

**SENATE**  
**STATE OF MINNESOTA**  
**NINETY-SECOND SESSION**

**S.F. No. 1414**

(SENATE AUTHORS: BENSON)

DATE	D-PG	OFFICIAL STATUS
02/25/2021	551	Introduction and first reading Referred to Health and Human Services Finance and Policy See HF2128, Art. 1, Sec. 8-10, 12-15; Art. 7, Sec. 1-4; Art. 9; Art. 10, Sec. 1, 3-10, 13-34, 36-54, 58, 72; Art. 13 See First Special Session 2021, HF33, Art. 1, Sec. 9, 15; Art. 8, Sec. 2, 8; Art. 11, Sec. 14; Art. 13, Sec. 4-5, 60 See HF4065

1.1 A bill for an act

1.2 relating to human services; modifying policy provisions governing continuing care

1.3 for older adults, children and family services, community supports, health care,

1.4 and human services licensing and background studies; making technical and

1.5 conforming changes; amending Minnesota Statutes 2020, sections 62C.01, by

1.6 adding a subdivision; 62D.01, by adding a subdivision; 62Q.02; 119B.11,

1.7 subdivision 2a; 119B.125, subdivision 1; 119B.13, subdivisions 6, 7; 144.216, by

1.8 adding subdivisions; 144.218, by adding a subdivision; 144.226, subdivision 1;

1.9 145.902; 245.4874, subdivision 1; 245.4885, subdivision 1; 245.697, subdivision

1.10 1; 245A.02, subdivisions 5a, 10b, by adding subdivisions; 245A.03, subdivision

1.11 7; 245A.04, subdivisions 1, 7; 245A.041, by adding subdivisions; 245A.11,

1.12 subdivision 7, by adding a subdivision; 245A.14, subdivision 4; 245A.1435;

1.13 245A.1443; 245A.146, subdivision 3; 245A.16, subdivision 1; 245A.18, subdivision

1.14 2; 245A.22, by adding a subdivision; 245A.52, subdivisions 1, 2, 3, 5, by adding

1.15 subdivisions; 245A.66, subdivision 2, by adding a subdivision; 245C.07; 245G.13,

1.16 subdivision 2; 245H.08, subdivisions 4, 5; 252.43; 252A.01, subdivision 1;

1.17 252A.02, subdivisions 2, 9, 11, 12, by adding subdivisions; 252A.03, subdivisions

1.18 3, 4; 252A.04, subdivisions 1, 2, 4; 252A.05; 252A.06, subdivisions 1, 2; 252A.07,

1.19 subdivisions 1, 2, 3; 252A.081, subdivisions 2, 3, 5; 252A.09, subdivisions 1, 2;

1.20 252A.101, subdivisions 2, 3, 5, 6, 7, 8; 252A.111, subdivisions 2, 4, 6; 252A.12;

1.21 252A.16; 252A.17; 252A.19, subdivisions 2, 4, 5, 7, 8; 252A.20; 252A.21,

1.22 subdivisions 2, 4; 254A.03, subdivision 3; 254A.171; 254A.19, subdivision 4;

1.23 254A.20; 254B.01, subdivisions 6, 8; 254B.02, subdivision 1; 254B.03, subdivisions

1.24 1, 2, 4; 254B.04, subdivision 1; 254B.05, subdivisions 1a, 1b, 4, 5; 254B.051;

1.25 254B.06, subdivisions 1, 3; 254B.12; 254B.13, subdivisions 1, 2a, 5, 6; 254B.14,

1.26 subdivisions 1, 5; 256.041; 256.042, subdivisions 2, 4; 256.741, by adding

1.27 subdivisions; 256.975, subdivision 7; 256B.051, subdivisions 1, 3, 5, 6, 7, by

1.28 adding a subdivision; 256B.0625, subdivisions 3c, 3d, 3e, 13c, 58; 256B.0638,

1.29 subdivisions 3, 5, 6; 256B.0659, subdivision 13; 256B.0911, subdivision 3c;

1.30 256B.0947, subdivision 6; 256B.4912, subdivision 13; 256B.69, subdivisions 5a,

1.31 9d; 256B.85, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 11b, 12, 12b, 13, 13a, 15,

1.32 17a, 18a, 20b, 23, 23a, by adding subdivisions; 256J.08, subdivision 21; 256J.09,

1.33 subdivision 3; 256J.45, subdivision 1; 256J.95, subdivision 5; 256N.02, subdivisions

1.34 16, 17; 256N.22, subdivision 1; 256N.23, subdivisions 2, 6; 256N.24, subdivisions

1.35 1, 8, 11, 12, 14; 256N.25, subdivision 1, by adding a subdivision; 256R.02,

1.36 subdivisions 4, 17, 18, 19, 29, 42a, 48a, by adding a subdivision; 256R.07,

1.37 subdivisions 1, 2, 3; 256R.08, subdivision 1; 256R.09, subdivisions 2, 5; 256R.13,

1.38 subdivision 4; 256R.16, subdivision 1; 256R.17, subdivision 3; 256R.26,

subdivision 1; 256R.37; 256R.39; 256S.20, subdivision 1; 259.22, subdivision 4; 259.241; 259.35, subdivision 1; 259.53, subdivision 4; 259.73; 259.75, subdivisions 5, 6, 9; 259.83, subdivision 1a; 259A.75, subdivisions 1, 2, 3, 4; 260C.007, subdivisions 22a, 26c, 31; 260C.157, subdivision 3; 260C.212, subdivisions 1, 1a, 2, 13, by adding a subdivision; 260C.219, subdivision 5; 260C.452; 260C.503, subdivision 2; 260C.515, subdivision 3; 260C.605, subdivision 1; 260C.607, subdivision 6; 260C.609; 260C.615; 260C.704; 260C.706; 260C.708; 260C.71; 260C.712; 260C.714; 260D.01; 260D.05; 260D.06, subdivision 2; 260D.07; 260D.08; 260D.14; 260E.36, by adding a subdivision; 626.557, subdivisions 4, 9, 9b, 9c, 9d, 10b, 12b; 626.5572, subdivisions 2, 4, 17; Laws 2014, chapter 150, article 4, section 6; proposing coding for new law in Minnesota Statutes, chapters 62A; 62J; 245A; 518A; repealing Minnesota Statutes 2020, sections 119B.04; 119B.125, subdivision 5; 245.981; 245A.03, subdivision 5; 245A.144; 245A.175; 246B.03, subdivision 2; 252.28, subdivisions 1, 5; 252A.02, subdivisions 8, 10; 252A.21, subdivision 3; 256.01, subdivision 31; 256.9657, subdivision 8; 256R.08, subdivision 2; 256R.49; 256S.20, subdivision 2; 259A.70; Laws 2012, chapter 247, article 1, section 30; Minnesota Rules, parts 2960.3070; 2960.3210; 9502.0425, subparts 5, 10; 9505.0275; 9505.1693; 9505.1696, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22; 9505.1699; 9505.1701; 9505.1703; 9505.1706; 9505.1712; 9505.1715; 9505.1718; 9505.1724; 9505.1727; 9505.1730; 9505.1733; 9505.1736; 9505.1739; 9505.1742; 9505.1745; 9505.1748; 9555.6255.

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

## ARTICLE 1

### CONTINUING CARE FOR OLDER ADULTS

Section 1. Minnesota Statutes 2020, section 245A.02, is amended by adding a subdivision to read:

Subd. 6d. **Family adult foster care home.** "Family adult foster care home" means an adult foster care home:

(1) that is licensed by the Department of Human Services;

(2) that is the primary residence of the license holder; and

(3) in which the license holder is the primary caregiver.

Sec. 2. Minnesota Statutes 2020, section 245A.03, subdivision 7, is amended to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a family adult foster care home license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. The commissioner shall not issue an initial license

for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) foster care settings ~~that are required to be registered under chapter 144D~~ where at least 80 percent of the residents are 55 years of age or older;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital level care; or

(5) new foster care licenses or community residential setting licenses for people receiving services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and for which a license is required. This exception does not apply to people living in their own home. For purposes of this clause, there is a presumption that a foster care or community residential setting license is required for services provided to three or more people in a dwelling unit when the setting is controlled by the provider. A license holder subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2018. This exception is available when:

4.1 (i) the person's case manager provided the person with information about the choice of  
4.2 service, service provider, and location of service, including in the person's home, to help  
4.3 the person make an informed choice; and

4.4 (ii) the person's services provided in the licensed foster care or community residential  
4.5 setting are less than or equal to the cost of the person's services delivered in the unlicensed  
4.6 setting as determined by the lead agency.

4.7 (b) The commissioner shall determine the need for newly licensed foster care homes or  
4.8 community residential settings as defined under this subdivision. As part of the determination,  
4.9 the commissioner shall consider the availability of foster care capacity in the area in which  
4.10 the licensee seeks to operate, and the recommendation of the local county board. The  
4.11 determination by the commissioner must be final. A determination of need is not required  
4.12 for a change in ownership at the same address.

4.13 (c) When an adult resident served by the program moves out of a foster home that is not  
4.14 the primary residence of the license holder according to section 256B.49, subdivision 15,  
4.15 paragraph (f), or the adult community residential setting, the county shall immediately  
4.16 inform the Department of Human Services Licensing Division. The department may decrease  
4.17 the statewide licensed capacity for adult foster care settings.

4.18 (d) Residential settings that would otherwise be subject to the decreased license capacity  
4.19 established in paragraph (c) shall be exempt if the license holder's beds are occupied by  
4.20 residents whose primary diagnosis is mental illness and the license holder is certified under  
4.21 the requirements in subdivision 6a or section 245D.33.

4.22 (e) A resource need determination process, managed at the state level, using the available  
4.23 reports required by section 144A.351, and other data and information shall be used to  
4.24 determine where the reduced capacity determined under section 256B.493 will be  
4.25 implemented. The commissioner shall consult with the stakeholders described in section  
4.26 144A.351, and employ a variety of methods to improve the state's capacity to meet the  
4.27 informed decisions of those people who want to move out of corporate foster care or  
4.28 community residential settings, long-term service needs within budgetary limits, including  
4.29 seeking proposals from service providers or lead agencies to change service type, capacity,  
4.30 or location to improve services, increase the independence of residents, and better meet  
4.31 needs identified by the long-term services and supports reports and statewide data and  
4.32 information.

