14.23 to read:

14.24 Subd. 2. **Effect of background check or Professional Educator Licensing and**
14.25 **Standards Board action.** (a) ~~A school hiring authority may hire or otherwise allow an~~
14.26 ~~individual to provide a service to a school pending completion of a background check under~~
14.27 ~~subdivision 1 or obtaining notice of a Professional Educator Licensing and Standards Board~~
14.28 ~~action under subdivision 1a but shall notify the individual that the individual's employment~~
14.29 ~~or other service may be terminated based on the result of the background check or~~
14.30 ~~Professional Educator Licensing and Standards Board action.~~ A school hiring authority is
14.31 not liable for failing to hire or for terminating an individual's employment or other service
14.32 based on the result of a background check or Professional Educator Licensing and Standards
14.33 Board action under this section.

(b) For purposes of this paragraph, a school hiring authority must inform an individual if the individual's application to be an employee or volunteer in the district has been denied as a result of a background check conducted under this section. The school hiring authority must also inform an individual who is a current employee or volunteer if the individual's employment or volunteer status in the district is being terminated as a result of a background check conducted under subdivision 4.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 11. Minnesota Statutes 2016, section 171.02, subdivision 2a, is amended to read:

Subd. 2a. **Exception for certain school bus drivers.** Notwithstanding subdivision 2, paragraph (b), the holder of a class D driver's license, without a school bus endorsement, may operate a type A school bus or a multifunction school activity bus under the following conditions:

(a) The operator is an employee of the entity that owns, leases, or contracts for the school bus and is not solely hired to provide transportation services under this subdivision.

(b) The operator drives the school bus only from points of origin to points of destination, not including home-to-school trips to pick up or drop off students.

(c) The operator is prohibited from using the eight-light system. Violation of this paragraph is a misdemeanor.

(d) The operator's employer has adopted and implemented a policy that provides for annual training and certification of the operator in:

(1) safe operation of the type of school bus the operator will be driving;

(2) understanding student behavior, including issues relating to students with disabilities;

(3) encouraging orderly conduct of students on the bus and handling incidents of misconduct appropriately;

(4) knowing and understanding relevant laws, rules of the road, and local school bus safety policies;

(5) handling emergency situations; and

(6) safe loading and unloading of students.

(e) A background check or background investigation of the operator has been conducted that meets the requirements under section 122A.18, subdivision 8, or 123B.03 for teachers;

16.1 section 144.057 or chapter 245C for day care employees; or section 171.321, subdivision
16.2 3, for all other persons operating a school bus under this subdivision.

16.3 (f) Operators shall submit to a physical examination as required by section 171.321,
16.4 subdivision 2.

16.5 (g) The operator's driver's license is verified annually by the entity that owns, leases, or
16.6 contracts for the school bus.

16.7 (h) A person who sustains a conviction, as defined under section 609.02, of violating
16.8 section 169A.25, 169A.26, 169A.27, 169A.31, 169A.51, or 169A.52, or a similar statute
16.9 or ordinance of another state is precluded from operating a school bus for five years from
16.10 the date of conviction.

16.11 (i) A person who has ever been convicted of, or received a stay of adjudication for, a
16.12 disqualifying offense as defined in section 171.3215, subdivision 1, paragraph (c), may not
16.13 operate a school bus under this subdivision.

16.14 (j) A person who sustains a conviction, as defined under section 609.02, of a fourth
16.15 moving offense in violation of chapter 169 is precluded from operating a school bus for one
16.16 year from the date of the last conviction.

16.17 (k) Students riding the school bus must have training required under section 123B.90,
16.18 subdivision 2.

16.19 (l) An operator must be trained in the proper use of child safety restraints as set forth in
16.20 the National Highway Traffic Safety Administration's "Guideline for the Safe Transportation
16.21 of Pre-school Age Children in School Buses," if child safety restraints are used by the
16.22 passengers.

