

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 1292

(SENATE AUTHORS: UTKE)

DATE	D-PG	OFFICIAL STATUS
02/22/2017	704	Introduction and first reading
		Referred to Human Services Reform Finance and Policy
03/02/2017		Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act

1.2 relating to human services; modifying provisions governing children and families

1.3 services, mental health services, and operations; amending Minnesota Statutes

1.4 2016, sections 13.46, subdivisions 2, 3; 13.461, subdivision 28; 119B.02,

1.5 subdivision 6; 144.057, subdivision 1; 245A.02, subdivision 3, by adding a

1.6 subdivision; 245A.03, subdivision 3; 245A.04, subdivision 1; 245A.07, subdivisions

1.7 1, 3; 245A.08, subdivision 3; 245C.02, subdivisions 5, 13b, by adding subdivisions;

1.8 245C.05, subdivisions 1, 5; 245C.08, subdivisions 1, 3; 245C.12; 245C.32,

1.9 subdivisions 1a, 2, 3; 245C.33, subdivision 4; 245C.34, subdivision 4; 245D.10,

1.10 subdivision 3a; 256.01, subdivisions 18d, 18e; 256.045, subdivisions 3, 4; 256.0451,

1.11 subdivisions 1, 3, 5, 6, 7, 9, 10, 11, 12, 21; 256.046, subdivision 1; 256.9685,

1.12 subdivisions 1, 1a; 256B.064, subdivision 2, by adding subdivisions; 256B.0943,

1.13 subdivision 8; 256D.051, subdivisions 1, 1a, 2, 3, 3a, 3b, 6b, 8, 18; 256J.626,

1.14 subdivision 5; 256J.751, subdivisions 2, 5, by adding subdivisions; 256P.02,

1.15 subdivisions 1, 1a; 259.35, subdivision 1; 259.53, subdivision 4; 259.83, subdivision

1.16 1a; 260C.101, by adding a subdivision; 260C.171, subdivision 2; 260C.178,

1.17 subdivision 1; 260C.212, subdivisions 1, 2, by adding a subdivision; 260C.219;

1.18 260C.503, subdivision 2; 260C.515, subdivision 4; 260C.605, subdivision 1;

1.19 260C.607, subdivision 6; 260C.609; 260C.611; 260C.613, subdivision 6; 260C.615,

1.20 subdivision 1; 260C.623, subdivision 4; 260C.625; 260C.629, subdivision 2;

1.21 393.07, subdivision 10; 518A.41, subdivision 4; 518A.685; 626.556, subdivisions

1.22 2, 3, 3c, 3e, 7, 10, 10f, 10m, 11; 626.5561, subdivision 1; 626.558, subdivision 2;

1.23 proposing coding for new law in Minnesota Statutes, chapters 256B; 518; repealing

1.24 Minnesota Statutes 2016, sections 119B.125, subdivision 8; 256J.751, subdivision

1.25 1.

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

1.27 **ARTICLE 1**

1.28 **CHILDREN AND FAMILIES SERVICES**

1.29 Section 1. Minnesota Statutes 2016, section 13.46, subdivision 2, is amended to read:

1.30 Subd. 2. **General.** (a) Data on individuals collected, maintained, used, or disseminated

1.31 by the welfare system are private data on individuals, and shall not be disclosed except:

- 2.1 (1) according to section 13.05;
- 2.2 (2) according to court order;
- 2.3 (3) according to a statute specifically authorizing access to the private data;
- 2.4 (4) to an agent of the welfare system and an investigator acting on behalf of a county,
- 2.5 the state, or the federal government, including a law enforcement person or attorney in the
- 2.6 investigation or prosecution of a criminal, civil, or administrative proceeding relating to the
- 2.7 administration of a program;
- 2.8 (5) to personnel of the welfare system who require the data to verify an individual's
- 2.9 identity; determine eligibility, amount of assistance, and the need to provide services to an
- 2.10 individual or family across programs; coordinate services for an individual or family;
- 2.11 evaluate the effectiveness of programs; assess parental contribution amounts; and investigate
- 2.12 suspected fraud;
- 2.13 (6) to administer federal funds or programs;
- 2.14 (7) between personnel of the welfare system working in the same program;
- 2.15 (8) to the Department of Revenue to assess parental contribution amounts for purposes
- 2.16 of section 252.27, subdivision 2a, administer and evaluate tax refund or tax credit programs
- 2.17 and to identify individuals who may benefit from these programs. The following information
- 2.18 may be disclosed under this paragraph: an individual's and their dependent's names, dates
- 2.19 of birth, Social Security numbers, income, addresses, and other data as required, upon
- 2.20 request by the Department of Revenue. Disclosures by the commissioner of revenue to the
- 2.21 commissioner of human services for the purposes described in this clause are governed by
- 2.22 section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited
- 2.23 to, the dependent care credit under section 290.067, the Minnesota working family credit
- 2.24 under section 290.0671, the property tax refund and rental credit under section 290A.04,
- 2.25 and the Minnesota education credit under section 290.0674;
- 2.26 (9) between the Department of Human Services, the Department of Employment and
- 2.27 Economic Development, and when applicable, the Department of Education, for the following
- 2.28 purposes:
- 2.29 (i) to monitor the eligibility of the data subject for unemployment benefits, for any
- 2.30 employment or training program administered, supervised, or certified by that agency;
- 2.31 (ii) to administer any rehabilitation program or child care assistance program, whether
- 2.32 alone or in conjunction with the welfare system;

(iii) to monitor and evaluate the Minnesota family investment program or the child care assistance program by exchanging data on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, medical programs under chapter 256B or 256L, or a medical program formerly codified under chapter 256D; and

(iv) to analyze public assistance employment services and program utilization, cost, effectiveness, and outcomes as implemented under the authority established in Title II, Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999. Health records governed by sections 144.291 to 144.298 and "protected health information" as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code of Federal Regulations, title 45, parts 160-164, including health care claims utilization information, must not be exchanged under this clause;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 98-527 to protect the legal and human rights of persons with developmental disabilities or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the Minnesota Office of Higher Education to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant Social Security numbers and names collected by the telephone assistance program may be disclosed to the Department of Revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a Minnesota family investment program participant may be disclosed to law enforcement officers who provide the name of the participant and notify the agency that:

4.1 (i) the participant:

4.2 (A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after
4.3 conviction, for a crime or attempt to commit a crime that is a felony under the laws of the
4.4 jurisdiction from which the individual is fleeing; or

4.5 (B) is violating a condition of probation or parole imposed under state or federal law;

4.6 (ii) the location or apprehension of the felon is within the law enforcement officer's
4.7 official duties; and

4.8 (iii) the request is made in writing and in the proper exercise of those duties;

4.9 (16) the current address of a recipient of general assistance may be disclosed to probation
4.10 officers and corrections agents who are supervising the recipient and to law enforcement
4.11 officers who are investigating the recipient in connection with a felony level offense;

4.12 (17) information obtained from food support applicant or recipient households may be
4.13 disclosed to local, state, or federal law enforcement officials, upon their written request, for
4.14 the purpose of investigating an alleged violation of the Food Stamp Act, according to Code
4.15 of Federal Regulations, title 7, section 272.1(c);

4.16 (18) the address, Social Security number, and, if available, photograph of any member
4.17 of a household receiving food support shall be made available, on request, to a local, state,
4.18 or federal law enforcement officer if the officer furnishes the agency with the name of the
4.19 member and notifies the agency that:

4.20 (i) the member:

4.21 (A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a
4.22 crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

4.23 (B) is violating a condition of probation or parole imposed under state or federal law;
4.24 or

4.25 (C) has information that is necessary for the officer to conduct an official duty related
4.26 to conduct described in subitem (A) or (B);

4.27 (ii) locating or apprehending the member is within the officer's official duties; and

4.28 (iii) the request is made in writing and in the proper exercise of the officer's official duty;

4.29 (19) the current address of a recipient of Minnesota family investment program, general
4.30 assistance, or food support may be disclosed to law enforcement officers who, in writing,
4.31 provide the name of the recipient and notify the agency that the recipient is a person required

to register under section 243.166, but is not residing at the address at which the recipient is registered under section 243.166;

(20) certain information regarding child support obligors who are in arrears may be made public according to section 518A.74;

(21) data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party;

(22) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(23) to the Department of Education for the purpose of matching Department of Education student data with public assistance data to determine students eligible for free and reduced-price meals, meal supplements, and free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

(24) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a community health board as defined in section 145A.02, subdivision 5, when the commissioner or community health board has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;

(25) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(26) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs;

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the Departments of Human Services and Education, on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child

care assistance under chapter 119B, medical programs under chapter 256B or 256L, or a medical program formerly codified under chapter 256D;

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the Department of Human Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), Department of Health, Department of Employment and Economic Development, and other state agencies as is reasonably necessary to perform these functions;

(29) counties and the Department of Human Services operating child care assistance programs under chapter 119B may disseminate data on program participants, applicants, and providers to the commissioner of education;

(30) child support data on the child, the parents, and relatives of the child may be disclosed to agencies administering programs under titles IV-B and IV-E of the Social Security Act, as authorized by federal law; ~~or~~

(31) to a health care provider governed by sections 144.291 to 144.298, to the extent necessary to coordinate services; or

(32) to the Department of Education for the purpose of matching Department of Education student data with public assistance data to determine students eligible for early learning scholarships.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but are not subject to the access provisions of subdivision 10, paragraph (b).

For the purposes of this subdivision, a request will be deemed to be made in writing if made through a computer interface system.

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

Sec. 2. Minnesota Statutes 2016, section 13.461, subdivision 28, is amended to read:

Subd. 28. **Child care assistance program.** Data collected, maintained, used, or disseminated by the welfare system pertaining to persons selected as legal nonlicensed child care providers by families receiving child care assistance are classified under section 119B.02, subdivision 6, paragraph (a). Child care assistance program payment data is classified under section 119B.02, subdivision 6, paragraph (b).

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

Sec. 3. Minnesota Statutes 2016, section 119B.02, subdivision 6, is amended to read:

Subd. 6. **Data.** (a) Data collected, maintained, used, or disseminated by the welfare system pertaining to persons selected as legal nonlicensed child care providers by families receiving child care assistance shall be treated as licensing data as provided in section 13.46, subdivision 4.

(b) For purposes of this paragraph, "payment data" means data showing that a child care assistance program payment under this chapter was made and the amount of child care assistance payments made to a child care center for a specified time period. Payment data may include the number of families and children on whose behalf payments were made for the specified time period. Any payment data that may identify a specific child care assistance recipient or benefit paid on behalf of a specific child care assistance recipient, as determined by the commissioner, is private data on individuals. Data related to a child care assistance payment is public:

(1) when the data relates to a child care assistance payment made to a licensed child care center or a child care center exempt from licensure; and

(2) when the commissioner or county agency either:

(i) disqualified the center from receipt of a payment from the child care assistance program under this chapter for wrongfully obtaining child care assistance under section 256.98, subdivision 8, paragraph (c);

(ii) refused a child care authorization, revoked a child care authorization, stopped payment, or denied payment for a bill for the center under section 119B.13, subdivision 6, paragraph (d); or

(iii) made a finding of financial misconduct under section 245E.02.

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

8.1 Sec. 4. Minnesota Statutes 2016, section 256D.051, subdivision 1, is amended to read:

8.2 Subdivision 1. **Food stamp employment and training program.** The commissioner
8.3 shall implement a food stamp employment and training program in order to meet the food
8.4 stamp employment and training participation requirements of the United States Department
8.5 of Agriculture. ~~Unless exempt under subdivision 3a, each adult recipient in the unit must~~
8.6 ~~participate in the food stamp employment and training program each month that the person~~
8.7 ~~is eligible for food stamps. The person's participation in food stamp employment and training~~
8.8 ~~services must begin no later than the first day of the calendar month following the~~
8.9 ~~determination of eligibility for food stamps. With the county agency's consent, and To the~~
8.10 extent of available resources, ~~the person~~ a recipient may ~~voluntarily continue~~ volunteer to
8.11 participate in food stamp employment and training services ~~for up to three additional~~
8.12 ~~consecutive months immediately following termination of food stamp benefits in order to~~
8.13 ~~complete the provisions of the person's employability development plan. A recipient who~~
8.14 volunteers for employment and training services is subject to the work requirements in Code
8.15 of Federal Regulations, title 7, section 273.7.

8.16 **EFFECTIVE DATE.** This section is effective October 1, 2017.

8.17 Sec. 5. Minnesota Statutes 2016, section 256D.051, subdivision 1a, is amended to read:

8.18 Subd. 1a. **Notices and sanctions.** (a) At the time the county agency notifies the household
8.19 that it is eligible for food stamps, the county agency must inform ~~all mandatory employment~~
8.20 ~~and training services participants as identified in subdivision 1 in the household that they~~
8.21 ~~must comply with all food stamp employment and training program requirements each~~
8.22 ~~month, including the requirement to attend an initial orientation to the food stamp~~
8.23 ~~employment and training program and that food stamp eligibility will end unless the~~
8.24 ~~participants comply with the requirements specified in the notice~~ an adult of the opportunity
8.25 to volunteer for and participate in SNAP employment and training activities, provide plain
8.26 language material that explains the benefits of voluntary participation, and provide the name
8.27 and address of the county's designated employment and training service provider.

8.28 (b) ~~A participant who fails without good cause to comply with food stamp employment~~
8.29 ~~and training program requirements of this section, including attendance at orientation, will~~
8.30 ~~lose food stamp eligibility for the following periods: The county must inform each recipient~~
8.31 who is an able-bodied adult without dependents that the recipient's SNAP benefits are limited
8.32 to three months in a 36-month period from the first full month of application unless the
8.33 recipient meets the work requirements in Code of Federal Regulations, title 7, section 273.7.

9.1 ~~(1) for the first occurrence, for one month or until the person complies with the~~
9.2 ~~requirements not previously complied with, whichever is longer;~~

9.3 ~~(2) for the second occurrence, for three months or until the person complies with the~~
9.4 ~~requirements not previously complied with, whichever is longer; or~~

9.5 ~~(3) for the third and any subsequent occurrence, for six months or until the person~~
9.6 ~~complies with the requirements not previously complied with, whichever is longer.~~

9.7 ~~If the participant is not the food stamp head of household, the person shall be considered~~
9.8 ~~an ineligible household member for food stamp purposes. If the participant is the food stamp~~
9.9 ~~head of household, the entire household is ineligible for food stamps as provided in Code~~
9.10 ~~of Federal Regulations, title 7, section 273.7(g). "Good cause" means circumstances beyond~~
9.11 ~~the control of the participant, such as illness or injury, illness or injury of another household~~
9.12 ~~member requiring the participant's presence, a household emergency, or the inability to~~
9.13 ~~obtain child care for children between the ages of six and 12 or to obtain transportation~~
9.14 ~~needed in order for the participant to meet the food stamp employment and training program~~
9.15 ~~participation requirements.~~

9.16 ~~(e) The county agency shall mail or hand deliver a notice to the participant not later than~~
9.17 ~~five days after determining that the participant has failed without good cause to comply~~
9.18 ~~with food stamp employment and training program requirements which specifies the~~
9.19 ~~requirements that were not complied with, the factual basis for the determination of~~
9.20 ~~noncompliance, and the right to reinstate eligibility upon a showing of good cause for failure~~
9.21 ~~to meet the requirements. The notice must ask the reason for the noncompliance and identify~~
9.22 ~~the participant's appeal rights. The notice must request that the participant inform the county~~
9.23 ~~agency if the participant believes that good cause existed for the failure to comply and must~~
9.24 ~~state that the county agency intends to terminate eligibility for food stamp benefits due to~~
9.25 ~~failure to comply with food stamp employment and training program requirements.~~

9.26 ~~(d) If the county agency determines that the participant did not comply during the month~~
9.27 ~~with all food stamp employment and training program requirements that were in effect, and~~
9.28 ~~if the county agency determines that good cause was not present, the county must provide~~
9.29 ~~a ten-day notice of termination of food stamp benefits. The amount of food stamps that are~~
9.30 ~~withheld from the household and determination of the impact of the sanction on other~~
9.31 ~~household members is governed by Code of Federal Regulations, title 7, section 273.7.~~

9.32 ~~(e) The participant may appeal the termination of food stamp benefits under the provisions~~
9.33 ~~of section 256.045.~~

9.34 **EFFECTIVE DATE.** This section is effective October 1, 2017.

10.1 Sec. 6. Minnesota Statutes 2016, section 256D.051, subdivision 2, is amended to read:

10.2 Subd. 2. **County agency duties.** (a) The county agency shall provide to food stamp
10.3 recipients a food stamp employment and training program. The program must include:

10.4 (1) orientation to the food stamp employment and training program;

10.5 (2) an individualized employability assessment and an individualized employability
10.6 development plan that includes assessment of literacy, ability to communicate in the English
10.7 language, educational and employment history, and that estimates the length of time it will
10.8 take the participant to obtain employment. The employability assessment and development
10.9 plan must be completed in consultation with the participant, must assess the participant's
10.10 assets, barriers, and strengths, and must identify steps necessary to overcome barriers to
10.11 employment. A copy of the employability development plan must be provided to the
10.12 registrant;

10.13 (3) referral to available accredited remedial or skills training or career pathways programs
10.14 designed to address participant's barriers to employment;

10.15 (4) referral to available programs that provide subsidized or unsubsidized employment
10.16 as necessary;

10.17 (5) a job search program, including job seeking skills training; and

10.18 (6) other activities, to the extent of available resources designed by the county agency
10.19 to prepare the participant for permanent employment.

10.20 ~~In order to allow time for job search, the county agency may not require an individual~~
10.21 ~~to participate in the food stamp employment and training program for more than 32 hours~~
10.22 ~~a week. The county agency shall require an individual to spend at least eight hours a week~~
10.23 ~~in job search or other food stamp employment and training program activities.~~

10.24 (b) The county agency shall prepare an annual plan for the operation of its food stamp
10.25 employment and training program. The plan must be submitted to and approved by the
10.26 commissioner of employment and economic development. The plan must include:

10.27 (1) a description of the services to be offered by the county agency;

10.28 (2) a plan to coordinate the activities of all public entities and private nonprofit entities
10.29 providing employment-related services in order to avoid duplication of effort and to provide
10.30 a wide range of allowable activities and services more efficiently;

10.31 (3) a description of the factors that will be taken into account when determining a client's
10.32 employability development plan; and

(4) provisions to ensure that ~~the~~ a county agency's employment and training service provider provides each recipient with an orientation, employability assessment, and employability development plan as specified in paragraph (a), clauses (1) and (2), within 30 days of the recipient's ~~eligibility for assistance~~ request to participate in employment and training.

EFFECTIVE DATE. This section is effective October 1, 2017.

Sec. 7. Minnesota Statutes 2016, section 256D.051, subdivision 3, is amended to read:

Subd. 3. **Participant duties.** In order to receive food stamp ~~assistance~~ employment and training services, a ~~registrant~~ participant who volunteers shall: (1) cooperate with the county agency in all aspects of the food stamp employment and training program; and (2) ~~accept any suitable employment, including employment offered through the Job Training Partnership Act, and other employment and training options; and~~ (3) participate in food stamp employment and training activities assigned by the county agency. The county agency may terminate employment and training assistance to a ~~registrant~~ voluntary participant who fails to cooperate in the food stamp employment and training program, ~~as provided in subdivision 4a~~ unless good cause is provided.

EFFECTIVE DATE. This section is effective October 1, 2017.

Sec. 8. Minnesota Statutes 2016, section 256D.051, subdivision 3a, is amended to read:

Subd. 3a. **Requirement to register work.** (a) To the extent required under Code of Federal Regulations, title 7, section 273.7(a), each applicant for and recipient of food stamps is required to register for work as a condition of eligibility for food stamp benefits. Applicants and recipients are registered by signing an application or annual reapplication for food stamps, and must be informed that they are registering for work by signing the form.

~~(b) The commissioner shall determine, within federal requirements, persons required to participate in the food stamp employment and training (FSET) program.~~

~~(c) The following food stamp recipients are exempt from mandatory participation in food stamp employment and training services:~~

~~(1) recipients of benefits under the Minnesota family investment program, Minnesota supplemental aid program, or the general assistance program;~~

~~(2) a child;~~

~~(3) a recipient over age 55;~~

~~(4) a recipient who has a mental or physical illness, injury, or incapacity which is expected to continue for at least 30 days and which impairs the recipient's ability to obtain or retain employment as evidenced by professional certification or the receipt of temporary or permanent disability benefits issued by a private or government source;~~

~~(5) a parent or other household member responsible for the care of either a dependent child in the household who is under age six or a person in the household who is professionally certified as having a physical or mental illness, injury, or incapacity. Only one parent or other household member may claim exemption under this provision;~~

~~(6) a recipient receiving unemployment insurance or who has applied for unemployment insurance and has been required to register for work with the Department of Employment and Economic Development as part of the unemployment insurance application process;~~

~~(7) a recipient participating each week in a drug addiction or alcohol abuse treatment and rehabilitation program, provided the operators of the treatment and rehabilitation program, in consultation with the county agency, recommend that the recipient not participate in the food stamp employment and training program;~~

~~(8) a recipient employed or self-employed for 30 or more hours per week at employment paying at least minimum wage, or who earns wages from employment equal to or exceeding 30 hours multiplied by the federal minimum wage; or~~

~~(9) a student enrolled at least half time in any school, training program, or institution of higher education. When determining if a student meets this criteria, the school's, program's or institution's criteria for being enrolled half time shall be used.~~

EFFECTIVE DATE. This section is effective October 1, 2017.

Sec. 9. Minnesota Statutes 2016, section 256D.051, subdivision 3b, is amended to read:

Subd. 3b. **Orientation.** The county agency or its employment and training service ~~provider~~ providers must provide an orientation to food stamp employment and training services to each ~~nonexempt food stamp~~ recipient within 30 days of the date ~~that food stamp eligibility is determined~~ the recipient agreed to volunteer. The orientation must inform the participant of the ~~requirement to participate~~ benefits of participating in services, the date, time, and address to report to for services, the name and telephone number of the food stamp employment and training service provider, the consequences for failure without good cause to comply, the services and support services available through food stamp employment and training services and other providers of similar services, and must encourage the participant to view the food stamp program as a temporary means of supplementing the family's food

13.1 needs until the family achieves self-sufficiency through employment. The orientation may
13.2 be provided through audio-visual methods, but the participant must have the opportunity
13.3 for face-to-face interaction with county agency staff.

13.4 **EFFECTIVE DATE.** This section is effective October 1, 2017.

13.5 Sec. 10. Minnesota Statutes 2016, section 256D.051, subdivision 6b, is amended to read:

13.6 Subd. 6b. **Federal reimbursement.** (a) Federal financial participation from the United
13.7 States Department of Agriculture for food stamp employment and training expenditures
13.8 that are eligible for reimbursement through the food stamp employment and training program
13.9 are dedicated funds and are annually appropriated to the commissioner of human services
13.10 for the operation of the food stamp employment and training program.

13.11 (b) The appropriation must be used for skill attainment through employment, training,
13.12 and support services for food stamp participants. By February 15, 2017, the commissioner
13.13 shall report to the chairs and ranking minority members of the legislative committees having
13.14 jurisdiction over the food stamp employment and training program on the progress of
13.15 securing additional federal reimbursement dollars under this program.

13.16 (c) Federal financial participation for the nonstate portion of food stamp employment
13.17 and training costs must be paid to the county agency or service provider that incurred the
13.18 costs at a rate to be determined by the Departments of Human Services and Employment
13.19 and Economic Development.

13.20 **EFFECTIVE DATE.** This section is effective October 1, 2017.

13.21 Sec. 11. Minnesota Statutes 2016, section 256D.051, subdivision 8, is amended to read:

13.22 Subd. 8. **Voluntary quit.** A person who is required to participate in food stamp
13.23 employment and training services is not eligible for food stamps if, without good cause, the
13.24 person refuses a legitimate offer of, or quits, suitable employment within ~~60~~ 30 days before
13.25 the date of application. A person who is required to participate in food stamp employment
13.26 and training services and, without good cause, voluntarily quits suitable employment or
13.27 refuses a legitimate offer of suitable employment while receiving food stamps shall be
13.28 terminated from the food stamp program ~~as specified in subdivision 1a.~~

13.29 **EFFECTIVE DATE.** This section is effective October 1, 2017.