4.33 (f) At the time of application and reapplication for licensure, the applicant and the license  
4.34 holder that are subject to the moratorium or an exclusion established in paragraph (a) are

required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493. Annually, by August 1, the commissioner shall provide information and data on capacity of licensed long-term services and supports, actions taken under the subdivision to manage statewide long-term services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over the health and human services budget.

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage

existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

Sec. 3. Minnesota Statutes 2020, section 245C.07, is amended to read:

**245C.07 STUDY SUBJECT AFFILIATED WITH MULTIPLE FACILITIES.**

(a) Subject to the conditions in paragraph (d), when a license holder, applicant, or other entity owns multiple programs or services that are licensed by the Department of Human Services, Department of Health, or Department of Corrections, only one background study is required for an individual who provides direct contact services in one or more of the licensed programs or services if:

(1) the license holder designates one individual with one address and telephone number as the person to receive sensitive background study information for the multiple licensed programs or services that depend on the same background study; and

(2) the individual designated to receive the sensitive background study information is capable of determining, upon request of the department, whether a background study subject is providing direct contact services in one or more of the license holder's programs or services and, if so, at which location or locations.

(b) When a license holder maintains background study compliance for multiple licensed programs according to paragraph (a), and one or more of the licensed programs closes, the license holder shall immediately notify the commissioner which staff must be transferred to an active license so that the background studies can be electronically paired with the license holder's active program.

(c) When a background study is being initiated by a licensed program or service or a foster care provider that is also ~~registered~~ licensed as an assisted living facility under chapter ~~144D~~ 144G, a study subject affiliated with multiple licensed programs or services may attach to the background study form a cover letter indicating the additional names of the programs or services, addresses, and background study identification numbers.

When the commissioner receives a notice, the commissioner shall notify each program or service identified by the background study subject of the study results.

The background study notice the commissioner sends to the subsequent agencies shall satisfy those programs' or services' responsibilities for initiating a background study on that individual.

(d) If a background study was conducted on an individual related to child foster care and the requirements under paragraph (a) are met, the background study is transferable across all licensed programs. If a background study was conducted on an individual under a license other than child foster care and the requirements under paragraph (a) are met, the background study is transferable to all licensed programs except child foster care.

(e) The provisions of this section that allow a single background study in one or more licensed programs or services do not apply to background studies submitted by adoption agencies, supplemental nursing services agencies, personnel agencies, educational programs, professional services agencies, and unlicensed personal care provider organizations.

(f) For an entity operating under NETStudy 2.0, the entity's active roster must be the system used to document when a background study subject is affiliated with multiple entities. For a background study to be transferable:

(1) the background study subject must be on and moving to a roster for which the person designated to receive sensitive background study information is the same; and

(2) the same entity must own or legally control both the roster from which the transfer is occurring and the roster to which the transfer is occurring. For an entity that holds or controls multiple licenses, or unlicensed personal care provider organizations, there must be a common highest level entity that has a legally identifiable structure that can be verified through records available from the secretary of state.

Sec. 4. Minnesota Statutes 2020, section 256.975, subdivision 7, is amended to read:

Subd. 7. **Consumer information and assistance and long-term care options counseling; Senior LinkAge Line.** (a) The Minnesota Board on Aging shall operate a statewide service to aid older Minnesotans and their families in making informed choices about long-term care options and health care benefits. Language services to persons with limited English language skills may be made available. The service, known as Senior LinkAge Line, shall serve older adults as the designated Aging and Disability Resource Center under United States Code, title 42, section 3001, the Older Americans Act Amendments of 2006 in partnership with the Disability Hub under section 256.01, subdivision 24, and must be available during business hours through a statewide toll-free number and the Internet. The Minnesota Board on Aging shall consult with, and when appropriate work through, the area agencies on aging counties, and other entities that serve aging and disabled populations of all ages, to provide and maintain the telephone infrastructure and related support for the Aging and Disability Resource Center partners

which agree by memorandum to access the infrastructure, including the designated providers of the Senior LinkAge Line and the Disability Hub.

(b) The service must provide long-term care options counseling by assisting older adults, caregivers, and providers in accessing information and options counseling about choices in long-term care services that are purchased through private providers or available through public options. The service must:

(1) develop and provide for regular updating of a comprehensive database that includes detailed listings in both consumer- and provider-oriented formats that can provide search results down to the neighborhood level;

(2) make the database accessible on the Internet and through other telecommunication and media-related tools;

(3) link callers to interactive long-term care screening tools and make these tools available through the Internet by integrating the tools with the database;

(4) develop community education materials with a focus on planning for long-term care and evaluating independent living, housing, and service options;

(5) conduct an outreach campaign to assist older adults and their caregivers in finding information on the Internet and through other means of communication;

(6) implement a messaging system for overflow callers and respond to these callers by the next business day;

(7) link callers with county human services and other providers to receive more in-depth assistance and consultation related to long-term care options;

(8) link callers with quality profiles for nursing facilities and other home and community-based services providers developed by the commissioners of health and human services;

(9) develop an outreach plan to seniors and their caregivers with a particular focus on establishing a clear presence in places that seniors recognize and:

(i) place a significant emphasis on improved outreach and service to seniors and their caregivers by establishing annual plans by neighborhood, city, and county, as necessary, to address the unique needs of geographic areas in the state where there are dense populations of seniors;

(ii) establish an efficient workforce management approach and assign community living specialist staff and volunteers to geographic areas as well as aging and disability resource



center sites so that seniors and their caregivers and professionals recognize the Senior LinkAge Line as the place to call for aging services and information;

(iii) recognize the size and complexity of the metropolitan area service system by working with metropolitan counties to establish a clear partnership with them, including seeking county advice on the establishment of local aging and disabilities resource center sites; and

(iv) maintain dashboards with metrics that demonstrate how the service is expanding and extending or enhancing its outreach efforts in dispersed or hard to reach locations in varied population centers;

(10) incorporate information about the availability of housing options, as well as registered housing with services and consumer rights within the MinnesotaHelp.info network long-term care database to facilitate consumer comparison of services and costs among housing with services establishments and with other in-home services and to support financial self-sufficiency as long as possible. Housing with services establishments and their arranged home care providers shall provide information that will facilitate price comparisons, including delineation of charges for rent and for services available. The commissioners of health and human services shall align the data elements required by ~~section 144G.06, the Uniform Consumer Information Guide~~ under the uniform checklist disclosure of services authorized by section 144G.09, subdivision 3, and this section to provide consumers standardized information and ease of comparison of long-term care options. The commissioner of human services shall provide the data to the Minnesota Board on Aging for inclusion in the MinnesotaHelp.info network long-term care database;

(11) provide long-term care options counseling. Long-term care options counselors shall:

(i) for individuals not eligible for case management under a public program or public funding source, provide interactive decision support under which consumers, family members, or other helpers are supported in their deliberations to determine appropriate long-term care choices in the context of the consumer's needs, preferences, values, and individual circumstances, including implementing a community support plan;

(ii) provide web-based educational information and collateral written materials to familiarize consumers, family members, or other helpers with the long-term care basics, issues to be considered, and the range of options available in the community;

(iii) provide long-term care futures planning, which means providing assistance to individuals who anticipate having long-term care needs to develop a plan for the more distant future; and

(iv) provide expertise in benefits and financing options for long-term care, including Medicare, long-term care insurance, tax or employer-based incentives, reverse mortgages, private pay options, and ways to access low or no-cost services or benefits through volunteer-based or charitable programs;

(12) using risk management and support planning protocols, provide long-term care options counseling under clause (13) to current residents of nursing homes deemed appropriate for discharge by the commissioner who meet a profile that demonstrates that the consumer is either at risk of readmission to a nursing home or hospital, or would benefit from long-term care options counseling to age in place. The Senior LinkAge Line shall identify and contact residents or patients deemed appropriate by developing targeting criteria and creating a profile in consultation with the commissioner. The commissioner shall provide designated Senior LinkAge Line contact centers with a list of current or former nursing home residents or people discharged from a hospital or for whom Medicare home care has ended, that meet the criteria as being appropriate for long-term care options counseling through a referral via a secure web portal. Senior LinkAge Line shall provide these residents, if they indicate a preference to receive long-term care options counseling, with initial assessment and, if appropriate, a referral to:

(i) long-term care consultation services under section 256B.0911;

(ii) designated care coordinators of contracted entities under section 256B.035 for persons who are enrolled in a managed care plan; or

(iii) the long-term care consultation team for those who are eligible for relocation service coordination due to high-risk factors or psychological or physical disability; and

(13) develop referral protocols and processes that will assist certified health care homes, Medicare home care, and hospitals to identify at-risk older adults and determine when to refer these individuals to the Senior LinkAge Line for long-term care options counseling under this section. The commissioner is directed to work with the commissioner of health to develop protocols that would comply with the health care home designation criteria and protocols available at the time of hospital discharge or the end of Medicare home care. The commissioner shall keep a record of the number of people who choose long-term care options counseling as a result of this section.

(c) Nursing homes shall provide contact information to the Senior LinkAge Line for residents identified in paragraph (b), clause (12), to provide long-term care options counseling pursuant to paragraph (b), clause (11). The contact information for residents shall include

11.1 all information reasonably necessary to contact residents, including first and last names,  
11.2 permanent and temporary addresses, telephone numbers, and e-mail addresses.

11.3 (d) The Senior LinkAge Line shall determine when it is appropriate to refer a consumer  
11.4 who receives long-term care options counseling under paragraph (b), clause (12) or (13),  
11.5 and who uses an unpaid caregiver to the self-directed caregiver service under subdivision  
11.6 12.

11.7 **EFFECTIVE DATE.** This section is effective August 1, 2021.