16.23 (m) Annual certification of the requirements listed in this subdivision must be maintained
16.24 under separate file at the business location for each operator licensed under this subdivision
16.25 and subdivision 2, paragraph (b), clause (5). The business manager, school board, governing
16.26 body of a nonpublic school, or any other entity that owns, leases, or contracts for the school
16.27 bus operating under this subdivision is responsible for maintaining these files for inspection.

16.28 (n) The school bus must bear a current certificate of inspection issued under section
16.29 169.451.

16.30 (o) If the word "School" appears on the front and rear of the bus, the word "School"
16.31 must be covered by a sign that reads "Activities" when the bus is being operated under
16.32 authority of this subdivision.

17.1 (p) The type A-I school bus or multifunction school activity bus is designed to transport
17.2 15 or fewer passengers, including the driver.

17.3 (q) The school bus or multifunction school activity bus has a gross vehicle weight rating
17.4 of 14,500 pounds or less.

17.5 Sec. 12. Minnesota Statutes 2017 Supplement, section 171.02, subdivision 2b, is amended
17.6 to read:

17.7 Subd. 2b. **Exception for type III vehicle drivers.** (a) Notwithstanding subdivision 2,
17.8 the holder of a class A, B, C, or D driver's license, without a school bus endorsement, may
17.9 operate a type III vehicle described in section 169.011, subdivision 71, paragraph (h), under
17.10 the conditions in this subdivision.

17.11 (b) The operator is an employee of the entity that owns, leases, or contracts for the school
17.12 bus.

17.13 (c) The operator's employer has adopted and implemented a policy that provides for
17.14 annual training and certification of the operator in:

17.15 (1) safe operation of a type III vehicle;

17.16 (2) understanding student behavior, including issues relating to students with disabilities;

17.17 (3) encouraging orderly conduct of students on the bus and handling incidents of
17.18 misconduct appropriately;

17.19 (4) knowing and understanding relevant laws, rules of the road, and local school bus
17.20 safety policies;

17.21 (5) handling emergency situations;

17.22 (6) proper use of seat belts and child safety restraints;

17.23 (7) performance of pretrip vehicle inspections;

17.24 (8) safe loading and unloading of students, including, but not limited to:

17.25 (i) utilizing a safe location for loading and unloading students at the curb, on the nontraffic
17.26 side of the roadway, or at off-street loading areas, driveways, yards, and other areas to
17.27 enable the student to avoid hazardous conditions;

17.28 (ii) refraining from loading and unloading students in a vehicular traffic lane, on the
17.29 shoulder, in a designated turn lane, or a lane adjacent to a designated turn lane;

(iii) avoiding a loading or unloading location that would require a pupil to cross a road, or ensuring that the driver or an aide personally escort the pupil across the road if it is not reasonably feasible to avoid such a location;

(iv) placing the type III vehicle in "park" during loading and unloading; and

(v) escorting a pupil across the road under item (iii) only after the motor is stopped, the ignition key is removed, the brakes are set, and the vehicle is otherwise rendered immobile; and

(9) compliance with paragraph (k), concerning reporting certain convictions to the employer within ten days of the date of conviction.

(d) A background check or background investigation of the operator has been conducted that meets the requirements under section 122A.18, subdivision 8, or 123B.03 for school district employees; section 144.057 or chapter 245C for day care employees; or section 171.321, subdivision 3, for all other persons operating a type III vehicle under this subdivision.

(e) Operators shall submit to a physical examination as required by section 171.321, subdivision 2.

(f) The operator's employer requires preemployment drug testing of applicants for operator positions. Current operators must comply with the employer's policy under section 181.951, subdivisions 2, 4, and 5. Notwithstanding any law to the contrary, the operator's employer may use a Breathalyzer or similar device to fulfill random alcohol testing requirements.

(g) The operator's driver's license is verified annually by the entity that owns, leases, or contracts for the type III vehicle as required under section 171.321, subdivision 5.