14.1 Sec. 12. Minnesota Statutes 2016, section 256D.051, subdivision 18, is amended to read:

14.2 Subd. 18. **Work experience placements.** (a) To the extent of available resources, each
14.3 county agency ~~must~~ may establish and operate a work experience component in the food
14.4 stamp employment and training program for recipients who are subject to a federal limit of
14.5 three months of food stamp eligibility in any 36-month period. The purpose of the work
14.6 experience component is to enhance the participant's employability, self-sufficiency, and
14.7 to provide meaningful, productive work activities.

14.8 (b) The commissioner shall assist counties in the design and implementation of these
14.9 components. The commissioner must ensure that job placements under a work experience
14.10 component comply with section 256J.72. Written or oral concurrence with job duties of
14.11 persons placed under the community work experience program shall be obtained from the
14.12 appropriate exclusive bargaining representative.

14.13 (c) Worksites developed under this section are limited to projects that serve a useful
14.14 public service such as health, social service, environmental protection, education, urban
14.15 and rural development and redevelopment, welfare, recreation, public facilities, public
14.16 safety, community service, services to aged or disabled citizens, and child care. To the
14.17 extent possible, the prior training, skills, and experience of a recipient must be used in
14.18 making appropriate work experience assignments.

14.19 (d) Structured, supervised ~~volunteer~~ uncompensated work with an agency or organization
14.20 that is monitored by the county service provider may, with the approval of the county agency,
14.21 be used as a work experience placement.

14.22 (e) As a condition of placing a person receiving food stamps in a program under this
14.23 subdivision, the county agency shall first provide the recipient the opportunity:

14.24 (1) for placement in suitable subsidized or unsubsidized employment through participation
14.25 in job search under section 256D.051; ~~or~~

14.26 (2) for placement in suitable employment through participation in ~~on-the-job training~~ a
14.27 paid work experience, if such employment is available; or

14.28 (3) for placement in an educational program designed to increase job skills and
14.29 employability.

14.30 (f) The county agency shall limit the maximum monthly number of hours that any
14.31 participant may work in a work experience placement to a number equal to the amount of
14.32 the family's monthly food stamp allotment divided by the greater of the federal minimum
14.33 wage or the applicable state minimum wage.

After a participant has been assigned to a position for nine months, the participant may not continue in that assignment unless the maximum number of hours a participant works is no greater than the amount of the food stamp benefit divided by the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

(g) The participant's employability development plan must include the length of time needed in the work experience program, the need to continue job seeking activities while participating in work experience, and the participant's employment goals.

(h) After each six months of a recipient's participation in a work experience job placement, and at the conclusion of each work experience assignment under this section, the county agency shall reassess and revise, as appropriate, the participant's employability development plan.

(i) A participant has good cause for failure to cooperate with a work experience job placement if, in the judgment of the employment and training service provider, the reason for failure is reasonable and justified. ~~Good cause for purposes of this section is defined in subdivision 1a, paragraph (b).~~

(j) A recipient who has failed without good cause to participate in or comply with the work experience job placement shall be terminated from participation in work experience job activities. ~~If the recipient is not exempt from mandatory food stamp employment and training program participation under subdivision 3a, the recipient will be assigned to other mandatory program activities. If the recipient is exempt from mandatory participation but is participating as a volunteer, the person shall be terminated from the food stamp employment and training program.~~

EFFECTIVE DATE. This section is effective October 1, 2017.

Sec. 13. Minnesota Statutes 2016, section 256J.626, subdivision 5, is amended to read:

Subd. 5. **Innovation projects.** Beginning January 1, 2005, no more than \$3,000,000 of the funds annually appropriated to the commissioner for use in the consolidated fund shall be available to the commissioner to reward high-performing counties and tribes, support promising practices, ~~and test innovative approaches to improving outcomes, and to provide for evaluation of projects, promising practices, and innovative approaches for MFIP participants, family stabilization services participants, and persons at risk of receiving MFIP as detailed in subdivision 3.~~ Project funds may be targeted to geographic areas with poor

16.1 outcomes as specified in section 256J.751, subdivision 5, or to subgroups within the MFIP
16.2 case load who are experiencing poor outcomes.

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

16.4 Sec. 14. Minnesota Statutes 2016, section 256J.751, subdivision 2, is amended to read:

16.5 Subd. 2. ~~Quarterly comparison report~~ **TANF work participation rates.** (a) The
16.6 commissioner shall report quarterly to all counties on each county's performance on the
16.7 following measures:

16.8 (1) percent of MFIP caseload working in paid employment;

16.9 (2) percent of MFIP caseload receiving only the food portion of assistance;

16.10 (3) number of MFIP cases that have left assistance;

16.11 (4) median placement wage rate;

16.12 (5) caseload by months of TANF assistance;

16.13 (6) percent of MFIP and diversionary work program (DWP) cases off cash assistance

16.14 or working 30 or more hours per week at one-year, two-year, and three-year follow-up

16.15 points from a baseline quarter. This measure is called the self-support index. The

16.16 commissioner shall report quarterly an expected range of performance for each county,

16.17 county grouping, and tribe on the self-support index. The expected range shall be derived

16.18 by a statistical methodology developed by the commissioner in consultation with the counties

16.19 and tribes. The statistical methodology shall control differences across counties in economic

16.20 conditions and demographics of the MFIP and DWP case load; and

16.21 (7) the TANF work participation rate, defined as the participation requirements specified

16.22 under Public Law 109-171, the Deficit Reduction Act of 2005.

16.23 (b) The commissioner shall not apply the limits on vocational educational training and

16.24 education activities under Code of Federal Regulations, title 45, section 261.33(c), when

16.25 determining TANF work participation rates for individual counties under this subdivision.

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

16.27 Sec. 15. Minnesota Statutes 2016, section 256J.751, is amended by adding a subdivision
16.28 to read:

16.29 Subd. 2a. **Comparison reports.** The commissioner, in cooperation with counties, tribes,
16.30 and employment services agencies, shall develop and provide monthly and quarterly reports

17.1 to all counties, tribes, and employment service agencies on each county's and tribe's
17.2 performance, including work participation rate and racial and geographic data that measures
17.3 disparities within MFIP.

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

17.5 Sec. 16. Minnesota Statutes 2016, section 256J.751, is amended by adding a subdivision
17.6 to read:

17.7 Subd. 4a. **Self-support index.** The self-support index is the percentage of MFIP and
17.8 diversionary work program (DWP) cases off cash assistance or working 30 hours or more
17.9 per week at one-, two-, and three-year follow-up points from a baseline quarter. The
17.10 commissioner shall report quarterly an expected range of performance for each county,
17.11 county grouping, and tribe on the self-support index. The expected range shall be based on
17.12 a statistical methodology developed by the commissioner in consultation with the counties
17.13 and tribes. The statistical methodology shall control differences across counties in economic
17.14 conditions and demographics of the MFIP and DWP caseload.

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

17.16 Sec. 17. Minnesota Statutes 2016, section 256J.751, subdivision 5, is amended to read:

17.17 Subd. 5. **Failure to meet federal performance standards.** (a) If sanctions occur for
17.18 failure to meet the performance standards specified in title 1 of Public Law 104-193 of the
17.19 Personal Responsibility and Work Opportunity Act of 1996, and under Public Law 109-171,
17.20 the Deficit Reduction Act of 2005, the state shall pay 88 percent of the sanction. The
17.21 remaining 12 percent of the sanction will be paid by the counties. The county portion of the
17.22 sanction will be distributed across all counties in proportion to each county's percentage of
17.23 the MFIP average monthly caseload during the period for which the sanction was applied.

17.24 (b) If a county fails to meet the performance standards specified in title 1 of Public Law
17.25 104-193 of the Personal Responsibility and Work Opportunity Act of 1996, and Public Law
17.26 109-171, the Deficit Reduction Act of 2005, for any year, the commissioner shall work with
17.27 counties to organize a joint state-county technical assistance team to work with the county.
17.28 The commissioner shall coordinate any technical assistance with other departments and
17.29 agencies including the Departments of Employment and Economic Development and
17.30 Education as necessary to achieve the purpose of this paragraph.

17.31 (c) For state performance measures, a low-performing county is one that:

(1) performs below the bottom of their expected range for the measure in subdivision 2, ~~clause (6)~~, 5 in an annualized measurement reported in October of each year; or

(2) performs below 40 percent for the ~~measure in subdivision 2, clause (7)~~ TANF work participation rate, as averaged across the four quarterly measurements for the year, or the ten counties with the lowest rates if more than ten are below 40 percent.

(d) Low-performing counties under paragraph (c) must engage in corrective action planning as defined by the commissioner. The commissioner may coordinate technical assistance as specified in paragraph (b) for low-performing counties under paragraph (c).

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

Sec. 18. Minnesota Statutes 2016, section 256P.02, subdivision 1, is amended to read:

Subdivision 1. **Property ownership.** (a) The agency must apply paragraphs (b) to (e) to determine the value of personal property. The agency must use the equity value of legally available personal property to determine whether an applicant or participant is eligible for assistance.

(b) When personal property is jointly owned by two or more persons, the agency shall assume that each person owns an equal share, except that either person owns the entire sum of a joint personal checking or savings account. When an applicant or participant documents greater or lesser ownership, the agency must use that greater or lesser share to determine the equity value held by the applicant or participant. Other types of ownership must be evaluated according to law.

(c) Personal property owned by the applicant or participant must be presumed legally available to the applicant or participant unless the applicant or participant documents that the property is not legally available to the applicant or participant. When personal property is not legally available, its equity value must not be applied against the limits of subdivision 2.

(d) An applicant must disclose whether the applicant has transferred personal property valued in excess of the property limits in subdivision 2 for which reasonable compensation was not received within one year prior to application. A participant must disclose all transfers of property valued in excess of these limits, according to the reporting requirements in section 256J.30, subdivision 9. When a transfer of personal property without reasonable compensation has occurred:

(1) the person who transferred the property must provide the property's description, information needed to determine the property's equity value, the names of the persons who received the property, and the circumstances of and reasons for the transfer; and

(2) when the transferred property can be reasonably reacquired, or when reasonable compensation can be secured, the property is presumed legally available to the applicant or participant.

(e) A participant may build the equity value of personal property to the limits in subdivision 2.

(f) Any lump sum payment that remains in the third month after the month of receipt is counted in the asset limit.

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

Sec. 19. Minnesota Statutes 2016, section 256P.02, subdivision 1a, is amended to read:

Subd. 1a. **Exemption.** Participants who qualify for child care assistance programs under chapter 119B and funds under chapter 256Q are exempt from this section.

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

Sec. 20. Minnesota Statutes 2016, section 259.35, subdivision 1, is amended to read:

Subdivision 1. **Parental responsibilities.** Prior to commencing an investigation of the suitability of proposed adoptive parents, a child-placing agency shall give the individuals the following written notice in all capital letters at least one-eighth inch high:

"Minnesota Statutes, section 259.59, provides that upon legally adopting a child, adoptive parents assume all the rights and responsibilities of birth parents. The responsibilities include providing for the child's financial support and caring for health, emotional, and behavioral problems. Except for subsidized adoptions under Minnesota Statutes, chapter ~~259A~~ 256N, or any other provisions of law that expressly apply to adoptive parents and children, adoptive parents are not eligible for state or federal financial subsidies besides those that a birth parent would be eligible to receive for a child. Adoptive parents may not terminate their parental rights to a legally adopted child for a reason that would not apply to a birth parent seeking to terminate rights to a child. An individual who takes guardianship of a child for the purpose of adopting the child shall, upon taking guardianship from the child's country of origin, assume all the rights and responsibilities of birth and adoptive parents as stated in this paragraph."

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

20.2 Sec. 21. Minnesota Statutes 2016, section 259.53, subdivision 4, is amended to read:

20.3 Subd. 4. **Preadoption residence.** No petition shall be granted under this chapter until
20.4 the child shall have lived three months in the proposed home, subject to a right of visitation
20.5 by the commissioner or an agency or their authorized representatives.

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

20.7 Sec. 22. Minnesota Statutes 2016, section 259.83, subdivision 1a, is amended to read:

20.8 Subd. 1a. **Social and medical history.** (a) If a person aged 19 years and over who was
20.9 adopted on or after August 1, 1994, or the adoptive parent requests the detailed nonidentifying
20.10 social and medical history of the adopted person's birth family that was provided at the time
20.11 of the adoption, agencies must provide the information to the adopted person or adoptive
20.12 parent on the applicable form required under ~~section~~ sections 259.43 and 260C.611.

20.13 (b) If an adopted person aged 19 years and over or the adoptive parent requests the
20.14 agency to contact the adopted person's birth parents to request current nonidentifying social
20.15 and medical history of the adopted person's birth family, agencies must use the applicable
20.16 form required under ~~section~~ sections 259.43 and 260C.611 when obtaining the information
20.17 for the adopted person or adoptive parent.

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

20.19 Sec. 23. Minnesota Statutes 2016, section 260C.101, is amended by adding a subdivision
20.20 to read:

20.21 Subd. 6. **Provisions inapplicable to a child in foster care.** If the court orders a child
20.22 placed under the protective care or legal custody of the responsible social services agency
20.23 pursuant to section 260C.151, subdivision 6; 260C.178; or 260C.201, then the provisions
20.24 of section 524.5-211 and chapter 257B have no force and effect and any delegation of power
20.25 by parent or guardian or designation of standby custodian are terminated by the court's
20.26 order.

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

20.28 Sec. 24. Minnesota Statutes 2016, section 260C.171, subdivision 2, is amended to read:

20.29 Subd. 2. **Public inspection of records.** (a) The records from proceedings or portions of
20.30 proceedings involving a child in need of protection or services, permanency, or termination

of parental rights are accessible to the public as authorized by the Minnesota Rules of Juvenile Protection Procedure, except that the court shall maintain the confidentiality of a child's education, physical health, and mental health records or information. A petition filed alleging a child to be habitually truant under section 260C.007, subdivision 6, clause (14), shall not be considered a record or information of the child's education. The court shall maintain the confidentiality of any record filed in proceedings under chapter 260D.

(b) None of the records relating to an appeal from a nonpublic juvenile court proceeding, except the written appellate opinion, shall be open to public inspection or their contents disclosed except by order of a court.

(c) The records of juvenile probation officers are records of the court for the purposes of this subdivision. This subdivision applies to all proceedings under this chapter, including appeals from orders of the juvenile court. The court shall maintain the confidentiality of adoption files and records in accordance with the provisions of laws relating to adoptions. In juvenile court proceedings any report or social history furnished to the court shall be open to inspection by the attorneys of record and the guardian ad litem a reasonable time before it is used in connection with any proceeding before the court.

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

Sec. 25. Minnesota Statutes 2016, section 260C.178, subdivision 1, is amended to read:

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) If the court determines there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care under the legal responsibility of the responsible social services agency or responsible probation

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

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

(e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not required. In the case of an Indian child, the court shall determine whether active efforts, according to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

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

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. When reasonable efforts to prevent placement are required and there are services or other efforts that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

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

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

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

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

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

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

23.17 (4) the parents' custodial rights to another child have been involuntarily transferred to a
23.18 relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e),
23.19 clause (1); section 260C.515, subdivision 4; or a similar law of another jurisdiction;

23.20 (5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2,
23.21 against the child or another child of the parent;

23.22 (6) the parent has committed an offense that requires registration as a predatory offender
23.23 under section 243.166, subdivision 1b, paragraph (a) or (b); or

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

23.26 (h) When a petition to terminate parental rights is required under section 260C.301,
23.27 subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to
23.28 proceed with a termination of parental rights petition, and has instead filed a petition to
23.29 transfer permanent legal and physical custody to a relative under section 260C.507, the
23.30 court shall schedule a permanency hearing within 30 days of the filing of the petition.

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

when the county attorney determines that the criminal case shall proceed to trial first under section 260C.503, subdivision 2, paragraph (c).

(j) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the responsible social services agency for the purpose of complying with sections 260C.151, 260C.212, 260C.215, and 260C.221.

(k) If a child ordered into foster care has siblings, ~~whether full, half, or step~~, who are also ordered into foster care, the court shall inquire of the responsible social services agency of the efforts to place the children together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement for treatment or a child is placed with a previously noncustodial parent who is not a parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place the siblings together, as required under section 260.012. If any sibling is not placed with another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing contact among the siblings as required under section 260C.212, subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

(l) When the court has ordered the child into foster care or into the home of a noncustodial parent, the court may order a chemical dependency evaluation, mental health evaluation, medical examination, and parenting assessment for the parent as necessary to support the development of a plan for reunification required under subdivision 7 and section 260C.212, subdivision 1, or the child protective services plan under section 626.556, subdivision 10, and Minnesota Rules, part 9560.0228.

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

Sec. 26. Minnesota Statutes 2016, section 260C.212, subdivision 1, is amended to read:

Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in foster care by court order or a voluntary placement agreement between the responsible social services agency and the child's parent pursuant to section 260C.227 or chapter 260D.

(b) An out-of-home placement plan means a written document which is prepared by the responsible social services agency jointly with the parent or parents or guardian of the child

and in consultation with the child's guardian ad litem, the child's tribe, if the child is an Indian child, the child's foster parent or representative of the foster care facility, and, where appropriate, the child. When a child is age 14 or older, the child may include two other individuals on the team preparing the child's out-of-home placement plan. The child may select one member of the case planning team to be designated as the child's ~~advisor~~ adviser and to advocate with respect to the application of the reasonable and prudent parenting standards. The responsible social services agency may reject an individual selected by the child if the agency has good cause to believe that the individual would not act in the best interest of the child. For a child in voluntary foster care for treatment under chapter 260D, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. For a child 18 years of age or older, the responsible social services agency shall involve the child and the child's parents as appropriate. As appropriate, the plan shall be:

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

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

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

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

(1) a description of the foster care home or facility selected, including how the out-of-home placement plan is designed to achieve a safe placement for the child in the least restrictive, most family-like, setting available which is in close proximity to the home of the parent or parents or guardian of the child when the case plan goal is reunification, and how the placement is consistent with the best interests and special needs of the child according to the factors under subdivision 2, paragraph (b);

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

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

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

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

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

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 26b or 27, and siblings of the child if the siblings are not placed together in foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in foster care;

(6) when a child cannot return to or be in the care of either parent, documentation of steps to finalize adoption as the permanency plan for the child through reasonable efforts to place the child for adoption. At a minimum, the documentation must include consideration of whether adoption is in the best interests of the child, child-specific recruitment efforts such as relative search and the use of state, regional, and national adoption exchanges to facilitate orderly and timely placements in and outside of the state. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

(7) when a child cannot return to or be in the care of either parent, documentation of steps to finalize the transfer of permanent legal and physical custody to a relative as the permanency plan for the child. This documentation must support the requirements of the kinship placement agreement under section 256N.22 and must include the reasonable efforts used to determine that it is not appropriate for the child to return home or be adopted, and reasons why permanent placement with a relative through a Northstar kinship assistance arrangement is in the child's best interest; how the child meets the eligibility requirements for Northstar kinship assistance payments; agency efforts to discuss adoption with the child's relative foster parent and reasons why the relative foster parent chose not to pursue adoption, if applicable; and agency efforts to discuss with the child's parent or parents the permanent

27.1 transfer of permanent legal and physical custody or the reasons why these efforts were not
27.2 made;

27.3 (8) efforts to ensure the child's educational stability while in foster care for a child who
27.4 attained the minimum age for compulsory school attendance under state law and is enrolled
27.5 full time in elementary or secondary school, or instructed in elementary or secondary
27.6 education at home, or instructed in an independent study elementary or secondary program,
27.7 or incapable of attending school on a full-time basis due to a medical condition that is
27.8 documented and supported by regularly updated information in the child's case plan.
27.9 Educational stability efforts include:

27.10 (i) efforts to ensure that the child remains in the same school in which the child was
27.11 enrolled prior to placement or upon the child's move from one placement to another, including
27.12 efforts to work with the local education authorities to ensure the child's educational stability
27.13 and attendance; or

27.14 (ii) if it is not in the child's best interest to remain in the same school that the child was
27.15 enrolled in prior to placement or move from one placement to another, efforts to ensure
27.16 immediate and appropriate enrollment for the child in a new school;

27.17 (9) the educational records of the child including the most recent information available
27.18 regarding:

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

27.20 (ii) the child's grade level performance;

27.21 (iii) the child's school record;

27.22 (iv) a statement about how the child's placement in foster care takes into account
27.23 proximity to the school in which the child is enrolled at the time of placement; and

27.24 (v) any other relevant educational information;

27.25 (10) the efforts by the responsible social services agency to ensure the oversight and
27.26 continuity of health care services for the foster child, including:

27.27 (i) the plan to schedule the child's initial health screens;

27.28 (ii) how the child's known medical problems and identified needs from the screens,
27.29 including any known communicable diseases, as defined in section 144.4172, subdivision
27.30 2, shall be monitored and treated while the child is in foster care;

27.31 (iii) how the child's medical information shall be updated and shared, including the
27.32 child's immunizations;

- 28.1 (iv) who is responsible to coordinate and respond to the child's health care needs,
28.2 including the role of the parent, the agency, and the foster parent;
- 28.3 (v) who is responsible for oversight of the child's prescription medications;
- 28.4 (vi) how physicians or other appropriate medical and nonmedical professionals shall be
28.5 consulted and involved in assessing the health and well-being of the child and determine
28.6 the appropriate medical treatment for the child; and
- 28.7 (vii) the responsibility to ensure that the child has access to medical care through either
28.8 medical insurance or medical assistance;
- 28.9 (11) the health records of the child including information available regarding:
- 28.10 (i) the names and addresses of the child's health care and dental care providers;
- 28.11 (ii) a record of the child's immunizations;
- 28.12 (iii) the child's known medical problems, including any known communicable diseases
28.13 as defined in section 144.4172, subdivision 2;
- 28.14 (iv) the child's medications; and
- 28.15 (v) any other relevant health care information such as the child's eligibility for medical
28.16 insurance or medical assistance;
- 28.17 (12) an independent living plan for a child 14 years of age or older, developed in
28.18 consultation with the child. The child may select one member of the case planning team to
28.19 be designated as the child's ~~advisor~~ adviser and to advocate with respect to the application
28.20 of the reasonable and prudent parenting standards in subdivision 14. The plan should include,
28.21 but not be limited to, the following objectives:
- 28.22 (i) educational, vocational, or employment planning;
- 28.23 (ii) health care planning and medical coverage;
- 28.24 (iii) transportation including, where appropriate, assisting the child in obtaining a driver's
28.25 license;
- 28.26 (iv) money management, including the responsibility of the responsible social services
28.27 agency to ensure that the child annually receives, at no cost to the child, a consumer report
28.28 as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies
28.29 in the report;
- 28.30 (v) planning for housing;
- 28.31 (vi) social and recreational skills;

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

29.3 (viii) regular opportunities to engage in age-appropriate or developmentally appropriate
29.4 activities typical for the child's age group, taking into consideration the capacities of the
29.5 individual child;

29.6 (13) for a child in voluntary foster care for treatment under chapter 260D, diagnostic
29.7 and assessment information, specific services relating to meeting the mental health care
29.8 needs of the child, and treatment outcomes; and

29.9 (14) for a child 14 years of age or older, a signed acknowledgment that describes the
29.10 child's rights regarding education, health care, visitation, safety and protection from
29.11 exploitation, and court participation; receipt of the documents identified in section 260C.452;
29.12 and receipt of an annual credit report. The acknowledgment shall state that the rights were
29.13 explained in an age-appropriate manner to the child.

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

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

29.24 Upon discharge from foster care, the parent, adoptive parent, or permanent legal and
29.25 physical custodian, ~~as appropriate,~~ and the child, if ~~appropriate~~ 14 years of age or older,
29.26 must be provided with a current copy of the child's health and education record: ~~and, for a~~
29.27 child who meets the conditions in subdivision 15, paragraph (b), the child's social and
29.28 medical history. A child younger than 14 years of age may be given a copy of the child's
29.29 health and education record and social and medical history, if appropriate and applicable
29.30 according to subdivision 15, paragraph (b).