11.8 Sec. 5. Minnesota Statutes 2020, section 256B.0911, subdivision 3c, is amended to read:

11.9 Subd. 3c. **Consultation for housing with services.** (a) The purpose of long-term care  
11.10 consultation for registered housing with services is to support persons with current or  
11.11 anticipated long-term care needs in making informed choices among options that include  
11.12 the most cost-effective and least restrictive settings. Prospective residents maintain the right  
11.13 to choose housing with services or assisted living if that option is their preference.

11.14 (b) Registered housing with services establishments shall inform each prospective resident  
11.15 or the prospective resident's designated or legal representative of the availability of long-term  
11.16 care consultation and the need to receive and verify the consultation prior to signing a lease  
11.17 or contract. Long-term care consultation for registered housing with services is provided  
11.18 as determined by the commissioner of human services. The service is delivered under a  
11.19 partnership between lead agencies as defined in subdivision 1a, paragraph (d), and the Area  
11.20 Agencies on Aging, and is a point of entry to a combination of telephone-based long-term  
11.21 care options counseling provided by Senior LinkAge Line and in-person long-term care  
11.22 consultation provided by lead agencies. The point of entry service must be provided within  
11.23 five working days of the request of the prospective resident as follows:

11.24 (1) the consultation shall be conducted with the prospective resident, ~~or in the alternative,~~  
11.25 the prospective resident's designated or legal representative, or the prospective resident's  
11.26 spouse or legal partner, if:

11.27 (i) the prospective resident verbally requests; or

11.28 (ii) the registered housing with services provider has documentation of the authority of  
11.29 the prospective resident's spouse or legal partner or designated or legal representative's  
11.30 authority representative to enter into a lease or contract on behalf of the prospective resident  
11.31 and accepts the documentation in good faith;

11.32 (2) the consultation shall be performed in a manner that provides objective and complete  
11.33 information;

12.1 (3) the consultation must include a review of the prospective resident's reasons for  
12.2 considering housing with services, the prospective resident's personal goals, a discussion  
12.3 of the prospective resident's immediate and projected long-term care needs, and alternative  
12.4 community services or housing with services settings that may meet the prospective resident's  
12.5 needs;

12.6 (4) the prospective resident shall be informed of the availability of a face-to-face visit  
12.7 at no charge to the prospective resident to assist the prospective resident in assessment and  
12.8 planning to meet the prospective resident's long-term care needs; and

12.9 (5) verification of counseling shall be generated and provided to the prospective resident  
12.10 by Senior LinkAge Line upon completion of the telephone-based counseling.

12.11 (c) Housing with services establishments registered under chapter 144D shall:

12.12 (1) inform each prospective resident or the prospective resident's spouse or legal partner  
12.13 or designated or legal representative of the availability of and contact information for  
12.14 consultation services under this subdivision;

12.15 (2) receive a copy of the verification of counseling prior to executing a lease or service  
12.16 contract with the prospective resident, and prior to executing a service contract with  
12.17 individuals who have previously entered into lease-only arrangements; and

12.18 (3) retain a copy of the verification of counseling as part of the resident's file.

12.19 (d) Emergency admissions to registered housing with services establishments prior to  
12.20 consultation under paragraph (b) are permitted according to policies established by the  
12.21 commissioner.

12.22 **EFFECTIVE DATE.** This section is effective August 1, 2021.

12.23 Sec. 6. Minnesota Statutes 2020, section 256R.02, subdivision 4, is amended to read:

12.24 Subd. 4. **Administrative costs.** "Administrative costs" means the identifiable costs for  
12.25 administering the overall activities of the nursing home. These costs include salaries and  
12.26 wages of the administrator, assistant administrator, business office employees, security  
12.27 guards, purchasing and inventory employees, and associated fringe benefits and payroll  
12.28 taxes, fees, contracts, or purchases related to business office functions, licenses, permits  
12.29 except as provided in the external fixed costs category, employee recognition, travel including  
12.30 meals and lodging, all training except as specified in subdivision 17, voice and data  
12.31 communication or transmission, office supplies, property and liability insurance and other  
12.32 forms of insurance except insurance that is a fringe benefit under subdivision 22, personnel

recruitment, legal services, accounting services, management or business consultants, data processing, information technology, website, central or home office costs, business meetings and seminars, postage, fees for professional organizations, subscriptions, security services, nonpromotional advertising, board of directors fees, working capital interest expense, bad debts, bad debt collection fees, and costs incurred for travel and ~~housing~~ lodging for persons employed by a Minnesota-registered supplemental nursing services agency as defined in section 144A.70, subdivision 6.

Sec. 7. Minnesota Statutes 2020, section 256R.02, subdivision 17, is amended to read:

Subd. 17. **Direct care costs.** "Direct care costs" means costs for the wages of nursing administration, direct care registered nurses, licensed practical nurses, certified nursing assistants, trained medication aides, employees conducting training in resident care topics and associated fringe benefits and payroll taxes; services from a Minnesota-registered supplemental nursing services agency up to the maximum allowable charges under section 144A.74, excluding associated lodging and travel costs; supplies that are stocked at nursing stations or on the floor and distributed or used individually, including, but not limited to: rubbing alcohol or alcohol swabs, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages, water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, personal hygiene soap, medication cups, diapers, ~~plastic waste bags~~, sanitary products, disposable thermometers, hypodermic needles and syringes, ~~clinical reagents or similar diagnostic agents~~, drugs that are not paid not payable on a separate fee schedule by the medical assistance program or any other payer, and ~~technology related~~ clinical software costs specific to the provision of nursing care to residents, such as electronic charting systems; costs of materials used for resident care training, and training courses outside of the facility attended by direct care staff on resident care topics; and costs for nurse consultants, pharmacy consultants, and medical directors. Salaries and payroll taxes for nurse consultants who work out of a central office must be allocated proportionately by total resident days or by direct identification to the nursing facilities served by those consultants.

Sec. 8. Minnesota Statutes 2020, section 256R.02, subdivision 18, is amended to read:

Subd. 18. **Employer health insurance costs.** "Employer health insurance costs" means premium expenses for group coverage; and actual expenses incurred for self-insured plans, including reinsurance; actual claims paid, stop-loss premiums, plan fees, and employer contributions to employee health reimbursement and health savings accounts. Actual costs of self-insurance plans must not include any allowance for future funding unless the plan

14.1 meets the Medicare requirements for reporting on a premium basis when the Medicare  
14.2 regulations define the actual costs. Premium and expense costs and contributions are  
14.3 allowable for (1) all employees and (2) the spouse and dependents of those employees who  
14.4 are employed on average at least 30 hours per week.

14.5 Sec. 9. Minnesota Statutes 2020, section 256R.02, subdivision 19, is amended to read:

14.6 Subd. 19. **External fixed costs.** "External fixed costs" means costs related to the nursing  
14.7 home surcharge under section 256.9657, subdivision 1; licensure fees under section 144.122;  
14.8 family advisory council fee under section 144A.33; scholarships under section 256R.37;  
14.9 planned closure rate adjustments under section 256R.40; consolidation rate adjustments  
14.10 under section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d;  
14.11 single-bed room incentives under section 256R.41; property taxes, special assessments, and  
14.12 payments in lieu of taxes; employer health insurance costs; quality improvement incentive  
14.13 payment rate adjustments under section 256R.39; performance-based incentive payments  
14.14 under section 256R.38; special dietary needs under section 256R.51; ~~rate adjustments for~~  
14.15 ~~compensation-related costs for minimum wage changes under section 256R.49 provided~~  
14.16 ~~on or after January 1, 2018;~~ Public Employees Retirement Association employer costs; and  
14.17 border city rate adjustments under section 256R.481.

14.18 Sec. 10. Minnesota Statutes 2020, section 256R.02, subdivision 29, is amended to read:

14.19 Subd. 29. **Maintenance and plant operations costs.** "Maintenance and plant operations  
14.20 costs" means the costs for the salaries and wages of the maintenance supervisor, engineers,  
14.21 heating-plant employees, and other maintenance employees and associated fringe benefits  
14.22 and payroll taxes. It also includes identifiable costs for maintenance and operation of the  
14.23 building and grounds, including, but not limited to, fuel, electricity, plastic waste bags,  
14.24 medical waste and garbage removal, water, sewer, supplies, tools, and repairs, and minor  
14.25 equipment not requiring capitalization under Medicare guidelines.

14.26 Sec. 11. Minnesota Statutes 2020, section 256R.02, is amended by adding a subdivision  
14.27 to read:

14.28 Subd. 32a. **Minor equipment.** "Minor equipment" means equipment that does not qualify  
14.29 as either fixed equipment or depreciable movable equipment defined in section 256R.261.

15.1 Sec. 12. Minnesota Statutes 2020, section 256R.02, subdivision 42a, is amended to read:

15.2 Subd. 42a. **Real estate taxes.** "Real estate taxes" means the real estate tax liability shown  
15.3 on the annual property tax ~~statement~~ statements of the nursing facility for the reporting  
15.4 period. The term does not include personnel costs or fees for late payment.

15.5 Sec. 13. Minnesota Statutes 2020, section 256R.02, subdivision 48a, is amended to read:

15.6 Subd. 48a. **Special assessments.** "Special assessments" means the actual special  
15.7 assessments and related interest paid during the reporting period that are not voluntary costs.  
15.8 The term does not include personnel costs ~~or~~ fees for late payment, or special assessments  
15.9 for projects that are reimbursed in the property rate.