(h) A person who sustains a conviction, as defined under section 609.02, of violating section 169A.25, 169A.26, 169A.27, or 169A.31, or whose driver's license is revoked under sections 169A.50 to 169A.53 of the implied consent law or section 171.177, or who is convicted of violating or whose driver's license is revoked under a similar statute or ordinance of another state, is precluded from operating a type III vehicle for five years from the date of conviction.

(i) A person who has ever been convicted of, or received a stay of adjudication for, a disqualifying offense as defined in section 171.3215, subdivision 1, paragraph (c), may not operate a type III vehicle under this subdivision.

(j) A person who sustains a conviction, as defined under section 609.02, of a moving offense in violation of chapter 169 within three years of the first of three other moving offenses is precluded from operating a type III vehicle for one year from the date of the last conviction.

(k) An operator who sustains a conviction as described in paragraph (h), ~~(i)~~, or (j) while employed by the entity that owns, leases, or contracts for the school bus, shall report the conviction to the employer within ten days of the date of the conviction. An operator who sustains a conviction or receives a stay of adjudication as described in paragraph (i) while employed by the entity that owns, leases, or contracts for the school bus shall report the conviction or stay of adjudication to the employer within ten days of the date of the conviction or stay of adjudication.

(l) An operator of a type III vehicle whose driver's license is suspended, revoked, canceled, or disqualified by Minnesota, another state, or another jurisdiction must notify the operator's employer in writing of the suspension, revocation, cancellation, lost privilege, or disqualification. The operator must notify the operator's employer before the end of the business day immediately following the day the operator received notice of the suspension, revocation, cancellation, lost privilege, or disqualification.

(m) Students riding the type III vehicle must have training required under section 123B.90, subdivision 2.

(n) Documentation of meeting the requirements listed in this subdivision must be maintained under separate file at the business location for each type III vehicle operator. The business manager, school board, governing body of a nonpublic school, or any other entity that owns, leases, or contracts for the type III vehicle operating under this subdivision is responsible for maintaining these files for inspection.

(o) The type III vehicle must bear a current certificate of inspection issued under section 169.451.

(p) An employee of a school or of a school district, who is not employed for the sole purpose of operating a type III vehicle, is exempt from paragraphs (e) and (f).

Sec. 13. Minnesota Statutes 2017 Supplement, section 171.3215, subdivision 2, is amended to read:

Subd. 2. **Cancellation for disqualifying and other offenses.** Within ten days of receiving notice under section 631.40, subdivision 1a, or otherwise receiving notice for a nonresident driver, that a school bus driver has been convicted of, or received a stay of adjudication for,

a disqualifying offense, the commissioner shall permanently cancel the school bus driver's endorsement on the offender's driver's license and in the case of a nonresident, the driver's privilege to operate a school bus in Minnesota. A school bus driver whose endorsement or privilege to operate a school bus in Minnesota has been permanently canceled may not apply for reinstatement. Within ten days of receiving notice under section 631.40, subdivision 1a, or otherwise receiving notice for a nonresident driver, that a school bus driver has been convicted of a violation of section 169A.20, or a similar statute or ordinance from another state, and within ten days of revoking a school bus driver's license under section 169A.52 or 171.177, the commissioner shall cancel the school bus driver's endorsement on the offender's driver's license or the nonresident's privilege to operate a school bus in Minnesota for five years. After five years, a school bus driver may apply to the commissioner for reinstatement. Even after five years, cancellation of a school bus driver's endorsement or a nonresident's privilege to operate a school bus in Minnesota for a violation under section 169A.20, sections 169A.50 to 169A.53, section 171.177, or a similar statute or ordinance from another state, shall remain in effect until the driver provides proof of successful completion of an alcohol or controlled substance treatment program. For a first offense, proof of completion is required only if treatment was ordered as part of a chemical use assessment. Within ten days of receiving notice under section 631.40, subdivision 1a, or otherwise receiving notice for a nonresident driver, that a school bus driver has been convicted of a fourth moving violation in the last three years, the commissioner shall cancel the school bus driver's endorsement on the offender's driver's license or the nonresident's privilege to operate a school bus in Minnesota until one year has elapsed since the last conviction. A school bus driver who has no new convictions after one year may apply for reinstatement. Upon canceling the offender's school bus driver's endorsement, the commissioner shall immediately notify the licensed offender of the cancellation in writing, by depositing in the United States post office a notice addressed to the licensed offender at the licensed offender's last known address, with postage prepaid thereon.