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

30.1 Sec. 27. Minnesota Statutes 2016, section 260C.212, subdivision 2, is amended to read:

30.2 Subd. 2. **Placement decisions based on best interests of the child.** (a) The policy of
30.3 the state of Minnesota is to ensure that the child's best interests are met by requiring an
30.4 individualized determination of the needs of the child and of how the selected placement
30.5 will serve the needs of the child being placed. The authorized child-placing agency shall
30.6 assess a noncustodial or nonadjudicated parent's capacity and willingness to provide for the
30.7 day-to-day care of a child pursuant to section 260C.219. Upon assessment, if a noncustodial
30.8 or nonadjudicated parent cannot provide for the day-to-day care of a child, the authorized
30.9 child-placing agency shall place a child, released by court order or by voluntary release by
30.10 the parent or parents, in a family foster home selected by considering placement with relatives
30.11 and important friends in the following order:

30.12 (1) with an individual who is related to the child by blood, marriage, or adoption,
30.13 including the legal parent, guardian, or custodian of the child's sibling; or

30.14 (2) with an individual who is an important friend with whom the child has resided or
30.15 had significant contact.

30.16 For an Indian child, the agency shall follow the order of placement preferences in the Indian
30.17 Child Welfare Act of 1978, United States Code, title 25, section 1915.

30.18 (b) Among the factors the agency shall consider in determining the needs of the child
30.19 are the following:

30.20 (1) the child's current functioning and behaviors;

30.21 (2) the medical needs of the child;

30.22 (3) the educational needs of the child;

30.23 (4) the developmental needs of the child;

30.24 (5) the child's history and past experience;

30.25 (6) the child's religious and cultural needs;

30.26 (7) the child's connection with a community, school, and faith community;

30.27 (8) the child's interests and talents;

30.28 (9) the child's relationship to current caretakers, parents, siblings, and relatives;

30.29 (10) the reasonable preference of the child, if the court, or the child-placing agency in
30.30 the case of a voluntary placement, deems the child to be of sufficient age to express
30.31 preferences; and

31.1 (11) for an Indian child, the best interests of an Indian child as defined in section 260.755,
31.2 subdivision 2a.

31.3 (c) Placement of a child cannot be delayed or denied based on race, color, or national
31.4 origin of the foster parent or the child.

31.5 (d) Siblings should be placed together for foster care and adoption at the earliest possible
31.6 time unless it is documented that a joint placement would be contrary to the safety or
31.7 well-being of any of the siblings or unless it is not possible after reasonable efforts by the
31.8 responsible social services agency. In cases where siblings cannot be placed together, the
31.9 agency is required to provide frequent visitation or other ongoing interaction between
31.10 siblings unless the agency documents that the interaction would be contrary to the safety
31.11 or well-being of any of the siblings.

31.12 (e) Except for emergency placement as provided for in section 245A.035, the following
31.13 requirements must be satisfied before the approval of a foster or adoptive placement in a
31.14 related or unrelated home: (1) a completed background study under section 245C.08; and
31.15 (2) a completed review of the written home study required under section 260C.215,
31.16 subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective foster or
31.17 adoptive parent to ensure the placement will meet the needs of the individual child.

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

31.19 Sec. 28. Minnesota Statutes 2016, section 260C.212, is amended by adding a subdivision
31.20 to read:

31.21 **Subd. 15. Social and medical history.** (a) The commissioner shall develop forms for
31.22 the responsible social services agency to complete a child's social and medical history. The
31.23 responsible social services agency shall work with the child's birth family, foster family,
31.24 medical and treatment providers, and school to ensure there is a detailed and up-to-date
31.25 social and medical history of the child on the forms provided by the commissioner.

31.26 (b) If the child continues in foster care, the responsible social services agency's reasonable
31.27 efforts to complete the history shall begin no later than the permanency progress review
31.28 hearing required in section 260C.204 or six months after the child's placement in foster
31.29 care, whichever occurs earlier.

31.30 (c) A child's social and medical history must include background and health history
31.31 specific to the child, the child's birth parents, and the child's other birth relatives. Applicable
31.32 background and health information about the child includes the child's current health
31.33 condition, behavior, and demeanor; placement history; education history; sibling information;

and birth, medical, dental, and immunization information. Redacted copies of pertinent records, assessments, and evaluations must be attached to the child's social and medical history. Applicable background information about the child's birth parents and other birth relatives includes general background information; education and employment histories; physical and mental health histories; and reasons for the child's placement.

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

Sec. 29. Minnesota Statutes 2016, section 260C.219, is amended to read:

260C.219 AGENCY RESPONSIBILITIES FOR PARENTS AND CHILDREN IN PLACEMENT.

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

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

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

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

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

The results of a background study of a noncustodial parent shall not be used by the agency to determine that the parent is incapable of providing day-to-day care of the child

33.1 unless the agency reasonably believes that placement of the child into the home of that
33.2 parent would endanger the child's health, safety, or welfare.

33.3 (3) If, after the provision of services following an out-of-home placement plan under
33.4 this section, the child cannot return to the care of the parent from whom the child was
33.5 removed or who had legal custody at the time the child was placed in foster care, the agency
33.6 may petition on behalf of a noncustodial parent to establish legal custody with that parent
33.7 under section 260C.515, subdivision 4. If paternity has not already been established, it may
33.8 be established in the same proceeding in the manner provided for under chapter 257.

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

33.12 (b) The responsible social services agency shall give notice to the parent or guardian of
33.13 each child in foster care, other than a child in voluntary foster care for treatment under
33.14 chapter 260D, of the following information:

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

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

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

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

33.25 (5) the first consideration for placement with relatives;

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

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

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

(c) The responsible social services agency shall inform a parent considering voluntary placement of a child under section 260C.227 of the following information:

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

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

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

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

(5) the timelines and procedures for review of voluntary placements under section 260C.212, subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under sections 260C.503 to 260C.521.

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

(e) Whether under state guardianship or not, if a child leaves foster care by reason of having attained the age of majority under state law, the child must be given at no cost a copy of the child's social and medical history, as defined in section ~~259.43~~ 260C.212, subdivision 15, ~~and~~ including the child's health and education report.

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

Sec. 30. Minnesota Statutes 2016, section 260C.503, subdivision 2, is amended to read:

Subd. 2. Termination of parental rights. (a) The responsible social services agency must ask the county attorney to immediately file a termination of parental rights petition when:

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

(2) the child is determined to be the sibling of a child who was subjected to egregious harm;

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

(4) the child's parent has lost parental rights to another child through an order involuntarily terminating the parent's rights;

(5) the parent has committed sexual abuse as defined in section 626.556, subdivision 2, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) another child of the parent is the subject of an order involuntarily transferring permanent legal and physical custody of the child to a relative under this chapter or a similar law of another jurisdiction;

The county attorney shall file a termination of parental rights petition unless the conditions of paragraph (d) are met.

(b) When the termination of parental rights petition is filed under this subdivision, the responsible social services agency shall identify, recruit, and approve an adoptive family for the child. If a termination of parental rights petition has been filed by another party, the responsible social services agency shall be joined as a party to the petition.

(c) If criminal charges have been filed against a parent arising out of the conduct alleged to constitute egregious harm, the county attorney shall determine which matter should proceed to trial first, consistent with the best interests of the child and subject to the defendant's right to a speedy trial.

(d) The requirement of paragraph (a) does not apply if the responsible social services agency and the county attorney determine and file with the court:

(1) a petition for transfer of permanent legal and physical custody to a relative under sections 260C.505 and 260C.515, subdivision ~~3~~ 4, including a determination that adoption is not in the child's best interests and that transfer of permanent legal and physical custody is in the child's best interests; or

(2) a petition under section 260C.141 alleging the child, and where appropriate, the child's siblings, to be in need of protection or services accompanied by a case plan prepared by the responsible social services agency documenting a compelling reason why filing a termination of parental rights petition would not be in the best interests of the child.

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

Sec. 31. Minnesota Statutes 2016, section 260C.515, subdivision 4, is amended to read:

Subd. 4. **Custody to relative.** The court may order permanent legal and physical custody to a fit and willing relative in the best interests of the child according to the following requirements:

(1) an order for transfer of permanent legal and physical custody to a relative shall only be made after the court has reviewed the suitability of the prospective legal and physical custodian;

(2) in transferring permanent legal and physical custody to a relative, the juvenile court shall follow the standards applicable under this chapter and chapter 260, and the procedures in the Minnesota Rules of Juvenile Protection Procedure;

(3) a transfer of legal and physical custody includes responsibility for the protection, education, care, and control of the child and decision making on behalf of the child;

(4) a permanent legal and physical custodian may not return a child to the permanent care of a parent from whom the court removed custody without the court's approval and without notice to the responsible social services agency;

(5) the social services agency may file a petition naming a fit and willing relative as a proposed permanent legal and physical custodian. A petition for transfer of permanent legal

and physical custody to a relative who is not a parent shall be accompanied by a kinship placement agreement under section 256N.22, subdivision 2, between the agency and proposed permanent legal and physical custodian;

(6) another party to the permanency proceeding regarding the child may file a petition to transfer permanent legal and physical custody to a relative. The petition must include facts upon which the court can make the determination required under clause (7) and must be filed not later than the date for the required admit-deny hearing under section 260C.507; or if the agency's petition is filed under section 260C.503, subdivision 2, the petition must be filed not later than 30 days prior to the trial required under section 260C.509;

(7) where a petition is for transfer of permanent legal and physical custody to a relative who is not a parent, the court must find that:

(i) transfer of permanent legal and physical custody and receipt of Northstar kinship assistance under chapter 256N, when requested and the child is eligible, are in the child's best interests;

(ii) adoption is not in the child's best interests based on the determinations in the kinship placement agreement required under section 256N.22, subdivision 2;

(iii) the agency made efforts to discuss adoption with the child's parent or parents, or the agency did not make efforts to discuss adoption and the reasons why efforts were not made; and

(iv) there are reasons to separate siblings during placement, if applicable; The court may find there is a reason to separate siblings when the court finds both (A) that the responsible social services agency made reasonable efforts to place siblings together and (B) that placing siblings together is not in the best interest of one or more of the siblings;

(8) the court may defer finalization of an order transferring permanent legal and physical custody to a relative when deferring finalization is necessary to determine eligibility for Northstar kinship assistance under chapter 256N;

(9) the court may finalize a permanent transfer of physical and legal custody to a relative regardless of eligibility for Northstar kinship assistance under chapter 256N; ~~and~~

(10) the juvenile court may maintain jurisdiction over the responsible social services agency, the parents or guardian of the child, the child, and the permanent legal and physical custodian for purposes of ensuring appropriate services are delivered to the child and permanent legal custodian for the purpose of ensuring conditions ordered by the court related to the care and custody of the child are met; and

(11) after finalization of the permanent transfer of physical and legal custody to a relative who is not a parent, the court administrator must mail a copy of the final order to the commissioner of human services.

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

Sec. 32. Minnesota Statutes 2016, section 260C.605, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** (a) Reasonable efforts to finalize the adoption of a child under the guardianship of the commissioner shall be made by the responsible social services agency responsible for permanency planning for the child.

(b) Reasonable efforts to make a placement in a home according to the placement considerations under section 260C.212, subdivision 2, with a relative or foster parent who will commit to being the permanent resource for the child in the event the child cannot be reunified with a parent are required under section 260.012 and may be made concurrently with reasonable, or if the child is an Indian child, active efforts to reunify the child with the parent.

(c) Reasonable efforts under paragraph (b) must begin as soon as possible when the child is in foster care under this chapter, but not later than the hearing required under section 260C.204.

(d) Reasonable efforts to finalize the adoption of the child include, but are not limited to:

(1) using age-appropriate engagement strategies to plan for adoption with the child;

~~(2) identifying an appropriate prospective adoptive parent for the child by~~ updating the child's identified needs using the factors in section 260C.212, subdivision 2;

~~(3) making an adoptive placement that meets the child's needs by:~~

~~(i)~~ completing or updating the relative search required under section 260C.221 and giving notice of the need for an adoptive home for the child to a child's relative who:

~~(A) (i) relatives who have~~ kept the agency or the court apprised of ~~their~~ the relative's whereabouts and who ~~have~~ indicated an interest in adopting the child; or

~~(B) (ii) relatives of the child who are~~ is located in an updated search; ~~(ii).~~ An updated search is required whenever:

(A) there is no identified prospective adoptive placement for the child notwithstanding a finding by the court that the agency made diligent efforts under section 260C.221, in a hearing required under section 260C.202;

(B) the child is removed from the home of an adopting parent; or

(C) the court determines a relative search by the agency is in the best interests of the child;

~~(iii)~~ (4) engaging the child's foster parent and the child's ~~relatives~~ relative identified as an adoptive resource during the search conducted under section 260C.221, to commit to being the prospective adoptive parent of the child; ~~or~~

~~(iv)~~ (5) when there is no identified prospective adoptive parent:

~~(A)~~ (i) registering the child on the state adoption exchange as required in section 259.75 unless the agency documents to the court an exception to placing the child on the state adoption exchange reported to the commissioner;

~~(B)~~ (ii) reviewing all families with approved adoption home studies associated with the responsible social services agency;

~~(C)~~ (iii) presenting the child to adoption agencies and adoption personnel who may assist with finding an adoptive home for the child;

~~(D)~~ (iv) using ~~newspapers and other media~~ as appropriate to promote the particular child;

~~(E)~~ (v) using a private agency under grant contract with the commissioner to provide adoption services for intensive child-specific recruitment efforts; and

~~(F)~~ (vi) making any other efforts or using any other resources reasonably calculated to identify a prospective adoption parent for the child;

~~(4)~~ (6) updating and completing the social and medical history required under sections ~~259.43~~ 260C.212, subdivision 15, and 260C.609;

~~(5)~~ (7) making, and keeping updated, appropriate referrals required by section 260.851, the Interstate Compact on the Placement of Children;

~~(6)~~ (8) giving notice regarding the responsibilities of an adoptive parent to any prospective adoptive parent as required under section ~~259.35~~ 260C.613, subdivision 9;

~~(7)~~ (9) offering the adopting parent the opportunity to apply for or decline adoption assistance under chapter ~~259A~~ 256N;

(8) (10) certifying the child for adoption assistance, assessing the amount of adoption assistance, and ascertaining the status of the commissioner's decision on the level of payment if the adopting parent has applied for adoption assistance;

(9) (11) placing the child with siblings. If the child is not placed with siblings, the agency must document reasonable efforts to place the siblings together, as well as the reason for separation. The agency may not cease reasonable efforts to place siblings together for final adoption until the court finds further reasonable efforts would be futile or that placement together for purposes of adoption is not in the best interests of one of the siblings; and

(10) (12) working with the adopting parent to file a petition to adopt the child and with the court administrator to obtain a timely hearing to finalize the adoption.

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

Sec. 33. Minnesota Statutes 2016, section 260C.607, subdivision 6, is amended to read:

Subd. 6. **Motion and hearing to order adoptive placement.** (a) At any time after the district court orders the child under the guardianship of the commissioner of human services, but not later than 30 days after receiving notice required under section 260C.613, subdivision 1, paragraph (c), that the agency has made an adoptive placement, a relative or the child's foster parent may file a motion for an order for adoptive placement of a child who is under the guardianship of the commissioner if the relative or the child's foster parent:

(1) has an adoption home study under section ~~259.41~~ 260C.611 approving the relative or foster parent for adoption and has been a resident of Minnesota for at least six months before filing the motion; the court may waive the residency requirement for the moving party if there is a reasonable basis to do so; or

(2) is not a resident of Minnesota, but has an approved adoption home study by an agency licensed or approved to complete an adoption home study in the state of the individual's residence and the study is filed with the motion for adoptive placement.

(b) The motion shall be filed with the court conducting reviews of the child's progress toward adoption under this section. The motion and supporting documents must make a prima facie showing that the agency has been unreasonable in failing to make the requested adoptive placement. The motion must be served according to the requirements for motions under the Minnesota Rules of Juvenile Protection Procedure and shall be made on all individuals and entities listed in subdivision 2.

(c) If the motion and supporting documents do not make a prima facie showing for the court to determine whether the agency has been unreasonable in failing to make the requested

adoptive placement, the court shall dismiss the motion. If the court determines a prima facie basis is made, the court shall set the matter for evidentiary hearing.

(d) At the evidentiary hearing, the responsible social services agency shall proceed first with evidence about the reason for not making the adoptive placement proposed by the moving party. The moving party then has the burden of proving by a preponderance of the evidence that the agency has been unreasonable in failing to make the adoptive placement.

(e) At the conclusion of the evidentiary hearing, if the court finds that the agency has been unreasonable in failing to make the adoptive placement and that the relative or the child's foster parent is the most suitable adoptive home to meet the child's needs using the factors in section 260C.212, subdivision 2, paragraph (b), the court may order the responsible social services agency to make an adoptive placement in the home of the relative or the child's foster parent.

(f) If, in order to ensure that a timely adoption may occur, the court orders the responsible social services agency to make an adoptive placement under this subdivision, the agency shall:

(1) make reasonable efforts to obtain a fully executed adoption placement agreement;

(2) work with the moving party regarding eligibility for adoption assistance as required under chapter ~~259A~~ 256N; and

(3) if the moving party is not a resident of Minnesota, timely refer the matter for approval of the adoptive placement through the Interstate Compact on the Placement of Children.

(g) Denial or granting of a motion for an order for adoptive placement after an evidentiary hearing is an order which may be appealed by the responsible social services agency, the moving party, the child, when age ten or over, the child's guardian ad litem, and any individual who had a fully executed adoption placement agreement regarding the child at the time the motion was filed if the court's order has the effect of terminating the adoption placement agreement. An appeal shall be conducted according to the requirements of the Rules of Juvenile Protection Procedure.

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

Sec. 34. Minnesota Statutes 2016, section 260C.609, is amended to read:

260C.609 SOCIAL AND MEDICAL HISTORY.

~~(a) The responsible social services agency shall work with the birth family of the child, foster family, medical and treatment providers, and the child's school to ensure there is a~~

~~detailed, thorough, and currently up-to-date social and medical history of the child as required under section 259.43 on the forms required by the commissioner.~~

~~(b) When the child continues in foster care, the agency's reasonable efforts to complete the history shall begin no later than the permanency progress review hearing required under section 260C.204 or six months after the child's placement in foster care.~~

(e) (a) The agency shall thoroughly discuss the child's history with the adopting parent of the child and shall give a redacted copy of the report of the child's social and medical history as defined in section 260C.212, subdivision 15, to the adopting parent. A redacted copy of the child's social and medical history may also be given to the child, ~~as appropriate~~ according to section 260C.212, subdivision 1.

~~(d)~~ (b) The report shall not include information that identifies birth relatives. Redacted copies of all the child's relevant evaluations, assessments, and records must be attached to the social and medical history.

(c) The agency must submit the child's social and medical history to the Department of Human Services when an adoptive placement is made and the history must be filed with the court when the adoption petition is filed.

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

Sec. 35. Minnesota Statutes 2016, section 260C.611, is amended to read:

260C.611 ADOPTION STUDY REQUIRED.

(a) An adoption study under section 259.41 approving placement of the child in the home of the prospective adoptive parent shall be completed before placing any child under the guardianship of the commissioner in a home for adoption. If a prospective adoptive parent has a current child foster care license under chapter 245A and is seeking to adopt a foster child who is placed in the prospective adoptive parent's home and is under the guardianship of the commissioner according to section 260C.325, subdivision 1, the child foster care home study meets the requirements of this section for an approved adoption home study if:

(1) the written home study on which the foster care license was based is completed in the commissioner's designated format, consistent with the requirements in sections 259.41, subdivision 2; and 260C.215, subdivision 4, clause (5); and Minnesota Rules, part 2960.3060, subpart 4;

(2) the background studies on each prospective adoptive parent and all required household members were completed according to section 245C.33;

(3) the commissioner has not issued, within the last three years, a sanction on the license under section 245A.07 or an order of a conditional license under section 245A.06; and

(4) the legally responsible agency determines that the individual needs of the child are being met by the prospective adoptive parent through an assessment under section 256N.24, subdivision 2, or a documented placement decision consistent with section 260C.212, subdivision 2.

(b) Before investigating the suitability of a prospective adoptive parent for a child under guardianship of the commissioner, a child-placing agency shall give the prospective adoptive parent the following written notice in all capital letters at least one-eighth inch high: "Minnesota Statutes, section 260C.635, provides that upon legally adopting a child under guardianship of the commissioner, an adoptive parent assumes all the rights and responsibilities of a birth parent. The responsibilities include providing for the child's financial support and caring for the child's health and emotional and behavioral problems. Except for a subsidized adoption under Minnesota Statutes, chapter 256N, or any other provision of law that expressly applies to an adoptive parent and child, an adoptive parent is not eligible for state or federal financial subsidies aside from those that a birth parent would be eligible to receive for a child. An adoptive parent may not terminate the adoptive parent's parental rights to a legally adopted child for a reason that would not apply to a birth parent seeking to terminate rights to a child."

~~(b)~~ (c) If a prospective adoptive parent has previously held a foster care license or adoptive home study, any update necessary to the foster care license, or updated or new adoptive home study, if not completed by the licensing authority responsible for the previous license or home study, shall include collateral information from the previous licensing or approving agency, if available.

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

Sec. 36. Minnesota Statutes 2016, section 260C.613, subdivision 6, is amended to read:

Subd. 6. **Death notification.** (a) The agency shall inform the adoptive parents that the adoptive parents of an adopted child under age 19 or an adopted person age 19 or older may maintain a current address on file with the agency and indicate a desire to be notified if the agency receives information of the death of a birth parent. The agency shall notify birth parents of the child's death and the cause of death, if known, provided that the birth parents

desire notice and maintain current addresses on file with the agency. The agency shall inform birth parents entitled to notice under section ~~259.27~~ 259.49 that they may designate individuals to notify the agency if a birth parent dies and that the agency receiving information of the birth parent's death will share the information with adoptive parents, if the adopted person is under age 19, or an adopted person age 19 or older who has indicated a desire to be notified of the death of a birth parent and who maintains a current address on file with the agency.

(b) Notice to a birth parent that a child has died or to the adoptive parents or an adopted person age 19 or older that a birth parent has died shall be provided by an employee of the agency through personal and confidential contact, but not by mail.

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

Sec. 37. Minnesota Statutes 2016, section 260C.615, subdivision 1, is amended to read:

Subdivision 1. **Duties.** (a) For any child who is under the guardianship of the commissioner, the commissioner has the exclusive rights to consent to:

(1) the medical care plan for the treatment of a child who is at imminent risk of death or who has a chronic disease that, in a physician's judgment, will result in the child's death in the near future including a physician's order not to resuscitate or intubate the child; and

(2) the child donating a part of the child's body to another person while the child is living; the decision to donate a body part under this clause shall take into consideration the child's wishes and the child's culture.

(b) In addition to the exclusive rights under paragraph (a), the commissioner has a duty to:

(1) process any complete and accurate request for home study and placement through the Interstate Compact on the Placement of Children under section 260.851;

(2) process any complete and accurate application for adoption assistance forwarded by the responsible social services agency according to ~~chapter~~ chapters 256N and 259A;

(3) ~~complete the execution of~~ review and process an adoption placement agreement forwarded to the commissioner by the responsible social services agency and return it to the agency in a timely fashion; and

(4) maintain records as required in chapter 259.

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

Sec. 38. Minnesota Statutes 2016, section 260C.623, subdivision 4, is amended to read:

Subd. 4. **Attachments to the petition.** The following must be filed with the petition:

(1) the adoption study report required under section ~~259.41~~ 260C.611;

(2) the social and medical history required under ~~sections 259.43 and~~ section 260C.609;

and

(3) a document prepared by the petitioner that establishes who must be given notice under section 260C.627, subdivision 1, that includes the names and mailing addresses of those to be served by the court administrator.