15.10 Sec. 14. Minnesota Statutes 2020, section 256R.07, subdivision 1, is amended to read:

15.11 Subdivision 1. **Criteria.** A nursing facility ~~shall~~ must keep adequate documentation. In  
15.12 order to be adequate, documentation must:

15.13 (1) be maintained in orderly, well-organized files;

15.14 (2) not include documentation of more than one nursing facility in one set of files unless  
15.15 transactions may be traced by the commissioner to the nursing facility's annual cost report;

15.16 (3) include a paid invoice or copy of a paid invoice with date of purchase, vendor name  
15.17 and address, purchaser name and delivery destination address, listing of items or services  
15.18 purchased, cost of items purchased, account number to which the cost is posted, and a  
15.19 breakdown of any allocation of costs between accounts or nursing facilities. If any of the  
15.20 information is not available, the nursing facility ~~shall~~ must document its good faith attempt  
15.21 to obtain the information;

15.22 (4) include contracts, agreements, amortization schedules, mortgages, other debt  
15.23 instruments, and all other documents necessary to explain the nursing facility's costs or  
15.24 revenues; ~~and~~

15.25 (5) include signed and dated position descriptions; and

15.26 (6) be retained by the nursing facility to support the five most recent annual cost reports.  
15.27 The commissioner may extend the period of retention if the field audit was postponed  
15.28 because of inadequate record keeping or accounting practices as in section 256R.13,  
15.29 subdivisions 2 and 4, the records are necessary to resolve a pending appeal, or the records  
15.30 are required for the enforcement of sections 256R.04; 256R.05, subdivision 2; 256R.06,

16.1 subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09, subdivisions 3 and  
16.2 4.

16.3 Sec. 15. Minnesota Statutes 2020, section 256R.07, subdivision 2, is amended to read:

16.4 Subd. 2. **Documentation of compensation.** Compensation for personal services,  
16.5 regardless of whether treated as identifiable costs or costs that are not identifiable, must be  
16.6 documented on payroll records. Payrolls must be supported by time and attendance or  
16.7 equivalent records for individual employees. Salaries and wages of employees which are  
16.8 allocated to more than one cost category must be supported by time distribution records.  
16.9 ~~The method used must produce a proportional distribution of actual time spent, or an accurate~~  
16.10 ~~estimate of time spent performing assigned duties. The nursing facility that chooses to~~  
16.11 ~~estimate time spent must use a statistically valid method. The compensation must reflect~~  
16.12 ~~an amount proportionate to a full-time basis if the services are rendered on less than a~~  
16.13 ~~full-time basis. Salary allocations are allowable using the Medicare-approved allocation~~  
16.14 basis and methodology only if the salary costs cannot be directly determined, including  
16.15 when employees provide shared services to noncovered operations.

16.16 Sec. 16. Minnesota Statutes 2020, section 256R.07, subdivision 3, is amended to read:

16.17 Subd. 3. **Adequate documentation supporting nursing facility payrolls.** Payroll  
16.18 records supporting compensation costs claimed by nursing facilities must be supported by  
16.19 affirmative time and attendance records prepared by each individual at intervals of not more  
16.20 than one month. The requirements of this subdivision are met when documentation is  
16.21 provided under either clause (1) or (2) ~~as follows:~~

16.22 (1) the affirmative time and attendance record must identify the individual's name; the  
16.23 days worked during each pay period; the number of hours worked each day; and the number  
16.24 of hours taken each day by the individual for vacation, sick, and other leave. The affirmative  
16.25 time and attendance record must include a signed verification by the individual and the  
16.26 individual's supervisor, if any, that the entries reported on the record are correct; or

16.27 (2) if the affirmative time and attendance records identifying the individual's name, the  
16.28 days worked each pay period, the number of hours worked each day, and the number of  
16.29 hours taken each day by the individual for vacation, sick, and other leave are ~~placed on~~  
16.30 microfilm stored electronically, equipment must be made available for viewing and printing  
16.31 ~~them, or if the records are stored as automated data, summary data must be available for~~  
16.32 viewing and printing the records.



17.1 Sec. 17. Minnesota Statutes 2020, section 256R.08, subdivision 1, is amended to read:

17.2 Subdivision 1. **Reporting of financial statements.** (a) No later than February 1 of each  
17.3 year, a nursing facility ~~shall~~ must:

17.4 (1) provide the state agency with a copy of its audited financial statements or its working  
17.5 trial balance;

17.6 (2) provide the state agency with a statement of ownership for the facility;

17.7 (3) provide the state agency with separate, audited financial statements or working trial  
17.8 balances for every other facility owned in whole or in part by an individual or entity that  
17.9 has an ownership interest in the facility;

17.10 (4) upon request, provide the state agency with separate, audited financial statements or  
17.11 working trial balances for every organization with which the facility conducts business and  
17.12 which is owned in whole or in part by an individual or entity which has an ownership interest  
17.13 in the facility;

17.14 (5) provide the state agency with copies of leases, purchase agreements, and other  
17.15 documents related to the lease or purchase of the nursing facility; and

17.16 (6) upon request, provide the state agency with copies of leases, purchase agreements,  
17.17 and other documents related to the acquisition of equipment, goods, and services which are  
17.18 claimed as allowable costs.

17.19 (b) Audited financial statements submitted under paragraph (a) must include a balance  
17.20 sheet, income statement, statement of the rate or rates charged to private paying residents,  
17.21 statement of retained earnings, statement of cash flows, notes to the financial statements,  
17.22 audited applicable supplemental information, and the public accountant's report. Public  
17.23 accountants must conduct audits in accordance with chapter 326A. The cost of an audit  
17.24 ~~shall~~ must not be an allowable cost unless the nursing facility submits its audited financial  
17.25 statements in the manner otherwise specified in this subdivision. A nursing facility must  
17.26 permit access by the state agency to the public accountant's audit work papers that support  
17.27 the audited financial statements submitted under paragraph (a).

17.28 (c) Documents or information provided to the state agency pursuant to this subdivision  
17.29 ~~shall~~ must be public unless prohibited by the Health Insurance Portability and Accountability  
17.30 Act or any other federal or state regulation. Data, notes, and preliminary drafts of reports  
17.31 created, collected, and maintained by the audit offices of government entities, or persons  
17.32 performing audits for government entities, and relating to an audit or investigation are  
17.33 confidential data on individuals or protected nonpublic data until the final report has been

18.1 published or the audit or investigation is no longer being pursued actively, except that the  
18.2 data must be disclosed as required to comply with section 6.67 or 609.456.

18.3 (d) If the requirements of paragraphs (a) and (b) are not met, the reimbursement rate  
18.4 may be reduced to 80 percent of the rate in effect on the first day of the fourth calendar  
18.5 month after the close of the reporting period and the reduction ~~shall~~ must continue until the  
18.6 requirements are met.

18.7 Sec. 18. Minnesota Statutes 2020, section 256R.09, subdivision 2, is amended to read:

18.8 Subd. 2. **Reporting of statistical and cost information.** All nursing facilities ~~shall~~ must  
18.9 provide information annually to the commissioner on a form and in a manner determined  
18.10 by the commissioner. The commissioner may separately require facilities to submit in a  
18.11 manner specified by the commissioner documentation of statistical and cost information  
18.12 included in the report to ensure accuracy in establishing payment rates and to perform audit  
18.13 and appeal review functions under this chapter. The commissioner may also require nursing  
18.14 facilities to provide statistical and cost information for a subset of the items in the annual  
18.15 report on a semiannual basis. Nursing facilities ~~shall~~ must report only costs directly related  
18.16 to the operation of the nursing facility. The facility ~~shall~~ must not include costs which are  
18.17 separately reimbursed or reimbursable by residents, medical assistance, or other payors.  
18.18 Allocations of costs from central, affiliated, or corporate office and related organization  
18.19 transactions shall be reported according to sections 256R.07, subdivision 3, and 256R.12,  
18.20 subdivisions 1 to 7. The commissioner shall not grant facilities extensions to the filing  
18.21 deadline.

18.22 Sec. 19. Minnesota Statutes 2020, section 256R.09, subdivision 5, is amended to read:

18.23 Subd. 5. **Method of accounting.** The accrual method of accounting in accordance with  
18.24 generally accepted accounting principles is the only method acceptable for purposes of  
18.25 satisfying the reporting requirements of this chapter. If a governmentally owned nursing  
18.26 facility demonstrates that the accrual method of accounting is not applicable to its accounts  
18.27 and that a cash or modified accrual method of accounting more accurately reports the nursing  
18.28 facility's financial operations, the commissioner shall permit the governmentally owned  
18.29 nursing facility to use a cash or modified accrual method of accounting. For reimbursement  
18.30 purposes, the accrued expense must be paid by the providers within 90 days following the  
18.31 end of the reporting period. An expense disallowed by the commissioner under this section  
18.32 in any cost report period must not be claimed on a subsequent cost report. Specific  
18.33 exemptions to the 90-day rule may be granted by the commissioner for documented

19.1 contractual arrangements such as receivership, property tax installment payments, and  
19.2 pension contributions.

19.3 Sec. 20. Minnesota Statutes 2020, section 256R.13, subdivision 4, is amended to read:

19.4 Subd. 4. **Extended record retention requirements.** The commissioner shall extend the  
19.5 period for retention of records under section 256R.09, subdivision 3, for purposes of  
19.6 performing field audits as necessary to enforce sections 256R.04; 256R.05, subdivision 2;  
19.7 256R.06, subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09,  
19.8 subdivisions 3 and 4, with written notice to the facility postmarked no later than 90 days  
19.9 prior to the expiration of the record retention requirement.

19.10 Sec. 21. Minnesota Statutes 2020, section 256R.16, subdivision 1, is amended to read:

19.11 Subdivision 1. **Calculation of a quality score.** (a) The commissioner shall determine  
19.12 a quality score for each nursing facility using quality measures established in section  
19.13 256B.439, according to methods determined by the commissioner in consultation with  
19.14 stakeholders and experts, and using the most recently available data as provided in the  
19.15 Minnesota Nursing Home Report Card. These methods ~~shall~~ must be exempt from the  
19.16 rulemaking requirements under chapter 14.

19.17 (b) For each quality measure, a score ~~shall~~ must be determined with the number of points  
19.18 assigned as determined by the commissioner using the methodology established according  
19.19 to this subdivision. The determination of the quality measures to be used and the methods  
19.20 of calculating scores may be revised annually by the commissioner.

19.21 (c) The quality score ~~shall~~ must include up to 50 points related to the Minnesota quality  
19.22 indicators score derived from the minimum data set, up to 40 points related to the resident  
19.23 quality of life score derived from the consumer survey conducted under section 256B.439,  
19.24 subdivision 3, and up to ten points related to the state inspection results score.