Sec. 14. Minnesota Statutes 2017 Supplement, section 171.3215, subdivision 3, is amended to read:

Subd. 3. **Background check.** Before issuing or renewing a driver's license with a school bus driver's endorsement, the commissioner shall conduct an investigation to determine if the applicant has been convicted of, or received a stay of adjudication for, committing a disqualifying offense, four moving violations in the previous three years, a violation of section 169A.20 or a similar statute or ordinance from another state, a gross misdemeanor, or if the applicant's driver's license has been revoked under section 169A.52 or 171.177.

The commissioner shall not issue a new bus driver's endorsement and shall not renew an existing bus driver's endorsement if the applicant has been convicted of committing a disqualifying offense. The commissioner shall not issue a new bus driver's endorsement and shall not renew an existing bus driver's endorsement if, within the previous five years, the applicant has been convicted of committing a violation of section 169A.20, or a similar statute or ordinance from another state, a gross misdemeanor, or if the applicant's driver's license has been revoked under section 169A.52 or 171.177, or if, within the previous three years, the applicant has been convicted of four moving violations. An applicant who has been convicted of violating section 169A.20, or a similar statute or ordinance from another state, or who has had a license revocation under section 169A.52 or 171.177 within the previous ten years must show proof of successful completion of an alcohol or controlled substance treatment program in order to receive a bus driver's endorsement. For a first offense, proof of completion is required only if treatment was ordered as part of a chemical use assessment. A school district or contractor that employs a nonresident school bus driver must conduct a background check of the employee's driving record and criminal history in both Minnesota and the driver's state of residence. Convictions for disqualifying offenses, gross misdemeanors, a fourth moving violation within the previous three years, or violations of section 169A.20, or a similar statute or ordinance in another state, must be reported to the Department of Public Safety.

Sec. 15. Minnesota Statutes 2016, section 299C.17, is amended to read:

299C.17 REPORT BY COURT ADMINISTRATOR.

The superintendent shall require the court administrator of every court which (1) sentences a defendant for a felony, gross misdemeanor, or targeted misdemeanor, or (2) grants a stay of adjudication pursuant to section 609.095, paragraph (b), clause (2), to electronically transmit within 24 hours of the disposition of the case a report, in a form prescribed by the superintendent providing information required by the superintendent with regard to the prosecution and disposition of criminal cases. A copy of the report shall be kept on file in the office of the court administrator.

Sec. 16. 299C.77] BACKGROUND CHECKS; ADDITIONAL DISCLOSURE.

The superintendent shall disclose to each applicant for a background check or background study required or authorized under section 122A.18, subdivision 8; 123B.03; 171.02, subdivision 2a or 2b; or 171.3215, subdivision 3, all records of stays of adjudication granted to the subject of the background check or background study that the superintendent receives

22.1 pursuant to section 299C.17, clause (2). The data required to be disclosed under this section
22.2 is in addition to other data on the subject of the background check or background study that
22.3 the superintendent is mandated to disclose.

22.4 Sec. 17. Minnesota Statutes 2016, section 609.095, is amended to read:

22.5 **609.095 LIMITS OF SENTENCES.**

22.6 (a) The legislature has the exclusive authority to define crimes and offenses and the
22.7 range of the sentences or punishments for their violation. No other or different sentence or
22.8 punishment shall be imposed for the commission of a crime than is authorized by this chapter
22.9 or other applicable law.

22.10 (b) Except as provided in:

22.11 (1) section 152.18 or 609.375²; or

22.12 (2) upon agreement of the parties, a court may not refuse to adjudicate the guilt of a
22.13 defendant who tenders a guilty plea in accordance with Minnesota Rules of Criminal
22.14 Procedure, rule 15, or who has been found guilty by a court or jury following a trial.