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

Sec. 39. Minnesota Statutes 2016, section 260C.625, is amended to read:

260C.625 DOCUMENTS FILED BY SOCIAL SERVICES AGENCY.

(a) The following shall be filed with the court by the responsible social services agency prior to finalization of the adoption:

(1) ~~a certified~~ an electronic copy of the child's certified birth record;

(2) ~~a certified~~ an electronic copy of the certified findings and order terminating parental rights or order accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for guardianship to the commissioner;

(3) a copy of any communication or contact agreement under section 260C.619;

(4) certification that the Minnesota Fathers' Adoption Registry has been searched which requirement may be met according to the requirements of the Minnesota Rules of Adoption Procedure, Rule 32.01, subdivision 2;

(5) an electronic copy of the original of each consent to adoption required, if any, unless the original was filed in the permanency proceeding conducted under section 260C.515, subdivision 3, and the order filed under clause (2) has a copy of the consent attached; and

(6) the postplacement assessment report required under section 259.53, subdivision 2.

(b) The responsible social services agency shall provide any known aliases of the child to the court.

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

Sec. 40. Minnesota Statutes 2016, section 260C.629, subdivision 2, is amended to read:

Subd. 2. **Required documents.** In order to issue a decree for adoption and enter judgment accordingly, the court must have the following documents in the record:

(1) an electronic copy of the original birth record of the child;

(2) an adoption study report including a background study required under section ~~259.41~~ 260C.611;

(3) ~~a an electronic copy of the~~ certified copy of the findings and order terminating parental rights or order accepting the parent's consent to adoption under section 260C.515, subdivision 3, and for guardianship to the commissioner;

(4) any consents required under subdivision 1;

(5) the child's social and medical history under section 260C.609;

(6) the postplacement assessment report required under section 259.53, subdivision 2, unless waived by the court on the record at a hearing under section 260C.607; and

(7) a report from the child's guardian ad litem.

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

Sec. 41. **[518.181] MOTION TO TRANSFER TO TRIBAL COURT.**

Subdivision 1. Definitions. (a) For purposes of this section, the terms defined have the meanings given them.

(b) "Case participant" means a party to the case that is a natural person.

(c) "District court" means a district court of the state of Minnesota.

(d) "Party" means a person or entity named or admitted as a party or seeking to be admitted as a party in the district court action, including the county IV-D agency, whether or not named in the caption.

(e) "Tribal court" means a tribal court of a federally recognized Indian tribe located in Minnesota that is receiving funding from the federal government to operate a child support program under United States Code, title 42, chapter 7, subchapter IV, part D, sections 654 to 669b.

(f) "Tribal IV-D agency" has the meaning given to "tribal IV-D agency" in Code of Federal Regulations, title 45, part 309.05.

47.1 (g) "Title IV-D child support case" has the meaning given to "IV-D case" in section
47.2 518A.26, subdivision 10.

47.3 Subd. 2. **Actions eligible for transfer.** For purposes of this section, a postjudgment
47.4 child support, custody, or parenting time action is eligible for transfer to tribal court. A child
47.5 protection action or a dissolution action involving a child is not eligible for transfer to tribal
47.6 court pursuant to this section.

47.7 Subd. 3. **Motion to transfer.** (a) A party's or tribal IV-D agency's motion to transfer to
47.8 tribal court shall state and allege:

47.9 (1) the address of each case participant;

47.10 (2) the tribal affiliation of each case participant, if any;

47.11 (3) the name, tribal affiliation, if any, and date of birth of each living minor or dependent
47.12 child of a case participant who is subject to the action; and

47.13 (4) the legal and factual basis for the court to make a finding that there is concurrent
47.14 jurisdiction in the case.

47.15 (b) A party or tribal IV-D agency bringing a motion to transfer to tribal court must file
47.16 with the court and serve the required documents on each party and the tribal IV-D agency,
47.17 regardless of whether the tribal IV-D agency is a party.

47.18 (c) A party's or tribal IV-D agency's motion to transfer must be accompanied by an
47.19 affidavit setting forth facts in support of its motion.

47.20 (d) When a motion to transfer is not brought by the tribal IV-D agency, the tribal IV-D
47.21 agency must file with the court and serve on each party an affidavit within 15 days from
47.22 the date of service of the motion stating whether the tribal IV-D agency provides services
47.23 to a party.

47.24 Subd. 4. **Order to transfer to tribal court.** (a) Except as provided in subdivision 6,
47.25 upon motion of a party or a tribal IV-D agency, a district court must transfer a postjudgment
47.26 child support, custody, or parenting time action to a tribal court when the district court finds:

47.27 (1) the district court and tribal court have concurrent jurisdiction;

47.28 (2) a case participant is receiving services from the tribal IV-D agency; and

47.29 (3) no party or tribal IV-D agency files and serves a timely objection to the transfer.

(b) When the requirements of this subdivision are satisfied, the district court is not required to hold a hearing. The district court's order transferring the action to tribal court must contain written findings on each requirement of this subdivision.

Subd. 5. **Objection to motion to transfer.** (a) To object to a motion to transfer to a tribal court, a party or tribal IV-D agency must file with the court and serve on each party and the tribal IV-D agency a responsive motion objecting to the motion to transfer within 30 days from the date of service of the motion to transfer.

(b) If a party or tribal IV-D agency files with the court and properly serves a timely objection to the motion to transfer to a tribal court, the district court must conduct a hearing.

Subd. 6. **Hearing.** If a hearing is held under this section, the district court must evaluate and make written findings on all relevant factors, including:

(1) whether an issue requires interpretation of tribal law, including the tribal constitution, statutes, bylaws, ordinances, resolutions, treaties, or case law;

(2) whether the action involves tribal traditional or cultural matters;

(3) whether the tribe is a party;

(4) whether tribal sovereignty, jurisdiction, or territory is an issue;

(5) the tribal membership status of each case participant;

(6) where the claim arises;

(7) the location of the residence of each case participant and the child;

(8) whether the parties have by contract chosen a forum or the law to be applied in the event of a dispute;

(9) the timing of any motion to transfer to tribal court, considering each party's and the court's expenditure of time and resources, and the district court's scheduling order;

(10) the court in which the action can be heard and decided most expeditiously;

(11) the burdens on each party, including cost, access to and admissibility of evidence, and matters of procedure; and

(12) any other factor the court determines relevant.

Subd. 7. **Future exercise of jurisdiction.** Nothing in this section shall be construed to limit the district court's exercise of jurisdiction where the tribal court waives jurisdiction, transfers the action back to district court, or otherwise declines to exercise jurisdiction over the action.

49.1 Subd. 8. **Transfer to Red Lake Nation Tribal Court.** When a party or tribal IV-D
49.2 agency brings a motion to transfer to the Red Lake Nation Tribal Court, the court must
49.3 transfer the action if the case participants and child resided within the boundaries of the
49.4 Red Lake Reservation for the preceding six months.

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

49.6 Sec. 42. Minnesota Statutes 2016, section 518A.41, subdivision 4, is amended to read:

49.7 Subd. 4. **Ordering health care coverage.** (a) If a joint child is presently enrolled in
49.8 health care coverage, the court must order that the parent who currently has the joint child
49.9 enrolled continue that enrollment unless the parties agree otherwise or a party requests a
49.10 change in coverage and the court determines that other health care coverage is more
49.11 appropriate.

49.12 (b) If a joint child is not presently enrolled in health care coverage providing medical
49.13 benefits, upon motion of a parent or the public authority, the court must determine whether
49.14 one or both parents have appropriate health care coverage providing medical benefits for
49.15 the joint child.

49.16 (c) If only one parent has appropriate health care coverage providing medical benefits
49.17 available, the court must order that parent to carry the coverage for the joint child.

49.18 (d) If both parents have appropriate health care coverage providing medical benefits
49.19 available, the court must order the parent with whom the joint child resides to carry the
49.20 coverage for the joint child, unless:

49.21 (1) a party expresses a preference for health care coverage providing medical benefits
49.22 available through the parent with whom the joint child does not reside;

49.23 (2) the parent with whom the joint child does not reside is already carrying dependent
49.24 health care coverage providing medical benefits for other children and the cost of contributing
49.25 to the premiums of the other parent's coverage would cause the parent with whom the joint
49.26 child does not reside extreme hardship; or

49.27 (3) the parties agree as to which parent will carry health care coverage providing medical
49.28 benefits and agree on the allocation of costs.

49.29 (e) If the exception in paragraph (d), clause (1) or (2), applies, the court must determine
49.30 which parent has the most appropriate coverage providing medical benefits available and
49.31 order that parent to carry coverage for the joint child.

(f) If neither parent has appropriate health care coverage available, the court must order the parents to:

(1) contribute toward the actual health care costs of the joint children based on a pro rata share; or

(2) if the joint child is receiving any form of public coverage, the parent with whom the joint child does not reside shall contribute a monthly amount toward the actual cost of public coverage. The amount of the noncustodial parent's contribution is determined by applying the noncustodial parent's PICS to the premium scale for MinnesotaCare under section 256L.15, subdivision 2, paragraph (d). If the noncustodial parent's PICS meets the eligibility requirements for MinnesotaCare, the contribution is the amount the noncustodial parent would pay for the child's premium. If the noncustodial parent's PICS exceeds the eligibility requirements, the contribution is the amount of the premium for the highest eligible income on the premium scale for MinnesotaCare under section 256L.15, subdivision 2, paragraph (d). For purposes of determining the premium amount, the noncustodial parent's household size is equal to one parent plus the child or children who are the subject of the child support order. The custodial parent's obligation is determined under the requirements for public coverage as set forth in chapter 256B; or

(3) if the noncustodial parent's PICS meet the eligibility requirement for public coverage under chapter 256B or the noncustodial parent receives public ~~assistance~~ coverage, the noncustodial parent must not be ordered to contribute toward the cost of public coverage.

(g) If neither parent has appropriate health care coverage available, the court may order the parent with whom the child resides to apply for public coverage for the child.

(h) The commissioner of human services must publish a table with the premium schedule for public coverage and update the chart for changes to the schedule by July 1 of each year.

(i) If a joint child is not presently enrolled in health care coverage providing dental benefits, upon motion of a parent or the public authority, the court must determine whether one or both parents have appropriate dental health care coverage for the joint child, and the court may order a parent with appropriate dental health care coverage available to carry the coverage for the joint child.

(j) If a joint child is not presently enrolled in available health care coverage providing benefits other than medical benefits or dental benefits, upon motion of a parent or the public authority, the court may determine whether that other health care coverage for the joint child is appropriate, and the court may order a parent with that appropriate health care coverage available to carry the coverage for the joint child.

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

51.2 Sec. 43. Minnesota Statutes 2016, section 518A.685, is amended to read:

51.3 **518A.685 CONSUMER REPORTING AGENCY; REPORTING ARREARS.**

51.4 (a) If a public authority determines that an obligor has not paid the current monthly
51.5 support obligation plus any required arrearage payment for three months, the public authority
51.6 must report this information to a consumer reporting agency.

51.7 (b) Before reporting that an obligor is in arrears for court-ordered child support, the
51.8 public authority must:

51.9 (1) provide written notice to the obligor that the public authority intends to report the
51.10 arrears to a consumer reporting agency; and

51.11 (2) mail the written notice to the obligor's last known mailing address at least 30 days
51.12 before the public authority reports the arrears to a consumer reporting agency.

51.13 (c) The obligor may, within 21 days of receipt of the notice, do the following to prevent
51.14 the public authority from reporting the arrears to a consumer reporting agency:

51.15 (1) pay the arrears in full; or

51.16 (2) request an administrative review. An administrative review is limited to issues of
51.17 mistaken identity, a pending legal action involving the arrears, or an incorrect arrears balance.

51.18 ~~(d) If the public authority has reported that an obligor is in arrears for court-ordered~~
51.19 ~~child support and subsequently determines that the obligor has paid the court-ordered child~~
51.20 ~~support arrears in full, or is paying the current monthly support obligation plus any required~~
51.21 ~~arrearage payment, the public authority must report to the consumer reporting agency that~~
51.22 ~~the obligor is currently paying child support as ordered by the court.~~

51.23 ~~(e)~~ (d) A public authority that reports arrearage information under this section must
51.24 make monthly reports to a consumer reporting agency. The monthly report must be consistent
51.25 with credit reporting industry standards for child support.

51.26 ~~(f)~~ (e) For purposes of this section, "consumer reporting agency" has the meaning given
51.27 in section 13C.001, subdivision 4, and United States Code, title 15, section 1681a(f).

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

52.1 Sec. 44. Minnesota Statutes 2016, section 626.556, subdivision 2, is amended to read:

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

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

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

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

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

52.11 (c) "Facility" means:

52.12 (1) a licensed or unlicensed day care facility or provider, residential facility, agency,
52.13 hospital, sanitarium, or other facility or institution required to be licensed under sections
52.14 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245D;

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

52.17 (3) a nonlicensed personal care provider organization as defined in section ~~256B.0625,~~
52.18 ~~subdivision 19a~~ 256B.0659.

52.19 (d) "Family assessment" means a comprehensive assessment of child safety, risk of
52.20 subsequent child maltreatment, and family strengths and needs that is applied to a child
52.21 maltreatment report that does not allege sexual abuse or substantial child endangerment.
52.22 Family assessment does not include a determination as to whether child maltreatment
52.23 occurred but does determine the need for services to address the safety of family members
52.24 and the risk of subsequent maltreatment.

52.25 (e) "Investigation" means fact gathering related to the current safety of a child and the
52.26 risk of subsequent maltreatment that determines whether child maltreatment occurred and
52.27 whether child protective services are needed. An investigation must be used when reports
52.28 involve sexual abuse or substantial child endangerment, and for reports of maltreatment in
52.29 facilities required to be licensed under chapter 245A or 245D; under sections 144.50 to
52.30 144.58 and 241.021; in a school as defined in section 120A.05, subdivisions 9, 11, and 13,
52.31 and chapter 124E; or in a nonlicensed personal care provider association as defined in section
52.32 ~~256B.0625, subdivision 19a~~ 256B.0659.

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

(g) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to ~~(9)~~ (10), other than by accidental means:

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

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

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

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

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

(6) prenatal exposure to alcohol or a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, medical effects or developmental delays during the child's first

54.1 year of life that medically indicate prenatal exposure to a controlled substance, or the
54.2 presence of a fetal alcohol spectrum disorder;

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

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

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

54.11 (10) abandonment of the child exhibited when a parent or person responsible for a child's
54.12 care, does not have regular contact with the child and failed to demonstrate consistent interest
54.13 in the child's well-being; unless the parent or person responsible for a child's care establishes
54.14 an extreme financial hardship, physical hardship, treatment for mental disability or chemical
54.15 dependency, or other good cause that prevented the parent or person responsible for a child's
54.16 care from making contact with the child. A child custody determination under chapter 257
54.17 or 518 is not abandonment of the child.

54.18 (h) "Nonmaltreatment mistake" means:

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

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

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

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

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

54.31 This definition only applies to child care centers licensed under Minnesota Rules, chapter
54.32 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated

55.1 maltreatment by the individual, the commissioner of human services shall determine that a
55.2 nonmaltreatment mistake was made by the individual.

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

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

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

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

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

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

55.23 (3) shaking a child under age three;

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

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

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

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

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

55.31 (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
55.32 substances which were not prescribed for the child by a practitioner, in order to control or

punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

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

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

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

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

(n) "Sexual abuse" means ~~the subjecting of a child~~ an action by a person responsible for the child's care, by a person who has a significant relationship to the child, ~~as defined in section 609.341, including the child's parent, stepparent, guardian, brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, or great-aunt, whether that person resides in the same dwelling as the child, or other child or adult who jointly resides intermittently or regularly in the same dwelling as the child, or by a~~ any person in a position of authority, as defined in section 609.341, subdivision 10, that subjects a child to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Effective May 29, 2017, sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation which requires registration as an offender under section

57.1 ~~243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166,~~
57.2 ~~subdivision 1b, paragraph (a) or (b).~~

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

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

57.7 (2) abandonment under section 260C.301, subdivision 2, paragraph (a), clause (2);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) A child is the subject of subjected a child to a status or condition requiring a report of threatened injury when the responsible social services agency receives birth match data under paragraph (q) from the Department of Human Services; or

(6) committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), and is a parent or a household member.

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

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

(s) "Safety plan" means a written or oral plan made with the local social services agency and the child's parent or legal custodian or ordered by the court that sets out the conditions necessary to keep the child safe. A safety plan is developed, when required, after a safety assessment. The plan may be part of a child protective services plan, out-of-home placement plan, or reunification plan when the child leaves foster care.

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

59.2 Sec. 45. Minnesota Statutes 2016, section 626.556, subdivision 3, is amended to read:

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

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

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

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

59.21 (c) A person mandated to report physical or sexual child abuse or neglect occurring
59.22 within a licensed facility shall report the information to the agency responsible for licensing
59.23 the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245D;
59.24 or a nonlicensed personal care provider organization as defined in section ~~256B.0625,~~
59.25 ~~subdivision 19~~ 256B.0659. A health or corrections agency receiving a report may request
59.26 the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b.
59.27 A board or other entity whose licensees perform work within a school facility, upon receiving
59.28 a complaint of alleged maltreatment, shall provide information about the circumstances of
59.29 the alleged maltreatment to the commissioner of education. Section 13.03, subdivision 4,
59.30 applies to data received by the commissioner of education from a licensing entity.

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

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

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

Sec. 46. Minnesota Statutes 2016, section 626.556, subdivision 3c, is amended to read:

Subd. 3c. **Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.** (a) The county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment by a parent, guardian, or individual who resides in the child's household and functions within the family unit as a person responsible for the child's care, in child foster care, family child care, legally unlicensed child care, juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county, and reports involving children served by an unlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.

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

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

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

Sec. 47. Minnesota Statutes 2016, section 626.556, subdivision 3e, is amended to read:

Subd. 3e. **Agency responsible for assessing or investigating reports of sexual abuse.** The local welfare agency is the agency responsible for investigating allegations of sexual abuse if the alleged offender is the parent, guardian, or sibling, or whether that person resides in the same dwelling as the child; ~~an individual functioning who resides in the child's household and functions~~ within the family unit as a person responsible for the child's care; ~~or a person~~ other child or adult who jointly resides intermittently or regularly in the same dwelling as the child ~~with a significant relationship to the child if that person resides in the child's household.~~ Effective May 29, 2017, the local welfare agency is also responsible for investigating when a child is identified as a victim of sex trafficking.

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

61.1 Sec. 48. Minnesota Statutes 2016, section 626.556, subdivision 7, is amended to read:

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

61.7 (b) The local welfare agency shall determine if the report is to be screened in or out as
61.8 soon as possible but in no event longer than 24 hours after the report is received. When
61.9 determining whether a report will be screened in or out, the agency receiving the report
61.10 must consider, when relevant, all previous history, including reports that were screened out.
61.11 The agency may communicate with treating professionals and individuals specified under
61.12 subdivision 10, paragraph ~~(i)~~ (j), clause (3), item (iii). A treating professional or individual
61.13 specified to provide information under this paragraph is immune from liability as specified
61.14 under subdivision 4.

61.15 (c) Any report shall be of sufficient content to identify the child, any person believed to
61.16 be responsible for the abuse or neglect of the child if the person is known, the nature and
61.17 extent of the abuse or neglect and the name and address of the reporter. The local welfare
61.18 agency or agency responsible for assessing or investigating the report shall accept a report
61.19 made under subdivision 3 notwithstanding refusal by a reporter to provide the reporter's
61.20 name or address as long as the report is otherwise sufficient under this paragraph. ~~Written~~
61.21 ~~reports received by a police department or the county sheriff shall be forwarded immediately~~
61.22 ~~to the local welfare agency or the agency responsible for assessing or investigating the~~
61.23 ~~report. The police department or the county sheriff may keep copies of reports received by~~
61.24 ~~them. Copies of written reports received by a local welfare department or the agency~~
61.25 ~~responsible for assessing or investigating the report shall be forwarded immediately to the~~
61.26 ~~local police department or the county sheriff.~~

61.27 (d) ~~When requested,~~ The agency responsible for assessing or investigating a report shall
61.28 inform the reporter within ten days after the initial report was made, either orally or in
61.29 writing, whether the report was accepted or not, unless release would be detrimental to the
61.30 best interests of the child. If the responsible agency determines the report does not constitute
61.31 ~~a report under this section, the agency shall advise the reporter the report was screened out.~~
61.32 Any person mandated to report shall receive a summary of the final disposition of any report
61.33 made by that reporter, including whether the case has been opened for child protection or
61.34 other services, or if a referral has been made to a community organization, unless release
61.35 would be detrimental to the best interests of the child. Any person who is not mandated to

report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) Reports that are screened out must be maintained in accordance with subdivision 11c, paragraph (a).

(f) A local welfare agency or agency responsible for investigating or assessing a report may use a screened-out report for making an offer of social services to the subjects of the screened-out report. ~~A local welfare agency or agency responsible for evaluating a report alleging maltreatment of a child shall consider prior reports, including screened-out reports, to determine whether an investigation or family assessment must be conducted.~~ The local welfare agency may inform the child-placing agency or the child foster care licensing agency of the screened-out report when the report alleges child maltreatment by a child or adult who resides intermittently or regularly in the same dwelling as the child where any child is placed in foster care.

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

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

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

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

Sec. 49. Minnesota Statutes 2016, section 626.556, subdivision 10, is amended to read:

Subd. 10. **Duties of local welfare agency and local law enforcement agency upon receipt of report; mandatory notification between police or sheriff and agency.** (a) The police department or the county sheriff shall immediately notify the local welfare agency

63.1 or agency responsible for child protection reports under this section orally ~~and~~ or in writing
63.2 when a report is received. The local welfare agency or agency responsible for child protection
63.3 reports shall immediately notify the local police department or the county sheriff orally ~~and~~
63.4 or in writing when a report is received. The county sheriff and the head of every local welfare
63.5 agency, agency responsible for child protection reports, and police department shall each
63.6 designate a person within their agency, department, or office who is responsible for ensuring
63.7 that the notification duties of this paragraph are carried out. When the alleged maltreatment
63.8 occurred on tribal land, the local welfare agency or agency responsible for child protection
63.9 reports and the local police department or the county sheriff shall immediately notify the
63.10 tribe's social services agency and tribal law enforcement orally ~~and~~ or in writing when a
63.11 report is received. When the alleged maltreatment occurred in another state involving a
63.12 child residing in Minnesota, the local welfare agency shall assume responsibility for child
63.13 protection assessment or investigation.

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

63.17 (1) shall conduct an investigation on reports involving sexual abuse according to
63.18 subdivision 3e or substantial child endangerment according to subdivision 3c, paragraph
63.19 (a);

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

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

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

63.32 (5) shall provide immediate notice, according to section 260.761, subdivision 2, to an
63.33 Indian child's tribe when the agency has reason to believe the family assessment or

64.1 investigation may involve an Indian child. For purposes of this clause, "immediate notice"
64.2 means notice provided within 24 hours.

64.3 ~~If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or~~
64.4 ~~individual functioning within the family unit as a person responsible for the child's care, or~~
64.5 ~~sexual abuse by a person with a significant relationship to the child when that person resides~~
64.6 ~~in the child's household or by a sibling, the local welfare agency shall immediately conduct~~
64.7 ~~a family assessment or investigation as identified in clauses (1) to (4).~~ (c) In conducting a
64.8 family assessment or investigation, the local welfare agency shall gather information on the
64.9 existence of substance abuse and domestic violence and offer services for purposes of
64.10 preventing future child maltreatment, safeguarding and enhancing the welfare of the abused
64.11 or neglected minor, and supporting and preserving family life whenever possible. If the
64.12 report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or
64.13 neglect or endangerment, under section 609.378, the local law enforcement agency and
64.14 local welfare agency shall coordinate the planning and execution of their respective
64.15 investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple
64.16 interviews. Each agency shall prepare a separate report of the results of its investigation or
64.17 assessment. In cases of alleged child maltreatment resulting in death, the local agency may
64.18 rely on the fact-finding efforts of a law enforcement investigation to make a determination
64.19 of whether or not maltreatment occurred. When necessary the local welfare agency shall
64.20 seek authority to remove the child from the custody of a parent, guardian, or adult with
64.21 whom the child is living. In performing any of these duties, the local welfare agency shall
64.22 maintain appropriate records.