19.25 (d) The commissioner, in cooperation with the commissioner of health, may adjust the  
19.26 formula in paragraph (c), or the methodology for computing the total quality score, ~~effective~~  
19.27 ~~July 1 of any year~~, with five months advance public notice. In changing the formula, the  
19.28 commissioner shall consider quality measure priorities registered by report card users, advice  
19.29 of stakeholders, and available research.

20.1 Sec. 22. Minnesota Statutes 2020, section 256R.17, subdivision 3, is amended to read:

20.2 Subd. 3. **Resident assessment schedule.** (a) Nursing facilities ~~shall~~ must conduct and  
20.3 submit case mix classification assessments according to the schedule established by the  
20.4 commissioner of health under section 144.0724, subdivisions 4 and 5.

20.5 (b) The case mix classifications established under section 144.0724, subdivision 3a,  
20.6 ~~shall~~ must be effective the day of admission for new admission assessments. The effective  
20.7 date for significant change assessments ~~shall~~ must be the assessment reference date. The  
20.8 effective date for annual and quarterly assessments ~~shall~~ and significant corrections  
20.9 assessments must be the first day of the month following assessment reference date.

20.10 Sec. 23. Minnesota Statutes 2020, section 256R.26, subdivision 1, is amended to read:

20.11 Subdivision 1. **Determination of limited undepreciated replacement cost.** A facility's  
20.12 limited URC is the lesser of:

20.13 (1) the facility's recognized URC from the appraisal; or

20.14 (2) the product of (i) the number of the facility's licensed beds three months prior to the  
20.15 beginning of the rate year, (ii) the construction cost per square foot value, and (iii) 1,000  
20.16 square feet.

20.17 Sec. 24. Minnesota Statutes 2020, section 256R.37, is amended to read:

20.18 **256R.37 SCHOLARSHIPS.**

20.19 ~~(a) For the 27-month period beginning October 1, 2015, through December 31, 2017,~~  
20.20 ~~the commissioner shall allow a scholarship per diem of up to 25 cents for each nursing~~  
20.21 ~~facility with no scholarship per diem that is requesting a scholarship per diem to be added~~  
20.22 ~~to the external fixed payment rate to be used:~~

20.23 ~~(1) for employee scholarships that satisfy the following requirements:~~

20.24 ~~(i) scholarships are available to all employees who work an average of at least ten hours~~  
20.25 ~~per week at the facility except the administrator, and to reimburse student loan expenses~~  
20.26 ~~for newly hired registered nurses and licensed practical nurses, and training expenses for~~  
20.27 ~~nursing assistants as specified in section 144A.611, subdivisions 2 and 4, who are newly~~  
20.28 ~~hired; and~~

20.29 ~~(ii) the course of study is expected to lead to career advancement with the facility or in~~  
20.30 ~~long-term care, including medical care interpreter services and social work; and~~

20.31 ~~(2) to provide job-related training in English as a second language.~~

21.1 ~~(b) All facilities may annually request a rate adjustment under this section by submitting~~  
21.2 ~~information to the commissioner on a schedule and in a form supplied by the commissioner.~~  
21.3 ~~The commissioner shall allow a scholarship payment rate equal to the reported and allowable~~  
21.4 ~~costs divided by resident days.~~

21.5 ~~(c) In calculating the per diem under paragraph (b), the commissioner shall allow costs~~  
21.6 ~~related to tuition, direct educational expenses, and reasonable costs as defined by the~~  
21.7 ~~commissioner for child care costs and transportation expenses related to direct educational~~  
21.8 ~~expenses.~~

21.9 ~~(d) The rate increase under this section is an optional rate add-on that the facility must~~  
21.10 ~~request from the commissioner in a manner prescribed by the commissioner. The rate~~  
21.11 ~~increase must be used for scholarships as specified in this section.~~

21.12 ~~(e) For instances in which a rate adjustment will be 15 cents or greater, nursing facilities~~  
21.13 ~~that close beds during a rate year may request to have their scholarship adjustment under~~  
21.14 ~~paragraph (b) recalculated by the commissioner for the remainder of the rate year to reflect~~  
21.15 ~~the reduction in resident days compared to the cost report year.~~

21.16 (a) The commissioner shall provide a scholarship per diem rate calculated using the  
21.17 criteria in paragraphs (b) to (d). The per diem rate must be based on the allowable costs the  
21.18 facility paid for employee scholarships for any employee, except the facility administrator,  
21.19 who works an average of at least ten hours per week in the licensed nursing facility building  
21.20 when the facility has incurred expenses for:

21.21 (1) an employee's course of study that is expected to lead to career advancement with  
21.22 the facility or in the field of long-term care;

21.23 (2) an employee's job-related training in English as a second language;

21.24 (3) the reimbursement of student loan expenses for newly hired registered nurses and  
21.25 licensed practical nurses; and

21.26 (4) the reimbursement of training, testing, and associated expenses for newly hired  
21.27 nursing assistants as specified in section 144A.611, subdivisions 2 and 4. The reimbursement  
21.28 of nursing assistant expenses under this clause is not subject to the ten-hour minimum work  
21.29 requirement under this paragraph.

21.30 (b) Allowable scholarship costs include: tuition; student loan reimbursement; other direct  
21.31 educational expenses; and reasonable costs for child care and transportation expenses directly  
21.32 related to education, as defined by the commissioner.

22.1 (c) The commissioner shall provide a scholarship per diem rate equal to the allowable  
 22.2 scholarship costs divided by resident days. The commissioner shall compute the scholarship  
 22.3 per diem rate annually and include the scholarship per diem rate in the external fixed costs  
 22.4 payment rate.

22.5 (d) When the resulting scholarship per diem rate is 15 cents or more, nursing facilities  
 22.6 that close beds during a rate year may request to have the scholarship rate recalculated. This  
 22.7 recalculation is effective from the date of the bed closure until the remainder of the rate  
 22.8 year and reflects the estimated reduction in resident days compared to the previous cost  
 22.9 report year.

22.10 (e) Facilities electing to participate in this program must request this rate adjustment  
 22.11 annually by submitting information to the commissioner on a schedule and in a form supplied  
 22.12 by the commissioner.

22.13 Sec. 25. Minnesota Statutes 2020, section 256R.39, is amended to read:

22.14 **256R.39 QUALITY IMPROVEMENT INCENTIVE PROGRAM.**

22.15 The commissioner shall develop a quality improvement incentive program in consultation  
 22.16 with stakeholders. The annual funding pool available for quality improvement incentive  
 22.17 payments ~~shall~~ must be equal to 0.8 percent of all operating payments, not including any  
 22.18 rate components resulting from equitable cost-sharing for publicly owned nursing facility  
 22.19 program participation under section 256R.48, critical access nursing facility program  
 22.20 participation under section 256R.47, or performance-based incentive payment program  
 22.21 participation under section 256R.38. ~~For the period from October 1, 2015, to December 31,~~  
 22.22 ~~2016, rate adjustments provided under this section shall be effective for 15 months. Beginning~~  
 22.23 ~~January 1, 2017, An annual rate adjustments~~ adjustment provided under this section ~~shall~~  
 22.24 must be effective for one rate year.

22.25 Sec. 26. Minnesota Statutes 2020, section 256S.20, subdivision 1, is amended to read:

22.26 Subdivision 1. **Customized living services provider requirements.** ~~Only a provider~~  
 22.27 ~~licensed by the Department of Health as a comprehensive home care provider may provide~~  
 22.28 To deliver customized living services or 24-hour customized living services, a provider  
 22.29 must:

22.30 (1) be licensed as an assisted living facility under chapter 144G; or

(2) be licensed as a comprehensive home care provider under chapter 144A and be delivering services in a setting defined under section 144G.08, subdivision 7, clauses (11) to (13). A licensed home care provider is subject to section 256B.0651, subdivision 14.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 27. Minnesota Statutes 2020, section 626.557, subdivision 4, is amended to read:

Subd. 4. **Reporting.** (a) Except as provided in paragraph (b), a mandated reporter shall immediately make an oral report to the common entry point. ~~The common entry point may accept electronic reports submitted through a web-based reporting system established by the commissioner. Use of a telecommunications device for the deaf or other similar device shall be considered an oral report. The common entry point may not require written reports.~~ To the extent possible, the report must be of sufficient content to identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected maltreatment. A mandated reporter may disclose not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, to the extent necessary to comply with this subdivision.

(b) A boarding care home that is licensed under sections 144.50 to 144.58 and certified under Title 19 of the Social Security Act, a nursing home that is licensed under section 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, or a hospital that is licensed under sections 144.50 to 144.58 and has swing beds certified under Code of Federal Regulations, title 42, section 482.66, may submit a report electronically to the common entry point instead of submitting an oral report. The report may be a duplicate of the initial report the facility submits electronically to the commissioner of health to comply with the reporting requirements under Code of Federal Regulations, title 42, section 483.12. The commissioner of health may modify these reporting requirements to include items required under paragraph (a) that are not currently included in the electronic reporting form.

Sec. 28. Minnesota Statutes 2020, section 626.557, subdivision 9, is amended to read:

Subd. 9. **Common entry point designation.** (a) ~~Each county board shall designate a common entry point for reports of suspected maltreatment, for use until the commissioner of human services establishes a common entry point. Two or more county boards may jointly designate a single common entry point.~~ The commissioner of human services shall

24.1 establish a common entry point ~~effective July 1, 2015~~. The common entry point is the unit  
24.2 responsible for receiving the report of suspected maltreatment under this section.