22.15 A stay of adjudication granted under clause (2) must be reported to the superintendent of
22.16 the Bureau of Criminal Apprehension pursuant to section 299C.17.

22.17 (c) Paragraph (b) does not supersede Minnesota Rules of Criminal Procedure, rule 26.04.

22.18 Sec. 18. Minnesota Statutes 2017 Supplement, section 626.556, subdivision 3, is amended
22.19 to read:

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

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

22.30 (2) employed as a member of the clergy and received the information while engaged in
22.31 ministerial duties, provided that a member of the clergy is not required by this subdivision

23.1 to report information that is otherwise privileged under section 595.02, subdivision 1,
23.2 paragraph (c)-; or

23.3 (3) a member of a board or other entity whose licensees perform work within a school
23.4 facility.

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

23.9 (c) A person mandated to report physical or sexual child abuse or neglect occurring
23.10 within a licensed facility shall report the information to the agency responsible for licensing
23.11 or certifying the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16;
23.12 or chapter 144H, 245D, or 245H; or a nonlicensed personal care provider organization as
23.13 defined in section 256B.0625, subdivision 19a. A health or corrections agency receiving a
23.14 report may request the local welfare agency to provide assistance pursuant to subdivisions
23.15 10, 10a, and 10b. A board or other entity whose licensees perform work within a school
23.16 facility, upon receiving a complaint of alleged maltreatment, shall provide information about
23.17 the circumstances of the alleged maltreatment to the commissioner of education. Section
23.18 13.03, subdivision 4, applies to data received by the commissioner of education from a
23.19 licensing entity.

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

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

23.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

23.25 Sec. 19. Minnesota Statutes 2016, section 626.556, subdivision 10, is amended to read:

23.26 Subd. 10. **Duties of local welfare agency and local law enforcement agency upon**
23.27 **receipt of report; mandatory notification between police or sheriff and agency.** (a) The
23.28 police department or the county sheriff shall immediately notify the local welfare agency
23.29 or agency responsible for child protection reports under this section orally and in writing
23.30 when a report is received. The local welfare agency or agency responsible for child protection
23.31 reports shall immediately notify the local police department or the county sheriff orally and
23.32 in writing when a report is received. The county sheriff and the head of every local welfare
23.33 agency, agency responsible for child protection reports, and police department shall each

designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph are carried out. When the alleged maltreatment occurred on tribal land, the local welfare agency or agency responsible for child protection reports and the local police department or the county sheriff shall immediately notify the tribe's social services agency and tribal law enforcement orally and in writing when a report is received. When a police department or county sheriff receives a report or otherwise has information indicating that a child has been the subject of physical abuse, sexual abuse, or neglect by a person licensed by the Professional Educator Licensing and Standards Board or Board of School Administrators, it shall, in addition to its other duties under this section, immediately inform the licensing board.

(b) Upon receipt of a report, the local welfare agency shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child maltreatment. The local welfare agency:

(1) shall conduct an investigation on reports involving sexual abuse or substantial child endangerment;

(2) shall begin an immediate investigation if, at any time when it is using a family assessment response, it determines that there is reason to believe that sexual abuse or substantial child endangerment or a serious threat to the child's safety exists;

(3) may conduct a family assessment for reports that do not allege sexual abuse or substantial child endangerment. In determining that a family assessment is appropriate, the local welfare agency may consider issues of child safety, parental cooperation, and the need for an immediate response;

(4) may conduct a family assessment on a report that was initially screened and assigned for an investigation. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and notify the local law enforcement agency if the local law enforcement agency is conducting a joint investigation; and

(5) shall provide immediate notice, according to section 260.761, subdivision 2, to an Indian child's tribe when the agency has reason to believe the family assessment or investigation may involve an Indian child. For purposes of this clause, "immediate notice" means notice provided within 24 hours.