64.23 If the family assessment or investigation indicates there is a potential for abuse of alcohol
64.24 or other drugs by the parent, guardian, or person responsible for the child's care, the local
64.25 welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part
64.26 9530.6615.

64.27 ~~(e)~~ (d) When a local agency receives a report or otherwise has information indicating
64.28 that a child who is a client, as defined in section 245.91, has been the subject of physical
64.29 abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section
64.30 245.91, it shall, in addition to its other duties under this section, immediately inform the
64.31 ombudsman established under sections 245.91 to 245.97. The commissioner of education
64.32 shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding
64.33 a child defined as a client in section 245.91 that maltreatment occurred at a school as defined
64.34 in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

65.1 ~~(d)~~ (e) Authority of the local welfare agency responsible for assessing or investigating
65.2 the child abuse or neglect report, the agency responsible for assessing or investigating the
65.3 report, and of the local law enforcement agency for investigating the alleged abuse or neglect
65.4 includes, but is not limited to, authority to interview, without parental consent, the alleged
65.5 victim and any other minors who currently reside with or who have resided with the alleged
65.6 offender. The interview may take place at school or at any facility or other place where the
65.7 alleged victim or other minors might be found or the child may be transported to, and the
65.8 interview conducted at, a place appropriate for the interview of a child designated by the
65.9 local welfare agency or law enforcement agency. The interview may take place outside the
65.10 presence of the alleged offender or parent, legal custodian, guardian, or school official. For
65.11 family assessments, it is the preferred practice to request a parent or guardian's permission
65.12 to interview the child prior to conducting the child interview, unless doing so would
65.13 compromise the safety assessment. Except as provided in this paragraph, the parent, legal
65.14 custodian, or guardian shall be notified by the responsible local welfare or law enforcement
65.15 agency no later than the conclusion of the investigation or assessment that this interview
65.16 has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile
65.17 Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare
65.18 agency, order that, where reasonable cause exists, the agency withhold notification of this
65.19 interview from the parent, legal custodian, or guardian. If the interview took place or is to
65.20 take place on school property, the order shall specify that school officials may not disclose
65.21 to the parent, legal custodian, or guardian the contents of the notification of intent to interview
65.22 the child on school property, as provided under this paragraph, and any other related
65.23 information regarding the interview that may be a part of the child's school record. A copy
65.24 of the order shall be sent by the local welfare or law enforcement agency to the appropriate
65.25 school official.

65.26 ~~(e)~~ (f) When the local welfare, local law enforcement agency, or the agency responsible
65.27 for assessing or investigating a report of maltreatment determines that an interview should
65.28 take place on school property, written notification of intent to interview the child on school
65.29 property must be received by school officials prior to the interview. The notification shall
65.30 include the name of the child to be interviewed, the purpose of the interview, and a reference
65.31 to the statutory authority to conduct an interview on school property. For interviews
65.32 conducted by the local welfare agency, the notification shall be signed by the chair of the
65.33 local social services agency or the chair's designee. The notification shall be private data
65.34 on individuals subject to the provisions of this paragraph. School officials may not disclose
65.35 to the parent, legal custodian, or guardian the contents of the notification or any other related
65.36 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.

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

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

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

~~(h)~~ (i) The commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are

conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

~~(i)~~ (j) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent child maltreatment, and family strengths and needs and share not public information, including the name of the reporter of child maltreatment and any other information collected under this subdivision, with an Indian's tribal social services agency without violating any law of the state that may otherwise impose duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for investigating the report may make a determination of no maltreatment early in an investigation, and close the case and retain immunity, if the collected information shows no basis for a full investigation.

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

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

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

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child;

(ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

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

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

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

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

~~(j)~~ (k) Upon receipt of a report made under subdivision 7, paragraph (a), the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact with the child and primary caregiver shall occur immediately if sexual abuse or substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the

rights of the person who made the report or the person who provided information under subdivision 7, paragraph (b). The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

~~(k)~~ (l) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. For investigations only, the following interviewing methods and procedures must 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.

~~(h)~~ (m) 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)~~ (k) and ~~(k)~~ (l), 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)~~ (k) and ~~(k)~~ (l), and subdivision 3d.

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

Sec. 50. Minnesota Statutes 2016, section 626.556, subdivision 10f, is amended to read:

Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion of a family assessment, the local welfare agency shall notify the parent or guardian of the child of the need for services to address child safety concerns or significant risk of subsequent child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed. Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for investigating the report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and, if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. When the investigation involves a child foster care setting that is monitored by a private licensing agency under section 245A.16, the local welfare agency responsible for investigating the report shall notify the private licensing agency of the determination and shall provide a summary of the specific

reasons for the determination. The notice to the private licensing agency must include identifying private data, but not the identity of the reporter of maltreatment. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs ~~(h)~~ (i), ~~(i)~~ (j), and ~~(j)~~ (k), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. When the investigation involves a nonlicensed personal care provider organization as defined in section 256B.0659, regardless of the relationship of the victim to the nonlicensed personal care attendant, the local welfare agency responsible for investigating the report shall notify the personal care provider agency of the determination and shall provide a summary of the specific reasons for the determination. The notice to the personal care provider agency must include identifying private data, but cannot identify the reporter of maltreatment. The notice must also include a certification that the procedures under subdivision 10, paragraphs (i), (j), and (k), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept according to subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section. The notice must also state that a finding of maltreatment may result in denial of a license application or background study disqualification under chapter 245C related to employment or services that are licensed by the Department of Human Services under chapter 245A, the Department of Health under chapter 144 or 144A, the Department of Corrections under section 241.021, and from providing services related to an unlicensed personal care provider organization under chapter 256B.

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

Sec. 51. Minnesota Statutes 2016, section 626.556, subdivision 10m, is amended to read:

Subd. 10m. **Provision of child protective services; safety planning; consultation with county attorney.** (a) The local welfare agency shall create a written plan, in collaboration with the family whenever possible, within 30 days of the determination that child protective services are needed or upon joint agreement of the local welfare agency and the family that family support and preservation services are needed. Child protective services for a family are voluntary ~~unless on the part of the family until ordered by the court; after a petition under section 260C.141 has been filed.~~ Family support and preservation services are voluntary unless the services are ordered by the court.

(b) When a child's removal from a parent or guardian is necessary as part of a safety plan, the removal must occur pursuant to a voluntary placement agreement under section 260C.227; a court order under section 260C.151, subdivision 6, 260C.178 or 260C.201; or peace officer action authorized under section 260C.175, subdivision 1, clause (2). The local agency must not use a delegation of power by a parent or guardian under section 524.5-211 or the standby custodian provisions of chapter 257B as authority to support removal of a child from the care of a parent or guardian.

(c) The local welfare agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, if:

(1) the family does not accept or comply with a plan for child protective services or safety plan;

(2) voluntary child protective services on the part of the family may not provide sufficient protection for the child; ~~or~~

(3) the family is not cooperating with an investigation or assessment; or

(4) removal of the child from a parent or guardian is necessary and a voluntary placement agreement under section 260C.227 may not provide sufficient protection for the child.

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

Sec. 52. Minnesota Statutes 2016, section 626.556, subdivision 11, is amended to read:

Subd. 11. **Records.** (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report under this section, including not public information shared with an Indian's tribal social service agency under subdivision 10 and any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. All records concerning determinations of maltreatment by a facility are nonpublic data as maintained by the Department of Education, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data other than the reports. The local social services agency or agency responsible for assessing

72.1 or investigating the report shall make available to the investigating, petitioning, or prosecuting
72.2 authority, including county medical examiners or county coroners or their professional
72.3 delegates, any records which contain information relating to a specific incident of neglect
72.4 or abuse which is under investigation, petition, or prosecution and information relating to
72.5 any prior incidents of neglect or abuse involving any of the same persons. The records shall
72.6 be collected and maintained in accordance with the provisions of chapter 13. In conducting
72.7 investigations and assessments pursuant to this section, the notice required by section 13.04,
72.8 subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim
72.9 of abuse or neglect. An individual subject of a record shall have access to the record in
72.10 accordance with those sections, except that the name of the reporter shall be confidential
72.11 while the report is under assessment or investigation except as otherwise permitted by this
72.12 subdivision. Any person conducting an investigation or assessment under this section or
72.13 who has received not public information as permitted by this subdivision and who
72.14 intentionally discloses the identity of a reporter prior to the completion of the investigation
72.15 or assessment is guilty of a misdemeanor. After the assessment or investigation is completed,
72.16 the name of the reporter shall be confidential. The subject of the report may compel disclosure
72.17 of the name of the reporter only with the consent of the reporter or upon a written finding
72.18 by the court that the report was false and that there is evidence that the report was made in
72.19 bad faith. This subdivision does not alter disclosure responsibilities or obligations under
72.20 the Rules of Criminal Procedure.

72.21 (b) Upon request of the legislative auditor, data on individuals maintained under this
72.22 section must be released to the legislative auditor in order for the auditor to fulfill the auditor's
72.23 duties under section 3.971. The auditor shall maintain the data in accordance with chapter
72.24 13.

72.25 (c) The commissioner of education must be provided with all requested data that are
72.26 relevant to a report of maltreatment and are in possession of a school facility as defined in
72.27 subdivision 2, paragraph (c), when the data is requested pursuant to an assessment or
72.28 investigation of a maltreatment report of a student in a school. If the commissioner of
72.29 education makes a determination of maltreatment involving an individual performing work
72.30 within a school facility who is licensed by a board or other agency, the commissioner shall
72.31 provide necessary and relevant information to the licensing entity to enable the entity to
72.32 fulfill its statutory duties. Notwithstanding section 13.03, subdivision 4, data received by a
72.33 licensing entity under this paragraph are governed by section 13.41 or other applicable law
72.34 governing data of the receiving entity, except that this section applies to the classification
72.35 of and access to data on the reporter of the maltreatment.

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

73.2 Sec. 53. Minnesota Statutes 2016, section 626.5561, subdivision 1, is amended to read:

73.3 Subdivision 1. **Reports required.** (a) Except as provided in paragraph (b), a person
73.4 mandated to report under section 626.556, subdivision 3, shall immediately report to the
73.5 local welfare agency if the person knows or has reason to believe that a woman is pregnant
73.6 and has used a controlled substance for a nonmedical purpose during the pregnancy,
73.7 including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages
73.8 during the pregnancy in any way that is habitual or excessive.

73.9 (b) A health care professional or a social service professional who is mandated to report
73.10 under section 626.556, subdivision 3, is exempt from reporting under paragraph (a) a
73.11 woman's use or consumption of tetrahydrocannabinol or alcoholic beverages during
73.12 pregnancy if the professional is providing the woman with prenatal care or other healthcare
73.13 services.

73.14 (c) Any person may make a voluntary report if the person knows or has reason to believe
73.15 that a woman is pregnant and has used a controlled substance for a nonmedical purpose
73.16 during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed
73.17 alcoholic beverages during the pregnancy in any way that is habitual or excessive.

73.18 (d) An oral report shall be made immediately by telephone or otherwise. ~~An oral report~~
73.19 ~~made by a person required to report shall be followed within 72 hours, exclusive of weekends~~
73.20 ~~and holidays, by a report in writing to the local welfare agency.~~ Any report shall be of
73.21 sufficient content to identify the pregnant woman, the nature and extent of the use, if known,
73.22 and the name and address of the reporter. The local welfare agency shall accept a report
73.23 made under paragraph (c) notwithstanding refusal by a voluntary reporter to provide the
73.24 reporter's name or address as long as the report is otherwise sufficient.

73.25 (e) For purposes of this section, "prenatal care" means the comprehensive package of
73.26 medical and psychological support provided throughout the pregnancy.

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

73.28 Sec. 54. Minnesota Statutes 2016, section 626.558, subdivision 2, is amended to read:

73.29 Subd. 2. **Duties of team.** A multidisciplinary child protection team may provide public
73.30 and professional education, develop resources for prevention, intervention, and treatment,
73.31 and provide case consultation including, but not limited to, screening, to the local welfare
73.32 agency or other interested community-based agencies. The community-based agencies may

request case consultation from the multidisciplinary child protection team regarding a child or family for whom the community-based agency is providing services. As used in this section, "case consultation" means a case review process in which recommendations are made concerning services to be provided to the identified children and family and which may include screening. Case consultation may be performed by a committee or subcommittee of members representing human services, including mental health and chemical dependency; law enforcement, including probation and parole; the county attorney; a children's advocacy center; health care; education; community-based agencies and other necessary agencies; and persons directly involved in an individual case as designated by other members performing case consultation.

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

Sec. 55. **REPEALER.**

Minnesota Statutes 2016, sections 119B.125, subdivision 8; and 256J.751, subdivision 1, are repealed.

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

ARTICLE 2

MENTAL HEALTH SERVICES

Section 1. Minnesota Statutes 2016, section 256B.0943, subdivision 8, is amended to read:

Subd. 8. **Required ~~preservice~~ training and continuing education.** (a) A provider entity shall establish a ~~plan~~ training program to provide ~~preservice~~ training and continuing education for staff. The ~~plan~~ training program must ~~clearly~~ describe the ~~type of training provided by the entity~~ necessary to obtain new skills and maintain current skills ~~and obtain new skills and that relates to the provider entity's goals and objectives for services offered to provide appropriate services.~~

(b) A provider entity that employs a mental health behavioral aide under this section must require the mental health behavioral aide to complete 30 hours of ~~preservice~~ training. ~~The preservice training must include parent team training. The preservice training must include 15 hours of in-person training of a mental health behavioral aide in mental health services delivery and eight hours of parent team training.~~ Before providing services to a client, the aide must complete 24 hours of training, including training on the role and limitations of a behavioral aide, boundaries, ethics, confidentiality, the federal Health Insurance Portability and Accountability Act of 1996 (HIPPA), child development,

75.1 documentation, crisis de-escalation skills, and common medications, their side effects and
 75.2 impact on symptoms. A provider entity's policies are not considered part of the 24 hours of
 75.3 required training.

75.4 Within 60 days of employment, the aide must complete six hours of Department of
 75.5 Human Services approved or delivered parent team training. Curricula for parent team
 75.6 training must be approved in advance by the commissioner. Components of parent team
 75.7 training include:

75.8 (1) ~~partnering with parents~~ as partners;

75.9 (2) ~~fundamentals of family support~~ understanding and supporting families;

75.10 (3) ~~fundamentals of policy and decision making~~ impact on siblings;

75.11 (4) ~~defining equal partnership~~ the role of culture in family structures; and

75.12 (5) ~~complexities of the parent and service provider partnership in multiple service delivery~~
 75.13 ~~systems due to system strengths and weaknesses~~;

75.14 (6) ~~sibling impacts~~;

75.15 (7) ~~(5) community resources and support networks; and~~

75.16 (8) ~~community resources~~.

75.17 (c) A provider entity that employs a mental health practitioner and a mental health
 75.18 behavioral aide to provide children's therapeutic services and supports under this section
 75.19 must require the mental health practitioner and mental health behavioral aide to complete
 75.20 20 hours of continuing education every two calendar years. The continuing education must
 75.21 be related to serving the needs of a child with emotional disturbance ~~in the child's home~~
 75.22 ~~environment and the child's family~~.

75.23 (d) The provider entity must document the mental health practitioner's or mental health
 75.24 behavioral aide's annual completion of the required continuing education. The documentation
 75.25 must include the date, subject, ~~and~~ number of hours of the continuing education, and
 75.26 attendance records, as verified by the staff member's signature, job title, and the instructor's
 75.27 name. The provider entity must keep documentation for each employee, including records
 75.28 of attendance at professional workshops and conferences, at a central location and in the
 75.29 employee's personnel file.

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

ARTICLE 3**OPERATIONS**

Section 1. Minnesota Statutes 2016, section 13.46, subdivision 3, is amended to read:

Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of services, licensees, and applicants that is collected, maintained, used, or disseminated by the welfare system in an investigation, authorized by statute, and relating to the enforcement of rules or law are confidential data on individuals pursuant to section 13.02, subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and shall not be disclosed except:

(1) pursuant to section 13.05;

(2) pursuant to statute or valid court order;

(3) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense; ~~or~~

(4) to an agent of the welfare system and an investigator acting on behalf of a county, the state, or the federal government, including a law enforcement officer or attorney in the investigation or prosecution of a criminal, civil, or administrative proceeding relating to the administration of a state or federal health care welfare program; or

~~(4)~~ (5) to provide notices required or permitted by statute.

The data referred to in this subdivision shall be classified as public data upon submission to an administrative law judge or court in an administrative or judicial proceeding. Inactive welfare investigative data shall be treated as provided in section 13.39, subdivision 3.

(b) Notwithstanding any other provision in law, the commissioner of human services shall provide all active and inactive investigative data, including the name of the reporter of alleged maltreatment under section 626.556 or 626.557, to the ombudsman for mental health and developmental disabilities upon the request of the ombudsman.

(c) Notwithstanding paragraph (a) and section 13.39, the existence of an investigation by the commissioner of possible overpayments of public funds to a service provider or recipient may be disclosed if the commissioner determines that it will not compromise the investigation.

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

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

77.2 Subdivision 1. **Background studies required.** (a) The commissioner of health shall
77.3 contract with the commissioner of human services to conduct background studies of:

77.4 (1) individuals providing services which have direct contact, as defined under section
77.5 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes,
77.6 outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and
77.7 home care agencies licensed under chapter 144A; residential care homes licensed under
77.8 chapter 144B, and board and lodging establishments that are registered to provide supportive
77.9 or health supervision services under section 157.17;

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

77.17 (3) beginning July 1, 1999, all other employees in nursing homes licensed under chapter
77.18 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification
77.19 of an individual in this section shall disqualify the individual from positions allowing direct
77.20 contact or access to patients or residents receiving services. "Access" means physical access
77.21 to a client or the client's personal property without continuous, direct supervision as defined
77.22 in section 245C.02, subdivision 8, when the employee's employment responsibilities do not
77.23 include providing direct contact services;

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

77.26 (5) controlling persons of a supplemental nursing services agency, as defined under
77.27 section 144A.70.

77.28 (b) If a facility or program is licensed by the Department of Human Services and subject
77.29 to the background study provisions of chapter 245C and is also licensed by the Department
77.30 of Health, the Department of Human Services is solely responsible for the background
77.31 studies of individuals in the jointly licensed programs.

77.32 (c) For an individual under paragraph (a), clause (2), who resides outside Minnesota,
77.33 when the criminal history check and check for substantiated maltreatment of a minor or

adult in Minnesota results in no disqualifying information, the commissioner may issue a clearance notice to the individual and the entity that initiated the study, pending the result of the check for substantiated maltreatment of a minor or adult in the individual's state of residence. A clearance notice issued under this provision is the final notice to the individual and entity. The commissioner shall notify the individual and entity if the check for substantiated maltreatment from the individual's state of residence results in disqualifying information.

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

Sec. 3. Minnesota Statutes 2016, section 245A.02, subdivision 3, is amended to read:

Subd. 3. **Applicant.** "Applicant" means an individual, ~~corporation, partnership, voluntary association, controlling individual, or other~~ organization, or government entity, as defined in section 13.02, subdivision 7a, that ~~has applied for licensure under this chapter and the rules of the commissioner~~ is subject to licensure under this chapter and that has applied for but not yet been granted a license under this chapter.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 4. Minnesota Statutes 2016, section 245A.02, is amended by adding a subdivision to read:

Subd. 10c. **Owner.** "Owner" means each individual or organization that has five percent or more direct or indirect ownership interest in a program licensed under this chapter. For purposes of this subdivision, "direct ownership interest" means the possession of equity in capital, stock, or profits of an organization and "indirect ownership interest" means a direct ownership interest in an entity that has a direct or indirect ownership interest in a licensed program. For purposes of this chapter, owner of a nonprofit corporation means each member of the board of directors. A government entity that is issued a license under this chapter shall be designated the owner.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 5. Minnesota Statutes 2016, section 245A.03, subdivision 3, is amended to read:

Subd. 3. **Unlicensed programs.** (a) It is a misdemeanor for an individual, ~~corporation, partnership, voluntary association, other~~ organization, or a ~~controlling individual~~ government entity to provide a residential or nonresidential program without a license issued under this chapter and in willful disregard of this chapter unless the program is excluded from licensure under subdivision 2.

(b) The commissioner may ask the appropriate county attorney or the attorney general to begin proceedings to secure a court order against the continued operation of the program, if an individual, ~~corporation, partnership, voluntary association, other~~ organization, or ~~controlling individual~~ government entity has:

(1) failed to apply for a license under this chapter after receiving notice that a license is required or continues to operate without a license after receiving notice that a license is required;

(2) continued to operate without a license after ~~the~~ a license issued under this chapter has been revoked or suspended under ~~section 245A.07~~ this chapter, and the commissioner has issued a final order affirming the revocation or suspension, or the license holder did not timely appeal the sanction; or

(3) continued to operate without a license after ~~the~~ a license issued under this chapter has been temporarily immediately suspended ~~under section 245A.07~~ pursuant to this chapter.

The county attorney and the attorney general have a duty to cooperate with the commissioner.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 6. Minnesota Statutes 2016, section 245A.04, subdivision 1, is amended to read:

Subdivision 1. **Application for licensure.** (a) An individual, ~~corporation, partnership, voluntary association, other~~ organization or ~~controlling individual~~, or government entity that is subject to licensure under section 245A.03 must apply for a license. The application must be made on the forms and in the manner prescribed by the commissioner. The commissioner shall provide the applicant with instruction in completing the application and provide information about the rules and requirements of other state agencies that affect the applicant. An applicant seeking licensure in Minnesota with headquarters outside of Minnesota must have a program office located within the state. An applicant who intends to buy or otherwise acquire a program or services licensed under this chapter that is owned by another license holder must comply with the application procedures in this section and section 245A.03.

The commissioner shall act on the application within 90 working days after a complete application and any required reports have been received from other state agencies or departments, counties, municipalities, or other political subdivisions. The commissioner shall not consider an application to be complete until the commissioner receives all of the information required under section 245C.05.

When the commissioner receives an application for initial licensure that is incomplete because the applicant failed to submit required documents or that is substantially deficient because the documents submitted do not meet licensing requirements, the commissioner shall provide the applicant written notice that the application is incomplete or substantially deficient. In the written notice to the applicant the commissioner shall identify documents that are missing or deficient and give the applicant 45 days to resubmit a second application that is substantially complete. An applicant's failure to submit a substantially complete application after receiving notice from the commissioner is a basis for license denial under section 245A.05.

(b) An application for licensure must identify all controlling individuals as defined in section 245A.02, subdivision 5a, and must specify and designate one controlling individual to be the authorized agent who is responsible for dealing with the commissioner of human services on all matters provided for in this chapter and on whom service of all notices and orders must be made for the license holder. The application must be signed by the authorized agent and must include the first, middle, and last name; mailing address; and e-mail address of the authorized agent. By submitting an application for licensure, the authorized agent consents to electronic communication with the commissioner throughout the application process. The authorized agent must be authorized to accept service on behalf of all of the controlling individuals ~~of the program~~. Service on the authorized agent is service on all of the controlling individuals ~~of the program~~. It is not a defense to any action arising under this chapter that service was not made on each controlling individual ~~of the program~~. The designation of ~~one or more~~ a controlling individuals individual as agents the authorized agent under this paragraph does not affect the legal responsibility of any other controlling individual under this chapter.

(c) An applicant or license holder must have a policy that prohibits license holders, employees, subcontractors, and volunteers, when directly responsible for persons served by the program, from abusing prescription medication or being in any manner under the influence of a chemical that impairs the individual's ability to provide services or care. The license holder must train employees, subcontractors, and volunteers about the program's drug and alcohol policy.

(d) An applicant and license holder must have a program grievance procedure that permits persons served by the program and their authorized representatives to bring a grievance to the highest level of authority in the program.