24.3 (b) The common entry point must be available 24 hours per day to take calls from  
24.4 reporters of suspected maltreatment. The common entry point shall use a standard intake  
24.5 form that includes:

24.6 (1) the time and date of the report;

24.7 (2) the name, relationship, and identifying and contact information for the person believed  
24.8 to be a vulnerable adult and the individual or facility alleged responsible for maltreatment;

24.9 (3) the name, address, and telephone number of the person reporting; relationship, and  
24.10 contact information for the:

24.11 (i) reporter;

24.12 (ii) initial reporter, witnesses, and persons who may have knowledge about the  
24.13 maltreatment; and

24.14 (iii) legal surrogate and persons who may provide support to the vulnerable adult;

24.15 (4) the basis of vulnerability for the vulnerable adult;

24.16 ~~(3)~~ (5) the time, date, and location of the incident;

24.17 ~~(4) the names of the persons involved, including but not limited to, perpetrators, alleged~~  
24.18 ~~victims, and witnesses;~~

24.19 ~~(5) whether there was a risk of imminent danger to the alleged victim;~~

24.20 (6) the immediate safety risk to the vulnerable adult;

24.21 ~~(6)~~ (7) a description of the suspected maltreatment;

24.22 ~~(7) the disability, if any, of the alleged victim;~~

24.23 ~~(8) the relationship of the alleged perpetrator to the alleged victim;~~

24.24 (8) the impact of the suspected maltreatment on the vulnerable adult;

24.25 (9) whether a facility was involved and, if so, which agency licenses the facility;

24.26 ~~(10) any action taken by the common entry point;~~

24.27 ~~(11) whether law enforcement has been notified;~~

24.28 (10) the actions taken to protect the vulnerable adult;

24.29 (11) the required notifications and referrals made by the common entry point; and



25.1 (12) whether the reporter wishes to receive notification of the ~~initial and final reports;~~  
25.2 ~~and disposition.~~

25.3 ~~(13) if the report is from a facility with an internal reporting procedure, the name, mailing~~  
25.4 ~~address, and telephone number of the person who initiated the report internally.~~

25.5 (c) The common entry point is not required to complete each item on the form prior to  
25.6 dispatching the report to the appropriate lead investigative agency.

25.7 (d) The common entry point shall immediately report to a law enforcement agency any  
25.8 incident in which there is reason to believe a crime has been committed.

25.9 (e) If a report is initially made to a law enforcement agency or a lead investigative agency,  
25.10 those agencies shall take the report on the appropriate common entry point intake forms  
25.11 and immediately forward a copy to the common entry point.

25.12 (f) The common entry point staff must receive training on how to screen and dispatch  
25.13 reports efficiently and in accordance with this section.

25.14 (g) The commissioner of human services shall maintain a centralized database for the  
25.15 collection of common entry point data, lead investigative agency data including maltreatment  
25.16 report disposition, and appeals data. The common entry point shall have access to the  
25.17 centralized database and must log the reports into the database ~~and immediately identify~~  
25.18 ~~and locate prior reports of abuse, neglect, or exploitation.~~

25.19 (h) When appropriate, the common entry point staff must refer calls that do not allege  
25.20 the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might  
25.21 resolve the reporter's concerns.

25.22 (i) A common entry point must be operated in a manner that enables the commissioner  
25.23 of human services to:

25.24 (1) track critical steps in the reporting, evaluation, referral, response, disposition, and  
25.25 investigative process to ensure compliance with all requirements for all reports;

25.26 (2) maintain data to facilitate the production of aggregate statistical reports for monitoring  
25.27 patterns of abuse, neglect, or exploitation;

25.28 (3) serve as a resource for the evaluation, management, and planning of preventative  
25.29 and remedial services for vulnerable adults who have been subject to abuse, neglect, or  
25.30 exploitation;

25.31 (4) set standards, priorities, and policies to maximize the efficiency and effectiveness  
25.32 of the common entry point; and

26.1 (5) track and manage consumer complaints related to the common entry point.

26.2 (j) The commissioners of human services and health shall collaborate on the creation of  
26.3 a system for referring reports to the lead investigative agencies. This system shall enable  
26.4 the commissioner of human services to track critical steps in the reporting, evaluation,  
26.5 referral, response, disposition, investigation, notification, determination, and appeal processes.

26.6 Sec. 29. Minnesota Statutes 2020, section 626.557, subdivision 9b, is amended to read:

26.7 Subd. 9b. **Response to reports.** Law enforcement is the primary agency to conduct  
26.8 investigations of any incident in which there is reason to believe a crime has been committed.  
26.9 Law enforcement shall initiate a response immediately. If the common entry point notified  
26.10 a county agency for emergency adult protective services, law enforcement shall cooperate  
26.11 with that county agency when both agencies are involved and shall exchange data to the  
26.12 extent authorized in subdivision 12b, paragraph (g). County adult protection shall initiate  
26.13 a response immediately. Each lead investigative agency shall complete the investigative  
26.14 process for reports within its jurisdiction. A lead investigative agency, county, adult protective  
26.15 agency, licensed facility, or law enforcement agency shall cooperate with other agencies in  
26.16 the provision of protective services, coordinating its investigations, and assisting another  
26.17 agency within the limits of its resources and expertise and shall exchange data to the extent  
26.18 authorized in subdivision 12b, paragraph (g). The lead investigative agency shall obtain the  
26.19 results of any investigation conducted by law enforcement officials. The lead investigative  
26.20 agency has the right to enter facilities and inspect and copy records as part of investigations.  
26.21 The lead investigative agency has access to not public data, as defined in section 13.02, and  
26.22 medical records under sections 144.291 to 144.298, that are maintained by facilities to the  
26.23 extent necessary to conduct its investigation. Each lead investigative agency shall develop  
26.24 guidelines for prioritizing reports for investigation. When a county acts as a lead investigative  
26.25 agency, the county shall make guidelines available to the public regarding which reports  
26.26 the county prioritizes for investigation and adult protective services.

26.27 Sec. 30. Minnesota Statutes 2020, section 626.557, subdivision 9c, is amended to read:

26.28 Subd. 9c. **Lead investigative agency; notifications, dispositions, determinations.** (a)  
26.29 Upon request of the reporter, the lead investigative agency shall notify the reporter that it  
26.30 has received the report, and provide information on the initial disposition of the report within  
26.31 five business days of receipt of the report, provided that the notification will not endanger  
26.32 the vulnerable adult or hamper the investigation.

(b) In making the initial disposition of a report alleging maltreatment of a vulnerable adult, the lead investigative agency may consider previous reports of suspected maltreatment and may request and consider public information, records maintained by a lead investigative agency or licensed providers, and information from any person who may have knowledge regarding the alleged maltreatment and the basis for the adult's vulnerability.

(c) Unless the lead investigative agency believes that: (1) the information would endanger the well-being of the vulnerable adult; or (2) it would not be in the best interests of the vulnerable adult, the lead investigative agency shall inform the vulnerable adult, or vulnerable adult's guardian or health care agent when applicable to the surrogate's authority, of all reports accepted by the agency for investigation, including the maltreatment allegation, investigation guidelines, time frame, and evidence standards that the agency uses for determinations. If the allegation is applicable to the guardian or health care agent, the lead investigative agency must also inform the vulnerable adult's guardian or health care agent of all reports accepted for investigation by the agency, including the maltreatment allegation, investigation guidelines, time frame, and evidence standards that the agency uses for determinations.

(d) While investigating reports and providing adult protective services, the lead investigative agency may coordinate with entities identified under subdivision 12b, paragraph (g), and may coordinate with support persons to safeguard the welfare of the vulnerable adult and prevent further maltreatment of the vulnerable adult.

~~(b)~~ (e) Upon conclusion of every investigation it conducts, the lead investigative agency shall make a final disposition as defined in section 626.5572, subdivision 8.

~~(e)~~ (f) When determining whether the facility or individual is the responsible party for substantiated maltreatment or whether both the facility and the individual are responsible for substantiated maltreatment, the lead investigative agency shall consider at least the following mitigating factors:

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

(2) the comparative responsibility between the facility, other caregivers, and requirements placed upon the employee, including but not limited to, the facility's compliance with related

28.1 regulatory standards and factors such as the adequacy of facility policies and procedures,  
28.2 the adequacy of facility training, the adequacy of an individual's participation in the training,  
28.3 the adequacy of caregiver supervision, the adequacy of facility staffing levels, and a  
28.4 consideration of the scope of the individual employee's authority; and

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

28.7 ~~(d)~~ (g) When substantiated maltreatment is determined to have been committed by an  
28.8 individual who is also the facility license holder, both the individual and the facility must  
28.9 be determined responsible for the maltreatment, and both the background study  
28.10 disqualification standards under section 245C.15, subdivision 4, and the licensing actions  
28.11 under section 245A.06 or 245A.07 apply.

28.12 ~~(e)~~ (h) The lead investigative agency shall complete its final disposition within 60  
28.13 calendar days. If the lead investigative agency is unable to complete its final disposition  
28.14 within 60 calendar days, the lead investigative agency shall notify the following persons  
28.15 provided that the notification will not endanger the vulnerable adult or hamper the  
28.16 investigation: (1) the vulnerable adult or the vulnerable adult's guardian or health care agent,  
28.17 when known, if the lead investigative agency knows them to be aware of the investigation;  
28.18 and (2) the facility, where applicable. The notice shall contain the reason for the delay and  
28.19 the projected completion date. If the lead investigative agency is unable to complete its final  
28.20 disposition by a subsequent projected completion date, the lead investigative agency shall  
28.21 again notify the vulnerable adult or the vulnerable adult's guardian or health care agent,  
28.22 when known if the lead investigative agency knows them to be aware of the investigation,  
28.23 and the facility, where applicable, of the reason for the delay and the revised projected  
28.24 completion date provided that the notification will not endanger the vulnerable adult or  
28.25 hamper the investigation. The lead investigative agency must notify the health care agent  
28.26 of the vulnerable adult only if the health care agent's authority to make health care decisions  
28.27 for the vulnerable adult is currently effective under section 145C.06 and not suspended  
28.28 under section 524.5-310 and the investigation relates to a duty assigned to the health care  
28.29 agent by the principal. A lead investigative agency's inability to complete the final disposition  
28.30 within 60 calendar days or by any projected completion date does not invalidate the final  
28.31 disposition.