If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, or sexual abuse by a person with a significant relationship to the child when that person resides

in the child's household or by a sibling, the local welfare agency shall immediately conduct a family assessment or investigation as identified in clauses (1) to (4). In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence and offer services for purposes of preventing future child maltreatment, safeguarding and enhancing the welfare of the abused or neglected minor, and supporting and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation or assessment. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the family assessment or investigation indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615.

(c) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of education shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

(d) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the

alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(e) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

27.1 Except where the alleged offender is believed to be a school official or employee, the
27.2 time and place, and manner of the interview on school premises shall be within the discretion
27.3 of school officials, but the local welfare or law enforcement agency shall have the exclusive
27.4 authority to determine who may attend the interview. The conditions as to time, place, and
27.5 manner of the interview set by the school officials shall be reasonable and the interview
27.6 shall be conducted not more than 24 hours after the receipt of the notification unless another
27.7 time is considered necessary by agreement between the school officials and the local welfare
27.8 or law enforcement agency. Where the school fails to comply with the provisions of this
27.9 paragraph, the juvenile court may order the school to comply. Every effort must be made
27.10 to reduce the disruption of the educational program of the child, other students, or school
27.11 staff when an interview is conducted on school premises.

27.12 (f) Where the alleged offender or a person responsible for the care of the alleged victim
27.13 or other minor prevents access to the victim or other minor by the local welfare agency, the
27.14 juvenile court may order the parents, legal custodian, or guardian to produce the alleged
27.15 victim or other minor for questioning by the local welfare agency or the local law
27.16 enforcement agency outside the presence of the alleged offender or any person responsible
27.17 for the child's care at reasonable places and times as specified by court order.

27.18 (g) Before making an order under paragraph (f), the court shall issue an order to show
27.19 cause, either upon its own motion or upon a verified petition, specifying the basis for the
27.20 requested interviews and fixing the time and place of the hearing. The order to show cause
27.21 shall be served personally and shall be heard in the same manner as provided in other cases
27.22 in the juvenile court. The court shall consider the need for appointment of a guardian ad
27.23 litem to protect the best interests of the child. If appointed, the guardian ad litem shall be
27.24 present at the hearing on the order to show cause.

27.25 (h) The commissioner of human services, the ombudsman for mental health and
27.26 developmental disabilities, the local welfare agencies responsible for investigating reports,
27.27 the commissioner of education, and the local law enforcement agencies have the right to
27.28 enter facilities as defined in subdivision 2 and to inspect and copy the facility's records,
27.29 including medical records, as part of the investigation. Notwithstanding the provisions of
27.30 chapter 13, they also have the right to inform the facility under investigation that they are
27.31 conducting an investigation, to disclose to the facility the names of the individuals under
27.32 investigation for abusing or neglecting a child, and to provide the facility with a copy of
27.33 the report and the investigative findings.

27.34 (i) The local welfare agency responsible for conducting a family assessment or
27.35 investigation shall collect available and relevant information to determine child safety, risk

28.1 of subsequent child maltreatment, and family strengths and needs and share not public
28.2 information with an Indian's tribal social services agency without violating any law of the
28.3 state that may otherwise impose duties of confidentiality on the local welfare agency in
28.4 order to implement the tribal state agreement. The local welfare agency or the agency
28.5 responsible for investigating the report shall collect available and relevant information to
28.6 ascertain whether maltreatment occurred and whether protective services are needed.
28.7 Information collected includes, when relevant, information with regard to the person reporting
28.8 the alleged maltreatment, including the nature of the reporter's relationship to the child and
28.9 to the alleged offender, and the basis of the reporter's knowledge for the report; the child
28.10 allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral
28.11 sources having relevant information related to the alleged maltreatment. The local welfare
28.12 agency or the agency responsible for investigating the report may make a determination of
28.13 no maltreatment early in an investigation, and close the case and retain immunity, if the
28.14 collected information shows no basis for a full investigation.