~~(e) The applicant must be able to demonstrate competent knowledge of the applicable requirements of this chapter and chapter 245C, and the requirements of other licensing~~

81.1 ~~statutes and rules applicable to the program or services for which the applicant is seeking~~
81.2 ~~to be licensed. Effective January 1, 2013, The commissioner may limit communication~~
81.3 ~~during the application process to the authorized agent or the controlling individual identified~~
81.4 ~~on the license application and for whom a background study was initiated under chapter~~
81.5 ~~245C.~~ The commissioner may require the applicant, except for child foster care, to
81.6 demonstrate competence in the applicable licensing requirements by successfully completing
81.7 a written examination. The commissioner may develop a prescribed written examination
81.8 format.

81.9 (f) When an applicant is an individual, the individual must provide:

81.10 (1) the applicant's taxpayer identification numbers including the Social Security number
81.11 or Minnesota tax identification number, and federal employer identification number if the
81.12 applicant has employees;

81.13 (2) a copy of the most recent filing with the secretary of state that includes the complete
81.14 business name, if any, and if doing business under a different name, the doing business as
81.15 (DBA) name, as registered with the secretary of state; and

81.16 (3) ~~a notarized signature of the applicant.~~ if applicable, the applicant's National Provider
81.17 Identifier (NPI) number and Unique Minnesota Provider Identifier (UMPI) number; and

81.18 (4) at the request of the commissioner, the notarized signature of the applicant or
81.19 authorized agent.

81.20 (g) When an applicant is ~~a nonindividual~~ an organization, the applicant must provide
81.21 ~~the:~~

81.22 (1) the applicant's taxpayer identification numbers including the Minnesota tax
81.23 identification number and federal employer identification number;

81.24 (2) a copy of the most recent filing with the secretary of state that includes the complete
81.25 business name, and if doing business under a different name, the doing business as (DBA)
81.26 name, as registered with the secretary of state;

81.27 (3) the first, middle, and last name, and address for all individuals who will be controlling
81.28 individuals, including all officers, owners, and managerial officials as defined in section
81.29 245A.02, subdivision 5a, and the date that the background study was initiated by the applicant
81.30 for each controlling individual; ~~and~~

81.31 (4) ~~first, middle, and last name, mailing address, and notarized signature of the agent~~
81.32 ~~authorized by the applicant to accept service on behalf of the controlling individuals.~~

82.1 (4) if applicable, the applicant's National Provider Identifier (NPI) number and Unique
82.2 Minnesota Provider Identifier (UMPI) number;

82.3 (5) the records that created the organization and that determine its internal governance
82.4 and the relations among the persons that own it, have an interest in it, or are members of it,
82.5 in each case as provided or authorized by its governing statute, which may include a
82.6 partnership agreement, bylaws, articles of organization, organizational chart, and operating
82.7 agreement, or comparable documents as provided in the organization's governing statute;
82.8 and

82.9 (6) at the request of the commissioner, the notarized signature of the applicant or
82.10 authorized agent.

82.11 (h) When the applicant is a government entity, the applicant must provide:

82.12 (1) the name of the government agency, political subdivision, or other unit of government
82.13 that is seeking the license and the name of the program or services that will be licensed;

82.14 (2) the taxpayer identification numbers including the Minnesota tax identification number
82.15 and federal employer identification number;

82.16 (3) a letter signed by the manager, administrator, or other executive of the government
82.17 entity authorizing the submission of the license application;

82.18 (4) if applicable, the applicant's National Provider Identifier (NPI) number and Unique
82.19 Minnesota Provider Identifier (UMPI) number; and

82.20 (5) first, middle, and last name; mailing address; e-mail address; and signature of the
82.21 authorized agent for each license issued to the government entity. A government entity that
82.22 holds multiple licenses under this chapter may designate one authorized agent for all licenses
82.23 issued under this chapter or may designate a different authorized agent for each license.

82.24 ~~(h)~~ (i) At the time of application for licensure or renewal of a license under this chapter,
82.25 the applicant or license holder must acknowledge on the form provided by the commissioner
82.26 if the applicant or license holder elects to receive any public funding reimbursement from
82.27 the commissioner for services provided under the license that:

82.28 (1) the applicant's or license holder's compliance with the provider enrollment agreement
82.29 or registration requirements for receipt of public funding may be monitored by the
82.30 commissioner as part of a licensing investigation or licensing inspection; and

82.31 (2) noncompliance with the provider enrollment agreement or registration requirements
82.32 for receipt of public funding that is identified through a licensing investigation or licensing

83.1 inspection, or noncompliance with a licensing requirement that is a basis of enrollment for
83.2 reimbursement for a service, may result in:

83.3 (i) a correction order or a conditional license under section 245A.06, or sanctions under
83.4 ~~section~~ sections 245A.045 and 245A.07;

83.5 (ii) nonpayment of claims submitted by the license holder for public program
83.6 reimbursement;

83.7 (iii) recovery of payments made for the service;

83.8 (iv) disenrollment in the public payment program; or

83.9 (v) other administrative, civil, or criminal penalties as provided by law.

83.10 **EFFECTIVE DATE.** This section is effective August 1, 2017.

83.11 Sec. 7. Minnesota Statutes 2016, section 245A.07, subdivision 1, is amended to read:

83.12 Subdivision 1. **Sanctions; appeals; license; inactive programs.** (a) In addition to
83.13 making a license conditional under section 245A.06, the commissioner may suspend or
83.14 revoke the license, impose a fine, or secure an injunction against the continuing operation
83.15 of the program of a license holder who does not comply with applicable law or rule. When
83.16 applying sanctions authorized under this section, the commissioner shall consider the nature,
83.17 chronicity, or severity of the violation of law or rule and the effect of the violation on the
83.18 health, safety, or rights of persons served by the program.

83.19 (b) If a license holder appeals the suspension or revocation of a license and the license
83.20 holder continues to operate the program pending a final order on the appeal, the commissioner
83.21 shall issue the license holder a temporary provisional license. Unless otherwise specified
83.22 by the commissioner, variances in effect on the date of the license sanction under appeal
83.23 continue under the temporary provisional license. If a license holder fails to comply with
83.24 applicable law or rule while operating under a temporary provisional license, the
83.25 commissioner may impose additional sanctions under this section and section 245A.06, and
83.26 may terminate any prior variance. If a temporary provisional license is set to expire, a new
83.27 temporary provisional license shall be issued to the license holder upon payment of any fee
83.28 required under section 245A.10. The temporary provisional license shall expire on the date
83.29 the final order is issued. If the license holder prevails on the appeal, a new nonprovisional
83.30 license shall be issued for the remainder of the current license period.

83.31 (c) If a license holder is under investigation and the license issued under this chapter is
83.32 due to expire before completion of the investigation, the program shall be issued a new

license upon completion of the reapplication requirements and payment of any applicable license fee. Upon completion of the investigation, a licensing sanction may be imposed against the new license under this section, section 245A.06, or 245A.08.

(d) Failure to reapply or closure of a license issued under this chapter by the license holder prior to the completion of any investigation shall not preclude the commissioner from issuing a licensing sanction under this section, or section 245A.06, or 245A.08, 245A.045 or 245A.06 at the conclusion of the investigation.

(e) The commissioner may suspend, revoke, or close a license when the commissioner determines that a licensed program has not been serving any clients for a consecutive period of 12 months or longer. The commissioner need not consider nature, severity, or chronicity of the act when suspending, revoking, or closing a license under this provision.

(f) The commissioner may suspend or revoke a license when the commissioner determines that a license holder or controlling individual was criminally charged with fraud or theft. The commissioner need not consider nature, severity, or chronicity of the act when suspending or revoking a license under this provision.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 8. Minnesota Statutes 2016, section 245A.07, subdivision 3, is amended to read:

Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend or revoke a license, or impose a fine if:

(1) a license holder fails to comply fully with applicable laws or rules including, but not limited to, this chapter and chapters 119B and 245C;

(2) a license holder, a controlling individual, or an individual living in the household where the licensed services are provided or is otherwise subject to a background study has a disqualification which has not been set aside under section 245C.22;

(3) a license holder knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license, in connection with the background study status of an individual, during an investigation, or regarding compliance with applicable laws or rules; or

(4) ~~after July 1, 2012, and upon request by the commissioner, a license holder fails to submit the information required of an applicant under section 245A.04, subdivision 1, paragraph (f) or (g)~~ a license holder is prohibited from holding a license according to section 245.095.

A license holder who has had a license issued under this chapter suspended, revoked, or has been ordered to pay a fine must be given notice of the action by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or a fine was ordered.

(b) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a timely appeal of an order suspending or revoking a license, the license holder may continue to operate the program as provided in section 245A.04, subdivision 7, paragraphs ~~(g)~~ (f) and ~~(h)~~ (g), until the commissioner issues a final order on the suspension or revocation.

(c)(1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an order to pay a fine must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order.

(2) The license holder shall pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(3) A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order

to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail or personal service that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557 for which the license holder is determined responsible for the maltreatment under section 626.556, subdivision 10e, paragraph (i), or 626.557, subdivision 9c, paragraph (c); the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff-to-child or adult ratios, and failure to comply with background study requirements under chapter 245C; and the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those subject to a \$1,000 or \$200 fine above. For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order. Fines assessed against a license holder that holds a license to provide home and community-based services, as identified in section 245D.03, subdivision 1, and a community residential setting or day services facility license under chapter 245D where the services are provided, may be assessed against both licenses for the same occurrence, but the combined amount of the fines shall not exceed the amount specified in this clause for that occurrence.

(5) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

(d) Except for background study violations involving the failure to comply with an order to immediately remove an individual or an order to provide continuous, direct supervision, the commissioner shall not issue a fine under paragraph (c) relating to a background study violation to a license holder who self-corrects a background study violation before the commissioner discovers the violation. A license holder who has previously exercised the provisions of this paragraph to avoid a fine for a background study violation may not avoid a fine for a subsequent background study violation unless at least 365 days have passed since the license holder self-corrected the earlier background study violation.

EFFECTIVE DATE. This section is effective August 1, 2017.

87.1 Sec. 9. Minnesota Statutes 2016, section 245A.08, subdivision 3, is amended to read:

87.2 Subd. 3. **Burden of proof.** (a) At a hearing regarding a licensing sanction under section
87.3 245A.07, including consolidated hearings under subdivision 2a, the commissioner may
87.4 demonstrate reasonable cause for action taken by submitting statements, reports, or affidavits
87.5 to substantiate the allegations that the license holder failed to comply fully with applicable
87.6 law or rule. If the commissioner demonstrates that reasonable cause existed, the burden of
87.7 proof shifts to the license holder to demonstrate by a preponderance of the evidence that
87.8 the license holder was in full compliance with those laws or rules that the commissioner
87.9 alleges the license holder violated, at the time that the commissioner alleges the violations
87.10 of law or rules occurred.

87.11 (b) At a hearing on denial of an application for a license or to convert a provisional
87.12 license issued under section 245A.045 into a license, the applicant bears the burden of proof
87.13 to demonstrate by a preponderance of the evidence that the appellant has complied fully
87.14 with this chapter and other applicable law or rule and that the application should be approved
87.15 and a license granted.

87.16 **EFFECTIVE DATE.** This section is effective August 1, 2017.

87.17 Sec. 10. Minnesota Statutes 2016, section 245C.02, subdivision 5, is amended to read:

87.18 Subd. 5. **Background study.** "Background study" means the review of records conducted
87.19 by the commissioner to determine whether a subject is disqualified from direct contact with
87.20 persons served by a program and, where specifically provided in statutes, whether a subject
87.21 is disqualified from having access to persons served by a program. If required by law, the
87.22 background study must include a national criminal history record check.

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

87.24 Sec. 11. Minnesota Statutes 2016, section 245C.02, is amended by adding a subdivision
87.25 to read:

87.26 Subd. 5a. **National criminal history record check.** "National criminal history record
87.27 check" means a check of records maintained by the Federal Bureau of Investigation through
87.28 submission of fingerprints through the Minnesota Bureau of Criminal Apprehension to the
87.29 Federal Bureau of Investigation, when specifically required by law.

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

88.1 Sec. 12. Minnesota Statutes 2016, section 245C.02, is amended by adding a subdivision
88.2 to read:

88.3 Subd. 5b. **National criminal records repository.** For purposes of background studies
88.4 conducted under this chapter, "national criminal records repository" refers to the Federal
88.5 Bureau of Investigation.

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

88.7 Sec. 13. Minnesota Statutes 2016, section 245C.02, subdivision 13b, is amended to read:

88.8 Subd. 13b. **NETStudy 2.0.** "NETStudy 2.0" means the commissioner's system that
88.9 replaces both NETStudy and the department's internal background study processing system.
88.10 NETStudy 2.0 is designed to enhance protection of children and vulnerable adults by
88.11 improving the accuracy of background studies through fingerprint-based criminal record
88.12 checks and expanding the background studies to include a review of information from the
88.13 Minnesota Court Information System and ~~the national crime information database~~ a national
88.14 criminal history record check. NETStudy 2.0 is also designed to increase efficiencies in and
88.15 the speed of the hiring process by:

88.16 (1) providing access to and updates from public Web-based data related to employment
88.17 eligibility;

88.18 (2) decreasing the need for repeat studies through electronic updates of background
88.19 study subjects' criminal records;

88.20 (3) supporting identity verification using subjects' Social Security numbers and
88.21 photographs;

88.22 (4) using electronic employer notifications; and

88.23 (5) issuing immediate verification of subjects' eligibility to provide services as more
88.24 studies are completed under the NETStudy 2.0 system.

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

88.26 Sec. 14. Minnesota Statutes 2016, section 245C.05, subdivision 1, is amended to read:

88.27 Subdivision 1. **Individual studied.** (a) The individual who is the subject of the
88.28 background study must provide the applicant, license holder, or other entity under section
88.29 245C.04 with sufficient information to ensure an accurate study, including:

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

- 89.1 (2) current home address, city, and state of residence;
- 89.2 (3) current zip code;
- 89.3 (4) sex;
- 89.4 (5) date of birth;
- 89.5 (6) driver's license number or state identification number; and
- 89.6 (7) upon implementation of NETStudy 2.0, the home address, city, county, and state of
- 89.7 residence for the past five years.

89.8 (b) Every subject of a background study conducted or initiated by counties or private

89.9 agencies under this chapter must also provide the home address, city, county, and state of

89.10 residence for the past five years.

89.11 (c) Every subject of a background study related to private agency adoptions or related

89.12 to child foster care licensed through a private agency, who is 18 years of age or older, shall

89.13 also provide the commissioner a signed consent for the release of any information received

89.14 ~~from national crime information databases~~ following a national criminal history record

89.15 check to the private agency that initiated the background study.

89.16 (d) The subject of a background study shall provide fingerprints and a photograph as

89.17 required in subdivision 5.

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

89.19 Sec. 15. Minnesota Statutes 2016, section 245C.05, subdivision 5, is amended to read:

89.20 Subd. 5. **Fingerprints and photograph.** (a) Before the implementation of NETStudy

89.21 2.0, except as provided in paragraph (c), for any background study completed under this

89.22 chapter, when the commissioner has reasonable cause to believe that further pertinent

89.23 information may exist on the subject of the background study, the subject shall provide the

89.24 commissioner with a set of classifiable fingerprints obtained from an authorized agency for

89.25 a national criminal history record check.

89.26 (b) Before the implementation of NETStudy 2.0, for purposes of requiring fingerprints

89.27 for a national criminal history record check, the commissioner has reasonable cause when,

89.28 but not limited to, the:

89.29 (1) information from the Bureau of Criminal Apprehension indicates that the subject is

89.30 a multistate offender;

(2) information from the Bureau of Criminal Apprehension indicates that multistate offender status is undetermined; or

(3) commissioner has received a report from the subject or a third party indicating that the subject has a criminal history in a jurisdiction other than Minnesota.

(c) Notwithstanding paragraph (d), for background studies conducted by the commissioner for child foster care, adoptions, or a transfer of permanent legal and physical custody of a child, the subject of the background study, who is 18 years of age or older, shall provide the commissioner with a set of classifiable fingerprints obtained from an authorized agency for a national criminal history record check.

(d) For background studies initiated on or after the implementation of NETStudy 2.0, every subject of a background study must provide the commissioner with a set of the background study subject's classifiable fingerprints and photograph. The photograph and fingerprints must be recorded at the same time by the commissioner's authorized fingerprint collection vendor and sent to the commissioner through the commissioner's secure data system described in section 245C.32, subdivision 1a, paragraph (b). The fingerprints shall not be retained by the Department of Public Safety, Bureau of Criminal Apprehension, or the commissioner, but will be retained by the Federal Bureau of Investigation. The commissioner's authorized fingerprint collection vendor shall, for purposes of verifying the identity of the background study subject, be able to view the identifying information entered into NETStudy 2.0 by the entity that initiated the background study, but shall not retain the subject's fingerprints, photograph, or information from NETStudy 2.0. The authorized fingerprint collection vendor shall retain no more than the name and date and time the subject's fingerprints were recorded and sent, only as necessary for auditing and billing activities.

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

Sec. 16. Minnesota Statutes 2016, section 245C.08, subdivision 1, is amended to read:

Subdivision 1. **Background studies conducted by Department of Human Services.**

(a) For a background study conducted by the Department of Human Services, the commissioner shall review:

(1) information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (j);

(2) the commissioner's records relating to the maltreatment of minors in licensed programs, and from findings of maltreatment of minors as indicated through the social service information system;

(3) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;

(4) information from the Bureau of Criminal Apprehension, including information regarding a background study subject's registration in Minnesota as a predatory offender under section 243.166;

(5) except as provided in clause (6), information ~~from the national crime information system~~ received as a result of a national criminal history record check when the commissioner has reasonable cause as defined under section 245C.05, subdivision 5, or as required under section 144.057, subdivision 1, clause (2); and

(6) for a background study related to a child foster care application for licensure, a transfer of permanent legal and physical custody of a child under sections 260C.503 to 260C.515, or adoptions, the commissioner shall also review:

(i) information from the child abuse and neglect registry for any state in which the background study subject has resided for the past five years; and

(ii) ~~information from national crime information databases~~, when the background study subject is 18 years of age or older, information received from a national criminal history record check.

(b) Notwithstanding expungement by a court, the commissioner may consider information obtained under paragraph (a), clauses (3) and (4), unless the commissioner received notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner.

(c) The commissioner shall also review criminal case information received according to section 245C.04, subdivision 4a, from the Minnesota court information system that relates to individuals who have already been studied under this chapter and who remain affiliated with the agency that initiated the background study.

(d) When the commissioner has reasonable cause to believe that the identity of a background study subject is uncertain, the commissioner may require the subject to provide a set of classifiable fingerprints for purposes of completing a fingerprint-based record check with the Bureau of Criminal Apprehension. Fingerprints collected under this paragraph

92.1 shall not be saved by the commissioner after they have been used to verify the identity of
92.2 the background study subject against the particular criminal record in question.

92.3 (e) The commissioner may inform the entity that initiated a background study under
92.4 NETStudy 2.0 of the status of processing of the subject's fingerprints.

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

92.6 Sec. 17. Minnesota Statutes 2016, section 245C.08, subdivision 3, is amended to read:

92.7 Subd. 3. **Arrest and investigative information.** (a) For any background study completed
92.8 under this section, if the commissioner has reasonable cause to believe the information is
92.9 pertinent to the disqualification of an individual, the commissioner also may review arrest
92.10 and investigative information from:

92.11 (1) the Bureau of Criminal Apprehension;

92.12 (2) the commissioner of health;

92.13 (3) a county attorney;

92.14 (4) a county sheriff;

92.15 (5) a county agency;

92.16 (6) a local chief of police;

92.17 (7) other states;

92.18 (8) the courts;

92.19 (9) the Federal Bureau of Investigation received by the commissioner following a national
92.20 criminal history record check;

92.21 (10) the National Criminal Records Repository; and

92.22 (11) criminal records from other states.

92.23 (b) The commissioner is not required to conduct more than one review of a subject's
92.24 records from the Federal Bureau of Investigation if a ~~review of the subject's criminal history~~
92.25 ~~with the Federal Bureau of Investigation~~ national criminal history record check has already
92.26 been completed by the commissioner and there has been no break in the subject's affiliation
92.27 with the license holder who initiated the background study.

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

93.1 Sec. 18. Minnesota Statutes 2016, section 245C.12, is amended to read:

93.2 **245C.12 BACKGROUND STUDY; TRIBAL ORGANIZATIONS.**

93.3 (a) For the purposes of background studies completed by tribal organizations performing
93.4 licensing activities otherwise required of the commissioner under this chapter, after obtaining
93.5 consent from the background study subject, tribal licensing agencies shall have access to
93.6 criminal history data in the same manner as county licensing agencies and private licensing
93.7 agencies under this chapter.

93.8 (b) Tribal organizations may contract with the commissioner to obtain background study
93.9 data on individuals under tribal jurisdiction related to adoptions according to section 245C.34.
93.10 Tribal organizations may also contract with the commissioner to obtain background study
93.11 data on individuals under tribal jurisdiction related to child foster care according to section
93.12 245C.34.

93.13 (c) For the purposes of background studies completed to comply with a tribal
93.14 organization's licensing requirements for individuals affiliated with a tribally licensed nursing
93.15 facility, the commissioner shall obtain criminal history data from the ~~National Criminal~~
93.16 ~~Records Repository~~ national criminal history record check in accordance with section
93.17 245C.32.

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

93.19 Sec. 19. Minnesota Statutes 2016, section 245C.32, subdivision 1a, is amended to read:

93.20 Subd. 1a. **NETStudy 2.0 system.** (a) The commissioner shall design, develop, and test
93.21 the NETStudy 2.0 system and implement it no later than September 1, 2015.

93.22 (b) The NETStudy 2.0 system developed and implemented by the commissioner shall
93.23 incorporate and meet all applicable data security standards and policies required by the
93.24 Federal Bureau of Investigation (FBI), Department of Public Safety, Bureau of Criminal
93.25 Apprehension, and the Office of MN.IT Services. The system shall meet all required
93.26 standards for encryption of data at the database level as well as encryption of data that
93.27 travels electronically among agencies initiating background studies, the commissioner's
93.28 authorized fingerprint collection vendor, the commissioner, the Bureau of Criminal
93.29 Apprehension, and in cases involving national criminal history record checks, the FBI.

93.30 (c) The data system developed and implemented by the commissioner shall incorporate
93.31 a system of data security that allows the commissioner to control access to the data field
93.32 level by the commissioner's employees. The commissioner shall establish that employees

94.1 have access to the minimum amount of private data on any individual as is necessary to
94.2 perform their duties under this chapter.

94.3 (d) The commissioner shall oversee regular quality and compliance audits of the
94.4 authorized fingerprint collection vendor.

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

94.6 Sec. 20. Minnesota Statutes 2016, section 245C.32, subdivision 2, is amended to read:

94.7 Subd. 2. **Use.** (a) The commissioner may also use these systems and records to obtain
94.8 and provide criminal history data from the Bureau of Criminal Apprehension, criminal
94.9 history data held by the commissioner, and data about substantiated maltreatment under
94.10 section 626.556 or 626.557, for other purposes, provided that:

94.11 (1) the background study is specifically authorized in statute; or

94.12 (2) the request is made with the informed consent of the subject of the study as provided
94.13 in section 13.05, subdivision 4.

94.14 (b) An individual making a request under paragraph (a), clause (2), must agree in writing
94.15 not to disclose the data to any other individual without the consent of the subject of the data.

94.16 (c) The commissioner may recover the cost of obtaining and providing background study
94.17 data by charging the individual or entity requesting the study a fee of no more than \$20 per
94.18 study. The fees collected under this paragraph are appropriated to the commissioner for the
94.19 purpose of conducting background studies.

94.20 (d) The commissioner shall recover the cost of obtaining background study data required
94.21 under section 524.5-118 through a fee of \$50 per study for an individual who has not lived
94.22 outside Minnesota for the past ten years, and a fee of \$100 for an individual who has resided
94.23 outside of Minnesota for any period during the ten years preceding the background study.
94.24 The commissioner shall recover, from the individual, any additional fees charged by other
94.25 states' licensing agencies that are associated with these data requests. Fees under subdivision
94.26 3 also apply when ~~criminal history data from the National Criminal Records Repository is~~
94.27 ~~required~~, as required by law, the background study includes a national criminal history
94.28 record check.