28.32 ~~(f) Within ten calendar days of completing the final disposition~~ (i) When the lead  
28.33 investigative agency is the Department of Health or the Department of Human Services,  
28.34 the lead investigative agency shall provide a copy of the public investigation memorandum

29.1 under subdivision 12b, paragraph (b), clause (1), ~~when required to be completed under this~~  
29.2 ~~section~~, within ten calendar days of completing the final disposition to the following persons:

29.3 (1) the vulnerable adult, or the vulnerable adult's guardian or health care agent, if known,  
29.4 unless the lead investigative agency knows that the notification would endanger the  
29.5 well-being of the vulnerable adult;

29.6 (2) the reporter, if the reporter requested notification when making the report, provided  
29.7 this notification would not endanger the well-being of the vulnerable adult;

29.8 (3) the ~~alleged perpetrator~~ person or facility alleged responsible for maltreatment, if  
29.9 known;

29.10 (4) the facility; and

29.11 (5) the ombudsman for long-term care, or the ombudsman for mental health and  
29.12 developmental disabilities, as appropriate.

29.13 (j) When the lead investigative agency is a county agency, within ten calendar days of  
29.14 completing the final disposition, the lead investigative agency shall provide notification of  
29.15 the final disposition to the following persons:

29.16 (1) the vulnerable adult, or the vulnerable adult's guardian or health care agent, if known,  
29.17 when the allegation is applicable to the surrogate's authority, unless the agency knows that  
29.18 the notification would endanger the well-being of the vulnerable adult;

29.19 (2) the individual or facility determined responsible for maltreatment, if known; and

29.20 (3) when the alleged incident involves a personal care assistant or provider agency, the  
29.21 personal care provider organization under section 256B.0659.

29.22 ~~(g)~~ (k) If, as a result of a reconsideration, review, or hearing, the lead investigative  
29.23 agency changes the final disposition, or if a final disposition is changed on appeal, the lead  
29.24 investigative agency shall notify the parties specified in paragraph ~~(f)~~ (i).

29.25 ~~(h)~~ (l) The lead investigative agency shall notify the vulnerable adult who is the subject  
29.26 of the report or the vulnerable adult's guardian or health care agent, if known, and any person  
29.27 or facility determined to have maltreated a vulnerable adult, of their appeal or review rights  
29.28 under this section or section 256.021.

29.29 ~~(i)~~ (m) The lead investigative agency shall routinely provide investigation memoranda  
29.30 for substantiated reports to the appropriate licensing boards. These reports must include the  
29.31 names of substantiated perpetrators. The lead investigative agency may not provide  
29.32 investigative memoranda for inconclusive or false reports to the appropriate licensing boards

unless the lead investigative agency's investigation gives reason to believe that there may have been a violation of the applicable professional practice laws. If the investigation memorandum is provided to a licensing board, the subject of the investigation memorandum shall be notified and receive a summary of the investigative findings.

~~(j)~~ (n) In order to avoid duplication, licensing boards shall consider the findings of the lead investigative agency in their investigations if they choose to investigate. This does not preclude licensing boards from considering other information.

~~(k)~~ (o) The lead investigative agency must provide to the commissioner of human services its final dispositions, including the names of all substantiated perpetrators. The commissioner of human services shall establish records to retain the names of substantiated perpetrators.

Sec. 31. Minnesota Statutes 2020, section 626.557, subdivision 9d, is amended to read:

Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under paragraph (e), any individual or facility which a lead investigative agency determines has maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf of the vulnerable adult, regardless of the lead investigative agency's determination, who contests the lead investigative agency's final disposition of an allegation of maltreatment, may request the lead investigative agency to reconsider its final disposition. The request for reconsideration must be submitted in writing to the lead investigative agency within 15 calendar days after receipt of notice of final disposition or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the request for reconsideration must be postmarked and sent to the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. If the request for reconsideration is made by personal service, it must be received by the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. An individual who was determined to have maltreated a vulnerable adult under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted in writing within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the lead investigative agency within 30 calendar days of the individual's receipt of the notice of disqualification. If the request for

reconsideration is made by personal service, it must be received by the lead investigative agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the lead investigative agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute. The vulnerable adult, or an interested person acting on behalf of the vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel under section 256.021 if the lead investigative agency denies the request or fails to act upon the request, or if the vulnerable adult or interested person contests a reconsidered disposition. The Vulnerable Adult Maltreatment Review Panel shall not conduct a review if the interested person making the request on behalf of the vulnerable adult is also the individual or facility alleged responsible for the maltreatment of the vulnerable adult. The lead investigative agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the lead investigative agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered disposition. The request must specifically identify the aspects of the lead investigative agency determination with which the person is dissatisfied.

(c) If, as a result of a reconsideration or review, the lead investigative agency changes the final disposition, it shall notify the parties specified in subdivision 9c, paragraph ~~(f)~~ (i).

(d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable adult" means a person designated in writing by the vulnerable adult to act on behalf of the vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy or health care agent appointed under chapter 145B or 145C, or an individual who is related to the vulnerable adult, as defined in section 245A.02, subdivision 13.

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and requested reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration decision, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, the scope of the contested case hearing must include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination under this subdivision, and reconsideration of a disqualification under section 245C.22, must not be conducted when:

(1) a denial of a license under section 245A.05, or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 260E.33 and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 260E.33, and 626.557, subdivision 9d.

If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) Until August 1, 2002, an individual or facility that was determined by the commissioner of human services or the commissioner of health to be responsible for neglect under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001, that believes that the finding of neglect does not meet an amended definition of neglect may request a reconsideration of the determination of neglect. The commissioner of human services or the commissioner of health shall mail a notice to the last known address of individuals who are eligible to seek this reconsideration. The request for reconsideration



must state how the established findings no longer meet the elements of the definition of neglect. The commissioner shall review the request for reconsideration and make a determination within 15 calendar days. The commissioner's decision on this reconsideration is the final agency action.

(1) For purposes of compliance with the data destruction schedule under subdivision 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, the date of the original finding of a substantiated maltreatment must be used to calculate the destruction date.

(2) For purposes of any background studies under chapter 245C, when a determination of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, any prior disqualification of the individual under chapter 245C that was based on this determination of maltreatment shall be rescinded, and for future background studies under chapter 245C the commissioner must not use the previous determination of substantiated maltreatment as a basis for disqualification or as a basis for referring the individual's maltreatment history to a health-related licensing board under section 245C.31.

Sec. 32. Minnesota Statutes 2020, section 626.557, subdivision 10b, is amended to read:

Subd. 10b. **Investigations; guidelines.** (a) Each lead investigative agency shall develop guidelines for prioritizing reports for investigation.

(b) When investigating a report, the lead investigative agency shall conduct the following activities, as appropriate:

(1) interview of the ~~alleged victim~~ vulnerable adult;

(2) interview of the reporter and others who may have relevant information;

(3) interview of the ~~alleged perpetrator~~ individual or facility alleged responsible for maltreatment; and

~~(4) examination of the environment surrounding the alleged incident;~~

~~(5)~~ (4) review of records and pertinent documentation of the alleged incident; and

~~(6) consultation with professionals.~~

(c) The lead investigative agency shall conduct the following activities as appropriate to further the investigation, to prevent further maltreatment, or to safeguard the vulnerable adult:

(1) examining the environment surrounding the alleged incident;

34.1 (2) consulting with professionals; and

34.2 (3) communicating with state, federal, tribal, and other agencies including:

34.3 (i) service providers;

34.4 (ii) case managers;

34.5 (iii) ombudsmen; and

34.6 (iv) support persons for the vulnerable adult.

34.7 (d) The lead investigative agency may decide not to conduct an interview of a vulnerable  
34.8 adult, reporter, or witness under paragraph (b) if:

34.9 (1) the vulnerable adult, reporter, or witness is deceased, declines to have an interview  
34.10 with the agency, or is unable to be contacted despite the agency's diligent attempts;

34.11 (2) an interview of the vulnerable adult or reporter was conducted by law enforcement  
34.12 or a professional trained in forensic interview and an additional interview will not further  
34.13 the investigation;

34.14 (3) an interview of the witness will not further the investigation; or

34.15 (4) the agency has a reason to believe that the interview will endanger the vulnerable  
34.16 adult.

34.17 Sec. 33. Minnesota Statutes 2020, section 626.557, subdivision 12b, is amended to read:

34.18 Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a  
34.19 lead investigative agency, the county social service agency shall maintain appropriate  
34.20 records. Data collected by the county social service agency under this section while providing  
34.21 adult protective services are welfare data under section 13.46. Investigative data collected  
34.22 under this section are confidential data on individuals or protected nonpublic data as defined  
34.23 under section 13.02. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under  
34.24 this paragraph that are inactive investigative data on an individual who is a vendor of services  
34.25 are private data on individuals, as defined in section 13.02. The identity of the reporter may  
34.26 only be disclosed as provided in paragraph (c).

34.27 Data maintained by the common entry point are confidential data on individuals or  
34.28 protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the  
34.29 common entry point shall maintain data for three calendar years after date of receipt and  
34.30 then destroy the data unless otherwise directed by federal requirements.

(b) The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. County social service agencies must maintain private data on individuals but are not required to prepare an investigation memorandum. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

(i) the name of the facility investigated;

(ii) a statement of the nature of the alleged maltreatment;

(iii) pertinent information obtained from medical or other records reviewed;

(iv) the identity of the investigator;

(v) a summary of the investigation's findings;

(vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;

(vii) a statement of any action taken by the facility;

(viii) a statement of any action taken by the lead investigative agency; and

(ix) when a lead investigative agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

(i) the name of the vulnerable adult;

(ii) the identity of the individual alleged to be the perpetrator;

(iii) the identity of the individual substantiated as the perpetrator; and

(iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

~~(c) After the assessment or investigation is completed,~~ The name of the reporter must be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be maintained under the following schedule and then destroyed unless otherwise directed by federal requirements:

(1) data from reports determined to be false, maintained for three years after the finding was made;

(2) data from reports determined to be inconclusive, maintained for four years after the finding was made;

(3) data from reports determined to be substantiated, maintained for seven years after the finding was made; and

(4) data from reports which were not investigated by a lead investigative agency and for which there is no final disposition, maintained for three years from the date of the report.