28.15 Information relevant to the assessment or investigation must be asked for, and may
28.16 include:

28.17 (1) the child's sex and age; prior reports of maltreatment, including any maltreatment
28.18 reports that were screened out and not accepted for assessment or investigation; information
28.19 relating to developmental functioning; credibility of the child's statement; and whether the
28.20 information provided under this clause is consistent with other information collected during
28.21 the course of the assessment or investigation;

28.22 (2) the alleged offender's age, a record check for prior reports of maltreatment, and
28.23 criminal charges and convictions. The local welfare agency or the agency responsible for
28.24 assessing or investigating the report must provide the alleged offender with an opportunity
28.25 to make a statement. The alleged offender may submit supporting documentation relevant
28.26 to the assessment or investigation;

28.27 (3) collateral source information regarding the alleged maltreatment and care of the
28.28 child. Collateral information includes, when relevant: (i) a medical examination of the child;
28.29 (ii) prior medical records relating to the alleged maltreatment or the care of the child
28.30 maintained by any facility, clinic, or health care professional and an interview with the
28.31 treating professionals; and (iii) interviews with the child's caretakers, including the child's
28.32 parent, guardian, foster parent, child care provider, teachers, counselors, family members,
28.33 relatives, and other persons who may have knowledge regarding the alleged maltreatment
28.34 and the care of the child; and

29.1 (4) information on the existence of domestic abuse and violence in the home of the child,
29.2 and substance abuse.

29.3 Nothing in this paragraph precludes the local welfare agency, the local law enforcement
29.4 agency, or the agency responsible for assessing or investigating the report from collecting
29.5 other relevant information necessary to conduct the assessment or investigation.

29.6 Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access
29.7 to medical data and records for purposes of clause (3). Notwithstanding the data's
29.8 classification in the possession of any other agency, data acquired by the local welfare
29.9 agency or the agency responsible for assessing or investigating the report during the course
29.10 of the assessment or investigation are private data on individuals and must be maintained
29.11 in accordance with subdivision 11. Data of the commissioner of education collected or
29.12 maintained during and for the purpose of an investigation of alleged maltreatment in a school
29.13 are governed by this section, notwithstanding the data's classification as educational,
29.14 licensing, or personnel data under chapter 13.

29.15 In conducting an assessment or investigation involving a school facility as defined in
29.16 subdivision 2, paragraph (c), the commissioner of education shall collect investigative
29.17 reports and data that are relevant to a report of maltreatment and are from local law
29.18 enforcement and the school facility.

29.19 (j) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact
29.20 with the child reported to be maltreated and with the child's primary caregiver sufficient to
29.21 complete a safety assessment and ensure the immediate safety of the child. The face-to-face
29.22 contact with the child and primary caregiver shall occur immediately if sexual abuse or
29.23 substantial child endangerment is alleged and within five calendar days for all other reports.
29.24 If the alleged offender was not already interviewed as the primary caregiver, the local welfare
29.25 agency shall also conduct a face-to-face interview with the alleged offender in the early
29.26 stages of the assessment or investigation. At the initial contact, the local child welfare agency
29.27 or the agency responsible for assessing or investigating the report must inform the alleged
29.28 offender of the complaints or allegations made against the individual in a manner consistent
29.29 with laws protecting the rights of the person who made the report. The interview with the
29.30 alleged offender may be postponed if it would jeopardize an active law enforcement
29.31 investigation.

29.32 (k) When conducting an investigation, the local welfare agency shall use a question and
29.33 answer interviewing format with questioning as nondirective as possible to elicit spontaneous
29.34 responses. For investigations only, the following interviewing methods and procedures must
29.35 be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(l) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (c), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (j) and (k), and subdivision 3d, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the assessment or investigation provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (j) and (k), and subdivision 3d.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 20. Minnesota Statutes 2017 Supplement, section 626.556, subdivision 10e, is amended to read:

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

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

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

(d) If the commissioner of education conducts an assessment or investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases, the commissioner shall inform the school board or employer and any appropriate licensing

31.1 entity that a report was received, the subject of the report, the date of the initial report, the
31.2 category of maltreatment alleged as defined in paragraph (f), the fact that maltreatment was
31.3 not determined, and a summary of the specific reasons for the determination.