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

95.1 Sec. 21. Minnesota Statutes 2016, section 245C.32, subdivision 3, is amended to read:

95.2 Subd. 3. **National records search.** (a) When specifically required by statute, the
95.3 ~~commissioner shall also obtain criminal history data from the National Criminal Records~~
95.4 ~~Repository~~ background study shall include a national criminal history record check.

95.5 (b) To obtain criminal history data from the ~~National Criminal Records Repository~~,
95.6 Federal Bureau of Investigation, the commissioner shall require classifiable fingerprints of
95.7 the data subject and must submit these fingerprint requests through the Bureau of Criminal
95.8 Apprehension.

95.9 (c) The commissioner may require the background study subject to submit fingerprint
95.10 images electronically. The commissioner may not require electronic fingerprint images until
95.11 the electronic recording and transfer system is available for noncriminal justice purposes
95.12 and the necessary equipment is in use in the law enforcement agency in the background
95.13 study subject's local community.

95.14 (d) The commissioner may recover the cost of obtaining ~~and providing~~ criminal history
95.15 ~~data from the National Criminal Records Repository~~, including a national criminal history
95.16 record check, by charging the individual or entity requesting the study a fee of no more than
95.17 \$30 per study. The fees collected under this subdivision are appropriated to the commissioner
95.18 for the purpose of ~~obtaining criminal history data from the National Criminal Records~~
95.19 ~~Repository~~ a national criminal history record check.

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

95.21 Sec. 22. Minnesota Statutes 2016, section 245C.33, subdivision 4, is amended to read:

95.22 Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review the
95.23 following information regarding the background study subject:

95.24 (1) the information under section 245C.08, subdivisions 1, 3, and 4;

95.25 (2) information from the child abuse and neglect registry for any state in which the
95.26 subject has resided for the past five years; and

95.27 (3) ~~information from national crime information databases~~ received following a national
95.28 criminal history record check, when required under section 245C.08.

95.29 (b) The commissioner shall provide any information collected under this subdivision to
95.30 the county or private agency that initiated the background study. The commissioner shall
95.31 also provide the agency:

(1) notice whether the information collected shows that the subject of the background study has a conviction listed in United States Code, title 42, section 671(a)(20)(A); and

(2) for background studies conducted under subdivision 1, paragraph (a), the date of all adoption-related background studies completed on the subject by the commissioner after June 30, 2007, and the name of the county or private agency that initiated the adoption-related background study.

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

Sec. 23. Minnesota Statutes 2016, section 245C.34, subdivision 4, is amended to read:

Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review the following information regarding the background study subject:

(1) the information under section 245C.08, subdivisions 1, 3, and 4;

(2) information from the child abuse and neglect registry for any state in which the subject has resided for the past five years; and

(3) information from ~~national crime information databases~~ a national criminal history record check, when required under section 245C.08.

(b) The commissioner shall provide any information collected under this subdivision to the tribal organization that initiated the background study. The commissioner shall indicate if the information collected shows that the subject of the background study has a conviction listed in United States Code, title 42, section 671(a)(20)(A).

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

Sec. 24. Minnesota Statutes 2016, section 245D.10, subdivision 3a, is amended to read:

Subd. 3a. **Service termination.** (a) The license holder must establish policies and procedures for service termination that promote continuity of care and service coordination with the person and the case manager and with other licensed caregivers, if any, who also provide support to the person. The policy must include the requirements specified in paragraphs (b) to (f).

(b) The license holder must permit each person to remain in the program and must not terminate services unless:

(1) the termination is necessary for the person's welfare and the person's needs cannot be met in the facility;

97.1 (2) the safety of the person or others in the program is endangered and positive support
97.2 strategies were attempted and have not achieved and effectively maintained safety for the
97.3 person or others;

97.4 (3) the health of the person or others in the program would otherwise be endangered;

97.5 (4) the program has not been paid for services;

97.6 (5) the program ceases to operate; or

97.7 (6) the person has been terminated by the lead agency from waiver eligibility.

97.8 (c) Prior to giving notice of service termination, the license holder must document actions
97.9 taken to minimize or eliminate the need for termination. Action taken by the license holder
97.10 must include, at a minimum:

97.11 (1) consultation with the person's support team or expanded support team to identify
97.12 and resolve issues leading to issuance of the notice; and

97.13 (2) a request to the case manager for intervention services identified in section 245D.03,
97.14 subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention
97.15 services to support the person in the program. This requirement does not apply to notices
97.16 of service termination issued under paragraph (b), clause (4) or (5).

97.17 If, based on the best interests of the person, the circumstances at the time of the notice were
97.18 such that the license holder was unable to take the action specified in clauses (1) and (2),
97.19 the license holder must document the specific circumstances and the reason for being unable
97.20 to do so.

97.21 (d) The notice of service termination must meet the following requirements:

97.22 (1) the license holder must notify the person or the person's legal representative and the
97.23 case manager in writing of the intended service termination. If the service termination is
97.24 from residential supports and services as defined in section 245D.03, subdivision 1, paragraph
97.25 (c), clause (3), the license holder must also notify the commissioner in writing; and

97.26 (2) the notice must include:

97.27 (i) the reason for the action;

97.28 (ii) except for a service termination under paragraph (b), clause (4) or (5), a summary
97.29 of actions taken to minimize or eliminate the need for service termination or temporary
97.30 service suspension as required under paragraph (c), and why these measures failed to prevent
97.31 the termination or suspension;

(iii) the person's right to appeal the termination of services under section 256.045, subdivision 3, paragraph (a); and

(iv) the person's right to seek a temporary order staying the termination of services according to the procedures in section 256.045, subdivision 4a or 6, paragraph (c).

(e) Notice of the proposed termination of service, including those situations that began with a temporary service suspension, must be given at least 60 days prior to termination when a license holder is providing intensive supports and services identified in section 245D.03, subdivision 1, paragraph (c), and 30 days prior to termination for all other services licensed under this chapter. This notice may be given in conjunction with a notice of temporary service suspension under subdivision 3.

(f) During the service termination notice period, the license holder must:

(1) work with the support team or expanded support team to develop reasonable alternatives to protect the person and others and to support continuity of care;

(2) provide information requested by the person or case manager; and

(3) maintain information about the service termination, including the written notice of intended service termination, in the service recipient record.

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

Sec. 25. Minnesota Statutes 2016, section 256.01, subdivision 18d, is amended to read:

Subd. 18d. **Data sharing with Department of Human Services; multiple identification cards.** (a) The commissioner of public safety shall, on a monthly basis, provide the commissioner of human services with the first, middle, and last name, the address, date of birth, driver's license or state identification card number, Social Security or taxpayer identification number, and all photographs or electronically produced images of all applicants and holders whose drivers' licenses and state identification cards have been canceled under section 171.14, paragraph (a), clause (2) or (3), by the commissioner of public safety. After the initial data report has been provided by the commissioner of public safety to the commissioner of human services under this paragraph, subsequent reports shall only include cancellations that occurred after the end date of the cancellations represented in the previous data report.

(b) The commissioner of human services shall compare the information provided under paragraph (a) with the commissioner's data regarding recipients of all public assistance programs managed by the Department of Human Services to determine whether any

99.1 individual with multiple identification cards issued by the Department of Public Safety has
99.2 illegally or improperly enrolled in any public assistance program managed by the Department
99.3 of Human Services.

99.4 (c) If the commissioner of human services determines that an applicant or recipient has
99.5 illegally or improperly enrolled in any public assistance program, the commissioner shall
99.6 provide all due process protections to the individual before terminating the individual from
99.7 the program according to applicable statute and notifying the county attorney.

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

99.9 Sec. 26. Minnesota Statutes 2016, section 256.01, subdivision 18e, is amended to read:

99.10 Subd. 18e. **Data sharing with the Department of Human Services; legal presence**
99.11 **~~date~~ data.** (a) The commissioner of public safety shall, on a monthly basis, provide the
99.12 commissioner of human services with the first, middle, and last name, and address, date of
99.13 birth, Social Security or taxpayer identification number, and driver's license or state
99.14 identification card number of all applicants and holders of drivers' licenses and state
99.15 identification cards whose temporary legal presence date has expired and as a result the
99.16 driver's license or identification card has been accordingly canceled under section 171.14
99.17 by the commissioner of public safety.

99.18 (b) The commissioner of human services shall use the information provided under
99.19 paragraph (a) to determine whether the eligibility of any recipients of public assistance
99.20 programs managed by the Department of Human Services has changed as a result of the
99.21 ~~status change in~~ data provided by the Department of Public Safety ~~data~~.

99.22 (c) If the commissioner of human services determines that a recipient has illegally or
99.23 improperly received benefits from any public assistance program, the commissioner shall
99.24 provide all due process protections to the individual before terminating the individual from
99.25 the program according to applicable statute and ~~notifying~~ must notify the county attorney.

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

99.27 Sec. 27. Minnesota Statutes 2016, section 256.045, subdivision 3, is amended to read:

99.28 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

99.29 (1) any person applying for, receiving or having received public assistance, medical
99.30 care, or a program of social services granted by the state agency or a county agency or the
99.31 federal Food Stamp Act whose application for assistance is denied, not acted upon with

100.1 reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed
100.2 to have been incorrectly paid;

100.3 (2) any patient or relative aggrieved by an order of the commissioner under section
100.4 252.27;

100.5 (3) a party aggrieved by a ruling of a prepaid health plan;

100.6 (4) except as provided under chapter 245C, any individual or facility determined by a
100.7 lead investigative agency to have maltreated a vulnerable adult under section 626.557 after
100.8 they have exercised their right to administrative reconsideration under section 626.557;

100.9 (5) any person whose claim for foster care payment according to a placement of the
100.10 child resulting from a child protection assessment under section 626.556 is denied or not
100.11 acted upon with reasonable promptness, regardless of funding source;

100.12 (6) any person to whom a right of appeal according to this section is given by other
100.13 provision of law;

100.14 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
100.15 under section 256B.15;

100.16 (8) an applicant aggrieved by an adverse decision to an application or redetermination
100.17 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

100.18 (9) except as provided under chapter 245A, an individual or facility determined to have
100.19 maltreated a minor under section 626.556, after the individual or facility has exercised the
100.20 right to administrative reconsideration under section 626.556;

100.21 (10) except as provided under chapter 245C, an individual disqualified under sections
100.22 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
100.23 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
100.24 individual has committed an act or acts that meet the definition of any of the crimes listed
100.25 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
100.26 626.556, subdivision 3, or 626.557, subdivision 3. Hearings regarding a maltreatment
100.27 determination under clause (4) or (9) and a disqualification under this clause in which the
100.28 basis for a disqualification is serious or recurring maltreatment, shall be consolidated into
100.29 a single fair hearing. In such cases, the scope of review by the human services judge shall
100.30 include both the maltreatment determination and the disqualification. The failure to exercise
100.31 the right to an administrative reconsideration shall not be a bar to a hearing under this section
100.32 if federal law provides an individual the right to a hearing to dispute a finding of
100.33 maltreatment;

(11) any person with an outstanding debt resulting from receipt of public assistance, medical care, or the federal Food Stamp Act who is contesting a setoff claim by the Department of Human Services or a county agency. The scope of the appeal is the validity of the claimant agency's intention to request a setoff of a refund under chapter 270A against the debt;

(12) a person issued a notice of service termination under section 245D.10, subdivision 3a, from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a; or

(13) an individual disability waiver recipient based on a denial of a request for a rate exception under section 256B.4914.

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only available when there is no district court action pending. If such action is filed in district court while an administrative review is pending that arises out of some or all of the events or circumstances on which the appeal is based, the administrative review must be suspended until the judicial actions are completed. If the district court proceedings are completed, dismissed, or overturned, the matter may be considered in an administrative hearing. If the district court action is a juvenile protection proceeding under chapter 260C, the matter may also be considered in an administrative hearing if an adjudication was made under section 260C.513 and the only actions still before the district court are status review hearings.

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

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

(e) The scope of hearings under paragraph (a), clause (12), shall be limited to whether the proposed termination of services is authorized under section 245D.10, subdivision 3a, paragraph (b), and whether the requirements of section 245D.10, subdivision 3a, ~~paragraph~~ paragraphs (c) to (e), were met. If the appeal includes a request for a temporary stay of termination of services, the scope of the hearing shall also include whether the case management provider has finalized arrangements for a residential facility, a program, or services that will meet the assessed needs of the recipient by the effective date of the service termination.

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

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

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

(i) Unless federal or Minnesota law specifies a different time frame or modality in which to file an appeal, an individual or organization specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision 13, why the request was not submitted within the 30-day time limit. The individual filing the appeal has the burden of proving good cause by a preponderance of the evidence.

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

Sec. 28. Minnesota Statutes 2016, section 256.045, subdivision 4, is amended to read:

Subd. 4. **Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone

103.1 hearings. A state ~~human services judge~~ Appeals Division may schedule a telephone
103.2 conference hearing when the distance or time required to travel to the county agency offices
103.3 will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual
103.4 request of the parties. Hearings may be conducted by telephone conferences unless the
103.5 applicant, recipient, former recipient, person, or facility contesting maltreatment objects.
103.6 A human services judge may grant a request for a hearing in person by holding the hearing
103.7 by interactive video technology or in person. The human services judge must hear the case
103.8 in person if the person asserts that either the person or a witness has a physical or mental
103.9 disability that would impair the person's or witness's ability to fully participate in a hearing
103.10 held by interactive video technology. The hearing shall not be held earlier than five days
103.11 after filing of the required notice with the county or state agency. The ~~state human services~~
103.12 ~~judge~~ Appeals Division shall notify all interested persons of the time, date, and location of
103.13 the hearing at least five days before the date of the hearing. Interested persons may be
103.14 represented by legal counsel or other representative of their choice, including a provider of
103.15 therapy services, at the hearing and may appear personally, testify and offer evidence, and
103.16 examine and cross-examine witnesses. The applicant, recipient, former recipient, person,
103.17 or facility contesting maltreatment shall have the opportunity to examine the contents of
103.18 the case file and all documents and records to be used by the county or state agency at the
103.19 hearing at a reasonable time before the date of the hearing and during the hearing. In hearings
103.20 under subdivision 3, paragraph (a), clauses (4), ~~(8), and (9), and (10)~~, either party may
103.21 subpoena the private data relating to the investigation prepared by the agency under section
103.22 626.556 or 626.557 that is not otherwise accessible under section 13.04, provided the identity
103.23 of the reporter may not be disclosed.

103.24 (b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph
103.25 (a), clause (4), ~~(8), or (9), or (10)~~, must be subject to a protective order which prohibits its
103.26 disclosure for any other purpose outside the hearing provided for in this section without
103.27 prior order of the district court. Disclosure without court order is punishable by a sentence
103.28 of not more than 90 days imprisonment or a fine of not more than \$1,000, or both. These
103.29 restrictions on the use of private data do not prohibit access to the data under section 13.03,
103.30 subdivision 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), ~~(8),~~
103.31 ~~and (9), and (10)~~, upon request, the county agency shall provide reimbursement for
103.32 transportation, child care, photocopying, medical assessment, witness fee, and other necessary
103.33 and reasonable costs incurred by the applicant, recipient, or former recipient in connection
103.34 with the appeal. All evidence, except that privileged by law, commonly accepted by
103.35 reasonable people in the conduct of their affairs as having probative value with respect to
103.36 the issues shall be submitted at the hearing and such hearing shall not be "a contested case"

104.1 within the meaning of section 14.02, subdivision 3. The agency must present its evidence
104.2 prior to or at the hearing, ~~and may not submit evidence after the hearing except by agreement~~
104.3 ~~of the parties at the hearing, provided the petitioner has the opportunity to respond.~~ A party
104.4 shall not submit evidence after the hearing except: (1) by agreement at the hearing between
104.5 the appellant, the agency, and the human services judge; (2) in response to new evidence;
104.6 or (3) when the human services judge determines that additional evidence is needed to
104.7 sufficiently complete the appeal file and make a fair and accurate decision. If a party submits
104.8 evidence after the appeal hearing consistent with an exception, the other party must be
104.9 allowed sufficient opportunity to respond to the evidence.

104.10 (c) In hearings under subdivision 3, paragraph (a), clauses (4), ~~(8), and (9), and (10),~~
104.11 involving determinations of maltreatment or disqualification made by more than one county
104.12 agency, by a county agency and a state agency, or by more than one state agency, the hearings
104.13 may be consolidated into a single fair hearing upon the consent of all parties and the state
104.14 human services judge.

104.15 (d) For hearings under subdivision 3, paragraph (a), clause (4) or (10), involving a
104.16 vulnerable adult, ~~the human services judge~~ Appeals Division shall notify the vulnerable
104.17 adult who is the subject of the maltreatment determination and, if known, a guardian of the
104.18 vulnerable adult appointed under section 524.5-310, or a health care agent designated by
104.19 the vulnerable adult in a health care directive that is currently effective under section 145C.06
104.20 and whose authority to make health care decisions is not suspended under section 524.5-310,
104.21 of the hearing. The notice must be sent by certified mail and inform the vulnerable adult of
104.22 the right to file a signed written statement in the proceedings. A guardian or health care
104.23 agent who prepares or files a written statement for the vulnerable adult must indicate in the
104.24 statement that the person is the vulnerable adult's guardian or health care agent and sign the
104.25 statement in that capacity. The vulnerable adult, the guardian, or the health care agent may
104.26 file a written statement with the human services judge hearing the case no later than five
104.27 business days before commencement of the hearing. The human services judge shall include
104.28 the written statement in the hearing record and consider the statement in deciding the appeal.
104.29 This subdivision does not limit, prevent, or excuse the vulnerable adult from being called
104.30 as a witness testifying at the hearing or grant the vulnerable adult, the guardian, or health
104.31 care agent a right to participate in the proceedings or appeal the ~~human services judge's~~
104.32 commissioner's decision in the case. The lead investigative agency must consider including
104.33 the vulnerable adult victim of maltreatment as a witness in the hearing. If the lead
104.34 investigative agency determines that participation in the hearing would endanger the
104.35 well-being of the vulnerable adult or not be in the best interests of the vulnerable adult, the

lead investigative agency shall inform the human services judge of the basis for this determination, which must be included in the final order. If the ~~human services judge Appeals Division~~ is not reasonably able to determine the address of the vulnerable adult, the guardian, or the health care agent, the ~~human services judge Appeals Division~~ is not required to send a hearing notice under this subdivision.

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

Sec. 29. Minnesota Statutes 2016, section 256.0451, subdivision 1, is amended to read:

Subdivision 1. **Scope.** The requirements in this section apply to all fair hearings and appeals under section 256.045, subdivision 3, paragraph (a), clauses (1), (2), (3), (5), (6), and (7). Except as provided in subdivisions 3 and 19, the requirements under this section apply to fair hearings and appeals under section 256.045, subdivision 3, paragraph (a), clauses (4), (8), and (9).

~~The term~~ For purposes of this section, "person" is used in this section to mean means an individual who, on behalf of themselves or their household, is appealing or disputing or challenging an action, a decision, or a failure to act, by an agency in the human services system. When a person involved in a proceeding under this section is represented by an attorney ~~or by an~~, authorized representative, ~~the term~~ or other advocate for whom the person gave clear consent to contest the matter on the person's behalf. "Person" also refers to means the person's attorney ~~or~~, authorized representative, or other advocate. Any notice sent to the person involved in the hearing must also be sent to the person's attorney ~~or~~, authorized representative, or other advocate.

~~The term~~ "Agency" includes the county human services agency, the state human services agency, and, where applicable, any entity involved under a contract, subcontract, grant, or subgrant with the state agency or with a county agency, that provides or operates programs or services in which appeals are governed by section 256.045. For purposes of an appeal under section 256.045, subdivision 3, paragraph (a), clause (12), "agency" means the provider who issued the notice of service termination.

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

Sec. 30. Minnesota Statutes 2016, section 256.0451, subdivision 3, is amended to read:

Subd. 3. **Agency appeal summary.** (a) Except in fair hearings and appeals under section 256.045, subdivision 3, paragraph (a), clauses (4), (8), and (9), the agency involved in an appeal must prepare a state agency appeal summary for each fair hearing appeal. The state

agency appeal summary shall be ~~mailed or otherwise~~ delivered to the person who is involved in the appeal at least three working days before the date of the hearing. The state agency appeal summary must also be ~~mailed or otherwise~~ delivered to the department's Appeals Office at least three working days before the date of the fair hearing appeal.

(b) In addition, the human services judge shall confirm that the state agency appeal summary is ~~mailed or otherwise~~ delivered to the person involved in the appeal as required under paragraph (a). The person involved in the fair hearing should be provided, through the state agency appeal summary or other reasonable methods, appropriate information about the procedures for the fair hearing and an adequate opportunity to prepare. These requirements apply equally to the state agency or an entity under contract when involved in the appeal.

(c) The contents of the state agency appeal summary must be adequate to inform the person involved in the appeal of the evidence on which the agency relies and the legal basis for the agency's action or determination.

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

Sec. 31. Minnesota Statutes 2016, section 256.0451, subdivision 5, is amended to read:

Subd. 5. **Prehearing conferences.** (a) ~~The human services judge prior to~~ Before a fair hearing appeal, the Appeals Division may hold a prehearing conference to further the interests of justice or efficiency and must include the person involved in the appeal. A person involved in a fair hearing appeal or the agency may request a prehearing conference. The prehearing conference may be conducted by telephone, in person, or in writing. The prehearing conference may address the following:

(1) disputes regarding access to files, evidence, subpoenas, or testimony;

(2) the time required for the hearing or any need for expedited procedures or decision;

(3) identification or clarification of legal or other issues that may arise at the hearing;

(4) identification of and possible agreement to factual issues; and

(5) scheduling and any other matter which will aid in the proper and fair functioning of the hearing.

(b) ~~The human services judge~~ Appeals Division shall make a record or otherwise contemporaneously summarize the prehearing conference in writing, which shall be sent to both the person involved in the hearing, the person's attorney or authorized representative, and the agency. A human services judge may make and issue rulings and orders while the

appeal is pending. During the pendency of the appeal, these rulings and orders are not subject to a request for reconsideration or appeal. These rulings and orders are subject to review under subdivision 24 and section 256.045, subdivision 7.

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

Sec. 32. Minnesota Statutes 2016, section 256.0451, subdivision 6, is amended to read:

Subd. 6. **Appeal request for emergency assistance or urgent matter.** (a) When an appeal involves an application for emergency assistance, the agency involved shall ~~mail or otherwise~~ deliver the state agency appeal summary to the department's Appeals Office within two working days of receiving the request for an appeal. A person may also request that a fair hearing be held on an emergency basis when the issue requires an immediate resolution. The ~~human services judge~~ Appeals Division shall schedule the fair hearing on the earliest available date according to the urgency of the issue involved. Issuance of the recommended decision after an emergency hearing shall be expedited.

(b) The commissioner shall issue a written decision within five working days of receiving the recommended decision, ~~shall immediately inform the parties of the outcome by telephone,~~ and shall ~~mail~~ send the decision to each party no later than two working days following the date of the decision.

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

Sec. 33. Minnesota Statutes 2016, section 256.0451, subdivision 7, is amended to read:

Subd. 7. **Continuance, rescheduling, or adjourning a hearing.** (a) A person involved in a fair hearing, or the agency, may request a continuance, a rescheduling, or an adjournment of a hearing for a reasonable period of time. The grounds for granting a request for a continuance, a rescheduling, or adjournment of a hearing include, but are not limited to, the following:

(1) to reasonably accommodate the appearance of a witness;

(2) to ensure that the person or the agency has adequate opportunity for preparation and for presentation of evidence and argument;

(3) to ensure that the person or the agency has adequate opportunity to review, evaluate, and respond to new evidence, or where appropriate, to require that the person or agency review, evaluate, and respond to new evidence;

(4) to permit the person involved and the agency to negotiate toward resolution of some or all of the issues where both agree that additional time is needed;

(5) to permit the agency to reconsider a previous action or determination;

(6) to permit or to require the performance of actions not previously taken; and

(7) to accommodate a person's or agency's conflict of previously scheduled appointments;

(8) to accommodate a person's physical or mental illness;

(9) to accommodate an interpreter, translator, or other service when necessary to accommodate a person with a disability; or

~~(7)~~ (10) to provide additional time or to permit or require additional activity by the person or agency as the interests of fairness may require.

(b) Requests for continuances or for rescheduling may be made orally or in writing. ~~The person or agency requesting the continuance or rescheduling must first make reasonable efforts to contact the other participants in the hearing or their representatives and seek to obtain an agreement on the request. Requests for continuance or rescheduling should be made no later than three working days before the scheduled date of the hearing, unless there is a good cause as specified in subdivision 13.~~ When a request to reschedule a hearing is received less than five calendar days before the scheduled hearing date, the requesting party must attempt, at least once, to notify the other party of the request and provide the other party an opportunity to object, if applicable. When a request to reschedule a hearing is received less than 24 hours before the scheduled hearing date, the Appeals Division must consider the potential prejudicial effect and burdens on the parties in reviewing the request. Unless the Appeals Division makes a written determination that a request to reschedule a hearing was made to unnecessarily delay the proceeding or that a party's objection and the reason for the objection outweighed the need to reschedule, the hearing must be rescheduled for good cause as determined by the Appeals Division. Granting a continuance or rescheduling may be conditioned upon a waiver by the requester of applicable time limits but should not cause unreasonable delay.

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

Sec. 34. Minnesota Statutes 2016, section 256.0451, subdivision 9, is amended to read:

Subd. 9. **No ex parte contact.** The human services judge shall not have ex parte contact on substantive issues with the agency or with any person or witness in a fair hearing appeal. No employee of the department or agency shall review, interfere with, change, or attempt

to influence the recommended decision of the human services judge in any fair hearing appeal, except through the procedure allowed in subdivision 18. The limitations in this subdivision do not affect the commissioner's authority to review or reconsider decisions or make final decisions. The limitations in this subdivision also do not affect the commissioner's authority to set policies and procedures for the processing and administration of fair hearing appeals.

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

Sec. 35. Minnesota Statutes 2016, section 256.0451, subdivision 10, is amended to read:

Subd. 10. **Telephone or face-to-face hearing.** A fair hearing appeal may be conducted by telephone, by other electronic media, or by an in-person, face-to-face hearing. ~~At the request of the person involved in a fair hearing appeal or their representative, a face-to-face hearing shall be conducted with all participants personally present before the human services judge.~~ A human services judge may satisfy a request for an in-person hearing by holding the hearing using interactive video technology or in person. However, the human services judge must hold an in-person hearing if a party asserts that either the party or a witness has a physical or mental disability that would impair the party's or witness's ability to fully participate in a hearing held using interactive video technology.

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

Sec. 36. Minnesota Statutes 2016, section 256.0451, subdivision 11, is amended to read:

Subd. 11. **Hearing facilities and equipment.** (a) If the hearing is held in person, the human services judge shall conduct the hearing in the county where the person involved resides, unless an alternate location is mutually agreed upon before the hearing, or unless the person has agreed to a hearing by telephone. In-person hearings under section 256.045, subdivision 3, paragraph (a), clauses (4), ~~(8), and (9), and (10),~~ must be conducted in the county where the determination was made, unless an alternate location is mutually agreed upon before the hearing. The hearing room used for an in-person hearing shall be of sufficient size and layout to adequately accommodate both the number of individuals participating in the hearing and any identified special needs of any individual participating in the hearing.

(b) The human services judge shall ensure that all communication and recording equipment that is necessary to conduct the hearing and to create an adequate record is present and functioning properly. If any necessary communication or recording equipment fails or ceases to operate effectively, the human services judge shall take any steps necessary, including stopping or adjourning the hearing, until the necessary equipment is present and

functioning properly. All reasonable efforts shall be undertaken to prevent and avoid any delay in the hearing process caused by defective communication or recording equipment.

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

Sec. 37. Minnesota Statutes 2016, section 256.0451, subdivision 12, is amended to read:

Subd. 12. **Interpreter and translation services.** The human services judge has a duty to inquire and to determine whether any participant in the hearing needs the services of an interpreter or translator in order to participate in or to understand the hearing process. Necessary interpreter or translation services must be provided by the agency taking the action in the appeal at no charge to the person involved in the hearing. If it appears that interpreter or translation services are needed but are not available for the scheduled hearing, the human services judge shall continue or postpone the hearing until appropriate services can be provided.

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

Sec. 38. Minnesota Statutes 2016, section 256.0451, subdivision 21, is amended to read:

Subd. 21. **Closing of the record.** The agency must present its evidence prior to or at the hearing. ~~The agency shall not be permitted to submit evidence after the hearing except by agreement at the hearing between the person involved, the agency, and the human services judge. If evidence is submitted after the hearing, based on such an agreement, the person involved and the agency must be allowed sufficient opportunity to respond to the evidence. When necessary, the record shall remain open to permit a person to submit additional evidence on the issues presented at the hearing.~~ A party shall not submit evidence after the hearing except: (1) by agreement at the hearing between the appellant, the agency, and the human services judge; (2) in response to new evidence; or (3) when the human services judge determines that additional evidence is needed to sufficiently complete the appeal file and make a fair and accurate decision. If a party submits evidence after the appeal hearing consistent with an exception, the other party must be allowed sufficient opportunity to respond to the evidence.

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

Sec. 39. Minnesota Statutes 2016, section 256.046, subdivision 1, is amended to read:

Subdivision 1. **Hearing authority.** A local agency must initiate an administrative fraud disqualification hearing for individuals, including child care providers caring for children receiving child care assistance, accused of wrongfully obtaining assistance or intentional

program violations, in lieu of a criminal action when it has not been pursued, in the Minnesota family investment program and any affiliated program to include the diversionary work program and the work participation cash benefit program, child care assistance programs, general assistance, family general assistance program formerly codified in section 256D.05, subdivision 1, clause (15), Minnesota supplemental aid, food stamp programs, MinnesotaCare for adults without children, and upon federal approval, all categories of medical assistance and remaining categories of MinnesotaCare except for children through age 18. The Department of Human Services, in lieu of a local agency, may initiate an administrative fraud disqualification hearing when the state agency is directly responsible for administration or investigation of the program for which benefits were wrongfully obtained. The hearing is subject to the requirements of section 256.045 and the requirements in Code of Federal Regulations, title 7, section 273.16. The local agency must prove by clear and convincing evidence that an individual committed, and intended to commit, an intentional program violation to disqualify the individual from participating in food stamp programs, the Minnesota family investment program, or a diversionary work program. The local agency must prove by a preponderance of the evidence that an individual committed, and intended to commit, an intentional program violation to disqualify the individual from participating in all other programs.

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

Sec. 40. Minnesota Statutes 2016, section 256.9685, subdivision 1, is amended to read:

Subdivision 1. **Authority.** (a) The commissioner shall establish procedures for determining medical assistance payment rates under a prospective payment system for inpatient hospital services in hospitals that qualify as vendors of medical assistance. The commissioner shall establish, by rule, procedures for implementing this section and sections 256.9686, 256.969, and 256.9695. Services must meet the requirements of section 256B.04, subdivision 15, to be eligible for payment.

(b) The commissioner may reduce the types of inpatient hospital admissions that are required to be certified as medically necessary after notice in the State Register and a 30-day comment period.

(c) The commissioner shall publish in the Minnesota Health Care Program Provider Manual the industry standard, evidence-based clinical decision tool used for determining the medical necessity of a recipient's hospital admission. The tool shall be used in conjunction with the recipient's medical conditions and records. The commissioner's tool designation is

112.1 not subject to administrative appeal and is not subject to the requirements of chapter 14,
112.2 including section 14.386. This paragraph supersedes any contrary rule or law.

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

112.4 Sec. 41. Minnesota Statutes 2016, section 256.9685, subdivision 1a, is amended to read:

112.5 Subd. 1a. **Administrative reconsideration.** Notwithstanding section 256B.04,
112.6 subdivision 15, the commissioner shall establish an administrative reconsideration process
112.7 for appeals of inpatient hospital services determined to be medically unnecessary. A physician
112.8 or hospital may request a reconsideration of the decision that inpatient hospital services are
112.9 not medically necessary by submitting a written request for review to the commissioner
112.10 within 30 days after receiving notice of the decision. The reconsideration process shall take
112.11 place prior to the procedures of subdivision 1b and shall be conducted by physicians a
112.12 physician that are is independent of the case under reconsideration. ~~A majority decision by~~
112.13 ~~the physicians is necessary to make a determination that the services were not medically~~
112.14 ~~necessary.~~

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

112.16 Sec. 42. Minnesota Statutes 2016, section 256B.064, subdivision 2, is amended to read:

112.17 Subd. 2. **Imposition of monetary recovery and sanctions.** (a) The commissioner shall
112.18 determine any monetary amounts to be recovered and sanctions to be imposed upon a vendor
112.19 of medical care under this section. Except as provided in paragraphs (b) and (d), neither a
112.20 monetary recovery nor a sanction will be imposed by the commissioner without prior notice
112.21 and an opportunity for a hearing, according to chapter 14, on the commissioner's proposed
112.22 action, provided that the commissioner may suspend or reduce payment to a vendor of
112.23 medical care, except a nursing home or convalescent care facility, after notice and prior to
112.24 the hearing if in the commissioner's opinion that action is necessary to protect the public
112.25 welfare and the interests of the program.

112.26 (b) Except when the commissioner finds good cause not to suspend payments under
112.27 Code of Federal Regulations, title 42, section 455.23 (e) or (f), the commissioner shall
112.28 withhold or reduce payments to a vendor of medical care without providing advance notice
112.29 of such withholding or reduction if either of the following occurs:

112.30 (1) the vendor is convicted of a crime involving the conduct described in subdivision
112.31 1a; or

(2) the commissioner determines there is a credible allegation of fraud for which an investigation is pending under the program. A credible allegation of fraud is an allegation which has been verified by the state, from any source, including but not limited to:

(i) fraud hotline complaints;

(ii) claims data mining; and

(iii) patterns identified through provider audits, civil false claims cases, and law enforcement investigations.

Allegations are considered to be credible when they have an indicia of reliability and the state agency has reviewed all allegations, facts, and evidence carefully and acts judiciously on a case-by-case basis.

(c) The commissioner must send notice of the withholding or reduction of payments under paragraph (b) within five days of taking such action unless requested in writing by a law enforcement agency to temporarily withhold the notice. The notice must:

(1) state that payments are being withheld according to paragraph (b);

(2) set forth the general allegations as to the nature of the withholding action, but need not disclose any specific information concerning an ongoing investigation;

(3) except in the case of a conviction for conduct described in subdivision 1a, state that the withholding is for a temporary period and cite the circumstances under which withholding will be terminated;

(4) identify the types of claims to which the withholding applies; and

(5) inform the vendor of the right to submit written evidence for consideration by the commissioner.

The withholding or reduction of payments will not continue after the commissioner determines there is insufficient evidence of fraud by the vendor, or after legal proceedings relating to the alleged fraud are completed, unless the commissioner has sent notice of intention to impose monetary recovery or sanctions under paragraph (a). Upon conviction for a crime related to the provision, management, or administration of a health service under medical assistance, a payment held pursuant to this section by the commissioner or a managed care organization that contracts with the commissioner under section 256B.035 is forfeited up to the amount of any overpayment identified by the commissioner or managed care organization, regardless of the amount charged in the criminal complaint or the amount of criminal restitution ordered.

114.1 (d) The commissioner shall suspend or terminate a vendor's participation in the program
114.2 without providing advance notice and an opportunity for a hearing when the suspension or
114.3 termination is required because of the vendor's exclusion from participation in Medicare.
114.4 Within five days of taking such action, the commissioner must send notice of the suspension
114.5 or termination. The notice must:

114.6 (1) state that suspension or termination is the result of the vendor's exclusion from
114.7 Medicare;

114.8 (2) identify the effective date of the suspension or termination; and

114.9 (3) inform the vendor of the need to be reinstated to Medicare before reapplying for
114.10 participation in the program.

114.11 (e) Upon receipt of a notice under paragraph (a) that a monetary recovery or sanction is
114.12 to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision
114.13 3, by filing with the commissioner a written request of appeal. The appeal request must be
114.14 received by the commissioner no later than 30 days after the date the notification of monetary
114.15 recovery or sanction was mailed to the vendor. The appeal request must specify:

114.16 (1) each disputed item, the reason for the dispute, and an estimate of the dollar amount
114.17 involved for each disputed item;

114.18 (2) the computation that the vendor believes is correct;

114.19 (3) the authority in statute or rule upon which the vendor relies for each disputed item;

114.20 (4) the name and address of the person or entity with whom contacts may be made
114.21 regarding the appeal; and

114.22 (5) other information required by the commissioner.

114.23 (f) The commissioner may order a vendor to forfeit a fine for failure to fully document
114.24 services according to standards in this chapter and Minnesota Rules, chapter 9505. The
114.25 commissioner may assess fines if specific required components of documentation are
114.26 missing. The fine for incomplete documentation shall equal 20 percent of the amount paid
114.27 on the claims for reimbursement submitted by the vendor, or up to \$5,000, whichever is
114.28 less. If the commissioner determines that a vendor repeatedly violated this chapter or
114.29 Minnesota Rules, chapter 9505, related to the provision of services to program recipients
114.30 and the submission of claims for payment, the commissioner may order a vendor to forfeit
114.31 a fine based on the nature, severity, and chronicity of the violations, in an amount of up to
114.32 \$5,000 or 20 percent of the value of the claims, whichever is greater.

(g) The vendor shall pay the fine assessed on or before the payment date specified. If the vendor fails to pay the fine, the commissioner may withhold or reduce payments and recover the amount of the fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

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

Sec. 43. Minnesota Statutes 2016, section 256B.064, is amended by adding a subdivision to read:

Subd. 3. Vendor mandates on prohibited hiring. (a) The commissioner shall maintain and publish a list of each excluded individual and entity that was convicted of a crime related to the provision, management, or administration of a medical assistance health service, or suspended or terminated under subdivision 2. A vendor that receives funding from medical assistance shall not:

(1) employ an individual or entity who is on the exclusion list; or

(2) enter into or maintain a business relationship with an individual or entity that is on the exclusion list.

(b) Before hiring or entering into a business transaction, a vendor must check the exclusion list. The vendor must check the exclusion list on a monthly basis and document the date and time the exclusion list was checked and the name and title of the person who checked the exclusion list. The vendor must:

(1) immediately terminate a current employee on the exclusion list; and

(2) immediately terminate a business relationship with an individual or entity on the exclusion list.

(c) A vendor's requirement to check the exclusion list and to terminate an employee on the exclusion list applies to each employee, even if the named employee is not responsible for direct patient care or direct submission of a claim to medical assistance. The requirement to check the exclusion list and terminate a business relationship with an individual or entity on the exclusion list applies to each business relationship, even if the named individual or entity is not responsible for direct patient care or direct submission of a claim to medical assistance.

(d) A vendor that employs or enters into or maintains a business relationship with an individual or entity on the exclusion list must refund any payment related to a service rendered by an individual or entity on the exclusion list from the date the individual is

116.1 employed or the date the individual is placed on the exclusionary list, whichever is later,
116.2 and may be subject to:

116.3 (1) sanctions under subdivision 2;

116.4 (2) civil monetary penalty up to \$25,000 for each determination by the department that
116.5 the vendor employed or contracted with an individual or entity on the exclusion list; and

116.6 (3) other fines or penalties allowed by law.

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

116.8 Sec. 44. Minnesota Statutes 2016, section 256B.064, is amended by adding a subdivision
116.9 to read:

116.10 Subd. 4. **Notice.** (a) The notice required under subdivision 2 shall be served by first class
116.11 mail at the address submitted to the department by the vendor. Service is complete upon
116.12 mailing. The commissioner shall place an affidavit of the first class mailing in the vendor's
116.13 file as an indication of the address and the date of mailing.

116.14 (b) The department shall give notice in writing to a recipient placed in the Minnesota
116.15 restricted recipient program under section 256B.0646 and Minnesota Rules, part 9505.2200.
116.16 The notice shall be mailed by first class mail to the recipient's current address on file with
116.17 the department. A recipient placed in the restricted recipient program may contest the
116.18 placement by submitting a written request for a hearing to the department within 90 days
116.19 of the notice being mailed.

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

116.21 Sec. 45. **[256B.0646] MINNESOTA RESTRICTED RECIPIENT PROGRAM.**

116.22 (a) When a recipient's use of personal care assistance or home and community-based
116.23 personal care services and supports results in repeated abusive or fraudulent billing, regardless
116.24 of error, fault, or intent, the commissioner may place the recipient in the Minnesota restricted
116.25 recipient program. A recipient placed in the Minnesota restricted recipient program under
116.26 this section must:

116.27 (1) be placed with a traditional personal care assistance provider agency or use an agency
116.28 provider model; and

116.29 (2) obtain a referral from the recipient's designated primary care provider for personal
116.30 care assistance or home and community-based personal care services and supports.

(b) Additional conditions may be placed on the use of personal care assistance services or home and community-based personal care services and supports if the commissioner determines it is necessary to prevent future abusive or fraudulent billing.

(c) Placement in the Minnesota restricted recipient program under this section is subject to appeal according to section 256B.064.

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

Sec. 46. Minnesota Statutes 2016, section 393.07, subdivision 10, is amended to read:

Subd. 10. Food stamp program; Maternal and Child Nutrition Act. (a) The local social services agency shall establish and administer the food stamp program according to rules of the commissioner of human services, the supervision of the commissioner as specified in section 256.01, and all federal laws and regulations. The commissioner of human services shall monitor food stamp program delivery on an ongoing basis to ensure that each county complies with federal laws and regulations. Program requirements to be monitored include, but are not limited to, number of applications, number of approvals, number of cases pending, length of time required to process each application and deliver benefits, number of applicants eligible for expedited issuance, length of time required to process and deliver expedited issuance, number of terminations and reasons for terminations, client profiles by age, household composition and income level and sources, and the use of phone certification and home visits. The commissioner shall determine the county-by-county and statewide participation rate.

(b) On July 1 of each year, the commissioner of human services shall determine a statewide and county-by-county food stamp program participation rate. The commissioner may designate a different agency to administer the food stamp program in a county if the agency administering the program fails to increase the food stamp program participation rate among families or eligible individuals, or comply with all federal laws and regulations governing the food stamp program. The commissioner shall review agency performance annually to determine compliance with this paragraph.

(c) A person who commits any of the following acts has violated section 256.98 or 609.821, or both, and is subject to both the criminal and civil penalties provided under those sections:

(1) obtains or attempts to obtain, or aids or abets any person to obtain by means of a willful statement or misrepresentation, or intentional concealment of a material fact, food stamps or vouchers issued according to sections 145.891 to 145.897 to which the person is

118.1 not entitled or in an amount greater than that to which that person is entitled or which specify
118.2 nutritional supplements to which that person is not entitled; or

118.3 (2) presents or causes to be presented, coupons or vouchers issued according to sections
118.4 145.891 to 145.897 for payment or redemption knowing them to have been received,
118.5 transferred or used in a manner contrary to existing state or federal law; or

118.6 (3) willfully uses, possesses, or transfers food stamp coupons, authorization to purchase
118.7 cards or vouchers issued according to sections 145.891 to 145.897 in any manner contrary
118.8 to existing state or federal law, rules, or regulations; or

118.9 (4) buys or sells food stamp coupons, authorization to purchase cards, other assistance
118.10 transaction devices, vouchers issued according to sections 145.891 to 145.897, or any food
118.11 obtained through the redemption of vouchers issued according to sections 145.891 to 145.897
118.12 for cash or consideration other than eligible food.

118.13 ~~(d) A peace officer or welfare fraud investigator may confiscate food stamps,~~
118.14 ~~authorization to purchase cards, or other assistance transaction devices found in the~~
118.15 ~~possession of any person who is neither a recipient of the food stamp program nor otherwise~~
118.16 ~~authorized to possess and use such materials. Confiscated property shall be disposed of as~~
118.17 ~~the commissioner may direct and consistent with state and federal food stamp law. The~~
118.18 ~~confiscated property must be retained for a period of not less than 30 days to allow any~~
118.19 ~~affected person to appeal the confiscation under section 256.045.~~

118.20 ~~(e)~~ (d) Establishment of an overpayment is limited to 12 months prior to the month of
118.21 discovery due to agency error. Establishment of an overpayment is limited to six years prior
118.22 to the month of discovery due to client error or an intentional program violation determined
118.23 under section 256.046.

118.24 ~~(f)~~ (e) With regard to the federal tax revenue offset program only, recovery incentives
118.25 authorized by the federal food and consumer service shall be retained at the rate of 50 percent
118.26 by the state agency and 50 percent by the certifying county agency.

118.27 ~~(g)~~ (f) A peace officer, welfare fraud investigator, federal law enforcement official, or
118.28 the commissioner of health may confiscate vouchers found in the possession of any person
118.29 who is neither issued vouchers under sections 145.891 to 145.897, nor otherwise authorized
118.30 to possess and use such vouchers. Confiscated property shall be disposed of as the
118.31 commissioner of health may direct and consistent with state and federal law. The confiscated
118.32 property must be retained for a period of not less than 30 days.

119.1 ~~(h)~~ (g) The commissioner of human services may seek a waiver from the United States
119.2 Department of Agriculture to allow the state to specify foods that may and may not be
119.3 purchased in Minnesota with benefits funded by the federal Food Stamp Program. The
119.4 commissioner shall consult with the members of the house of representatives and senate
119.5 policy committees having jurisdiction over food support issues in developing the waiver.
119.6 The commissioner, in consultation with the commissioners of health and education, shall
119.7 develop a broad public health policy related to improved nutrition and health status. The
119.8 commissioner must seek legislative approval prior to implementing the waiver.

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

APPENDIX
Article locations in 17-0002

ARTICLE 1	CHILDREN AND FAMILIES SERVICES	Page.Ln 1.27
ARTICLE 2	MENTAL HEALTH SERVICES	Page.Ln 74.16
ARTICLE 3	OPERATIONS	Page.Ln 76.1

119B.125 PROVIDER REQUIREMENTS.

Subd. 8. Overpayment claim for failure to comply with access to records requirement.

(a) In establishing an overpayment claim under subdivision 6 for failure to provide access to attendance records, the county or commissioner is limited to the six years prior to the date the county or the commissioner requested the attendance records.

(b) When the commissioner or county establishes an overpayment claim against a current or former provider, the commissioner or county must provide notice of the claim to the provider. A notice of overpayment claim must specify the reason for the overpayment, the authority for making the overpayment claim, the time period in which the overpayment occurred, the amount of the overpayment, and the provider's right to appeal.

(c) The commissioner or county may seek to recover overpayments paid to a current or former provider. When a provider has been convicted of fraud under section 256.98, theft under section 609.52, or a federal crime relating to theft of state funds or fraudulent billing for a program administered by the commissioner or a county, recovery may be sought regardless of the amount of overpayment.

256J.751 COUNTY PERFORMANCE MANAGEMENT.

Subdivision 1. **Monthly county caseload report.** The commissioner shall report monthly to each county the following caseload information:

(1) total number of cases receiving MFIP, and subtotals of cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

(2) total number of child only assistance cases;

(3) total number of eligible adults and children receiving an MFIP grant, and subtotals for cases with one eligible parent, two eligible parents, an eligible caregiver who is not a parent, and child only cases;

(4) number of cases with an exemption from the 60-month time limit based on a family violence waiver;

(5) number of MFIP cases with work hours, and subtotals for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

(6) number of employed MFIP cases, and subtotals for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

(7) average monthly gross earnings, and averages for subgroups of cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent;

(8) number of employed cases receiving only the food portion of assistance;

(9) number of parents or caregivers exempt from work activity requirements, with subtotals for each exemption type; and

(10) number of cases with a sanction, with subtotals by level of sanction for cases with one eligible parent, two eligible parents, and an eligible caregiver who is not a parent.