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

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

31.12 (1) physical abuse as defined in subdivision 2, paragraph (k);

31.13 (2) neglect as defined in subdivision 2, paragraph (g);

31.14 (3) sexual abuse as defined in subdivision 2, paragraph (n);

31.15 (4) mental injury as defined in subdivision 2, paragraph (f); or

31.16 (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (c).

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

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

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

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

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

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

The evaluation of the facility's responsibility under clause (2) must not be based on the completeness of the risk assessment or risk reduction plan required under section 245A.66, but must be based on the facility's compliance with the regulatory standards for policies and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota Rules.

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

Sec. 21. Minnesota Statutes 2016, section 631.40, subdivision 1a, is amended to read:

Subd. 1a. **Certified copy of disqualifying offense convictions sent to public safety and school districts.** When a person is convicted of, or receives a stay of adjudication for, committing a disqualifying offense, as defined in section 171.3215, subdivision 1, a gross misdemeanor, a fourth moving violation within the previous three years, or a violation of section 169A.20, or a similar statute or ordinance from another state, the court shall determine whether the offender is a school bus driver as defined in section 171.3215, subdivision 1, whether the offender possesses a school bus driver's endorsement on the offender's driver's license and in what school districts the offender drives a school bus. If the offender is a school bus driver or possesses a school bus driver's endorsement, the court administrator

33.1 shall send a certified copy of the conviction or stay of adjudication to the Department of
33.2 Public Safety and to the school districts in which the offender drives a school bus within
33.3 ten days after the conviction or stay of adjudication.

33.4 Sec. 22. **REPEALER.**

33.5 Minnesota Statutes 2017 Supplement, section 122A.09, subdivision 1, and Minnesota
33.6 Rules, part 8710.2100, subparts 1 and 2, are repealed.

33.7 **EFFECTIVE DATE.** This section is effective the day following final enactment.

APPENDIX
Repealed Minnesota Statutes: HF2795-1

122A.09 DUTIES.

Subdivision 1. **Code of ethics.** The Professional Educator Licensing and Standards Board must develop by rule a code of ethics covering standards of professional teaching practices, including areas of ethical conduct and professional performance and methods of enforcement.

8710.2100 CODE OF ETHICS FOR MINNESOTA TEACHERS.

Subpart 1. **Scope.** Each teacher, upon entering the teaching profession, assumes a number of obligations, one of which is to adhere to a set of principles which defines professional conduct. These principles are reflected in the following code of ethics, which sets forth to the education profession and the public it serves standards of professional conduct and procedures for implementation.

This code shall apply to all persons licensed according to rules established by the Professional Educator Licensing and Standards Board.

8710.2100 CODE OF ETHICS FOR MINNESOTA TEACHERS.

Subp. 2. **Standards of professional conduct.** The standards of professional conduct are as follows:

- A. A teacher shall provide professional education services in a nondiscriminatory manner.
- B. A teacher shall make reasonable effort to protect the student from conditions harmful to health and safety.
- C. In accordance with state and federal laws, a teacher shall disclose confidential information about individuals only when a compelling professional purpose is served or when required by law.
- D. A teacher shall take reasonable disciplinary action in exercising the authority to provide an atmosphere conducive to learning.
- E. A teacher shall not use professional relationships with students, parents, and colleagues to private advantage.
- F. A teacher shall delegate authority for teaching responsibilities only to licensed personnel.
- G. A teacher shall not deliberately suppress or distort subject matter.
- H. A teacher shall not knowingly falsify or misrepresent records or facts relating to that teacher's own qualifications or to other teachers' qualifications.
- I. A teacher shall not knowingly make false or malicious statements about students or colleagues.
- J. A teacher shall accept a contract for a teaching position that requires licensing only if properly or provisionally licensed for that position.