(e) The commissioners of health and human services shall annually publish on their websites the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations. On a biennial basis, the commissioners of health and human services shall jointly report the following information to the legislature and the governor:

(1) the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigations under this section, the resolution of those investigations, and which of the two lead agencies was responsible;

(2) trends about types of substantiated maltreatment found in the reporting period;

(3) if there are upward trends for types of maltreatment substantiated, recommendations for addressing and responding to them;

37.1 (4) efforts undertaken or recommended to improve the protection of vulnerable adults;

37.2 (5) whether and where backlogs of cases result in a failure to conform with statutory  
37.3 time frames and recommendations for reducing backlogs if applicable;

37.4 (6) recommended changes to statutes affecting the protection of vulnerable adults; and

37.5 (7) any other information that is relevant to the report trends and findings.

37.6 (f) Each lead investigative agency must have a record retention policy.

37.7 (g) Lead investigative agencies, county agencies responsible for adult protective services,  
37.8 prosecuting authorities, and law enforcement agencies may exchange not public data, as  
37.9 defined in section 13.02, with a tribal social services agency, facility, service provider,  
37.10 vulnerable adult, primary support person for a vulnerable adult, state licensing board, federal  
37.11 or state agency, the ombudsman for long-term care, or the ombudsman for mental health  
37.12 and developmental disabilities, if the agency or authority requesting providing the data  
37.13 determines that the data are pertinent and necessary to the requesting agency in initiating,  
37.14 furthering, or completing to prevent further maltreatment of a vulnerable adult, to safeguard  
37.15 a vulnerable adult, or for an investigation under this section. Data collected under this section  
37.16 must be made available to prosecuting authorities and law enforcement officials, local  
37.17 county agencies, and licensing agencies investigating the alleged maltreatment under this  
37.18 section. The lead investigative agency shall exchange not public data with the vulnerable  
37.19 adult maltreatment review panel established in section 256.021 if the data are pertinent and  
37.20 necessary for a review requested under that section. Notwithstanding section 138.17, upon  
37.21 completion of the review, not public data received by the review panel must be destroyed.

37.22 (h) Each lead investigative agency shall keep records of the length of time it takes to  
37.23 complete its investigations.

37.24 (i) A lead investigative agency may notify other affected parties and their authorized  
37.25 representative if the lead investigative agency has reason to believe maltreatment has occurred  
37.26 and determines the information will safeguard the well-being of the affected parties or dispel  
37.27 widespread rumor or unrest in the affected facility.

37.28 (j) Under any notification provision of this section, where federal law specifically  
37.29 prohibits the disclosure of patient identifying information, a lead investigative agency may  
37.30 not provide any notice unless the vulnerable adult has consented to disclosure in a manner  
37.31 which conforms to federal requirements.

38.1 Sec. 34. Minnesota Statutes 2020, section 626.5572, subdivision 2, is amended to read:

38.2 Subd. 2. **Abuse.** "Abuse" means:

38.3 (a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate,  
38.4 or aiding and abetting a violation of:

38.5 (1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224;

38.6 (2) the use of drugs to injure or facilitate crime as defined in section 609.235;

38.7 (3) the solicitation, inducement, and promotion of prostitution as defined in section  
38.8 609.322; and

38.9 (4) criminal sexual conduct in the first through fifth degrees as defined in sections  
38.10 609.342 to 609.3451.

38.11 A violation includes any action that meets the elements of the crime, regardless of  
38.12 whether there is a criminal proceeding or conviction.

38.13 (b) Conduct which is not an accident or therapeutic conduct as defined in this section,  
38.14 which produces or could reasonably be expected to produce physical pain or injury or  
38.15 emotional distress including, but not limited to, the following:

38.16 (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable  
38.17 adult;

38.18 (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable  
38.19 adult or the treatment of a vulnerable adult which would be considered by a reasonable  
38.20 person to be disparaging, derogatory, humiliating, harassing, or threatening; or

38.21 (3) use of any aversive or deprivation procedure, unreasonable confinement, or  
38.22 involuntary seclusion not authorized under chapter 245A or 245D or Minnesota Rules,  
38.23 chapter 9544, or in violation of state or federal patient rights, including the forced separation  
38.24 of the vulnerable adult from other persons against the will of the vulnerable adult or the  
38.25 legal representative of the vulnerable adult; ~~and.~~

38.26 ~~(4) use of any aversive or deprivation procedures for persons with developmental~~  
38.27 ~~disabilities or related conditions not authorized under section 245.825.~~

38.28 (c) Any sexual contact or penetration as defined in section 609.341, between a facility  
38.29 staff person or a person providing services in the facility and a resident, patient, or client  
38.30 of that facility.

(d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another.

(e) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C or 252A, or section 253B.03 or 524.5-313, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation. This paragraph does not enlarge or diminish rights otherwise held under law by:

(1) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(2) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct.

(f) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult.

(g) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

(1) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(2) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Sec. 35. Minnesota Statutes 2020, section 626.5572, subdivision 4, is amended to read:

Subd. 4. **Caregiver.** "Caregiver" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

Sec. 36. Minnesota Statutes 2020, section 626.5572, subdivision 17, is amended to read:

Subd. 17. **Neglect.** ~~"Neglect" means:~~ Neglect means neglect by a caregiver or self-neglect.

(a) "Caregiver neglect" means the failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:

(1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and

(2) which is not the result of an accident or therapeutic conduct.

(b) ~~The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult~~ "Self-neglect" means neglect by a vulnerable adult of the vulnerable adult's own food, clothing, shelter, health care, or other services that are not the responsibility of a caregiver which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort ~~considering the physical or mental capacity or dysfunction of the vulnerable adult.~~

(c) For purposes of this section, a vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of



41.1 medical care, provided that this is consistent with the prior practice or belief of the vulnerable  
41.2 adult or with the expressed intentions of the vulnerable adult;

41.3 (3) the vulnerable adult, who is not impaired in judgment or capacity by mental or  
41.4 emotional dysfunction or undue influence, engages in consensual sexual contact with:

41.5 (i) a person including a facility staff person when a consensual sexual personal  
41.6 relationship existed prior to the caregiving relationship; or

41.7 (ii) a personal care attendant, regardless of whether the consensual sexual personal  
41.8 relationship existed prior to the caregiving relationship; or

41.9 (4) an individual makes an error in the provision of therapeutic conduct to a vulnerable  
41.10 adult which does not result in injury or harm which reasonably requires medical or mental  
41.11 health care; or

41.12 (5) an individual makes an error in the provision of therapeutic conduct to a vulnerable  
41.13 adult that results in injury or harm, which reasonably requires the care of a physician, and:

41.14 (i) the necessary care is provided in a timely fashion as dictated by the condition of the  
41.15 vulnerable adult;

41.16 (ii) if after receiving care, the health status of the vulnerable adult can be reasonably  
41.17 expected, as determined by the attending physician, to be restored to the vulnerable adult's  
41.18 preexisting condition;

41.19 (iii) the error is not part of a pattern of errors by the individual;

41.20 (iv) if in a facility, the error is immediately reported as required under section 626.557,  
41.21 and recorded internally in the facility;

41.22 (v) if in a facility, the facility identifies and takes corrective action and implements  
41.23 measures designed to reduce the risk of further occurrence of this error and similar errors;  
41.24 and

41.25 (vi) if in a facility, the actions required under items (iv) and (v) are sufficiently  
41.26 documented for review and evaluation by the facility and any applicable licensing,  
41.27 certification, and ombudsman agency.

41.28 (d) Nothing in this definition requires a caregiver, if regulated, to provide services in  
41.29 excess of those required by the caregiver's license, certification, registration, or other  
41.30 regulation.

41.31 (e) If the findings of an investigation by a lead investigative agency result in a  
41.32 determination of substantiated maltreatment for the sole reason that the actions required of

a facility under paragraph (c), clause (5), item (iv), (v), or (vi), were not taken, then the facility is subject to a correction order. An individual will not be found to have neglected or maltreated the vulnerable adult based solely on the facility's not having taken the actions required under paragraph (c), clause (5), item (iv), (v), or (vi). This must not alter the lead investigative agency's determination of mitigating factors under section 626.557, subdivision 9c, paragraph ~~(e)~~ (f).

Sec. 37. **REPEALER.**

(a) Minnesota Statutes 2020, sections 245A.03, subdivision 5; and 256S.20, subdivision 2, are repealed.

(b) Minnesota Statutes 2020, sections 256R.08, subdivision 2; and 256R.49, are repealed.

(c) Minnesota Rules, part 9555.6255, is repealed.

## ARTICLE 2

### CHILDREN AND FAMILY SERVICES

Section 1. Minnesota Statutes 2020, section 119B.11, subdivision 2a, is amended to read:

Subd. 2a. **Recovery of overpayments.** (a) An amount of child care assistance paid to a recipient or provider in excess of the payment due is recoverable by the county agency or commissioner under paragraphs (b) and (c), even when the overpayment was caused by agency error or circumstances outside the responsibility and control of the family or provider.

(b) An overpayment must be recouped or recovered from the family if the overpayment benefited the family by causing the family to pay less for child care expenses than the family otherwise would have been required to pay under child care assistance program requirements. If the family remains eligible for child care assistance, the overpayment must be recovered through recoupment as identified in Minnesota Rules, part 3400.0187, except that the overpayments must be calculated and collected on a service period basis. If the family no longer remains eligible for child care assistance, the county or commissioner may choose to initiate efforts to recover overpayments from the family for ~~overpayment~~ overpayments less than \$50 that were not the result of fraud under section 256.98, theft under section 609.52, or a federal crime relating to theft of state funds or fraudulent receipt of benefits for a program administered by the county or commissioner. If the overpayment is greater than or equal to \$50, or it resulted from fraud under section 256.98, theft under section 609.52, or a federal crime relating to theft of state funds or fraudulent receipt of benefits for a program administered by the county or commissioner, the county or commissioner

shall seek voluntary repayment of the overpayment from the family. If the county or commissioner is unable to recoup the overpayment through voluntary repayment, the county or commissioner shall initiate civil court proceedings to recover the overpayment unless the county's or commissioner's costs to recover the overpayment will exceed the amount of the overpayment. A family with an outstanding debt under this subdivision is not eligible for child care assistance until: (1) the debt is paid in full; ~~or~~ (2) satisfactory arrangements are made with the county or commissioner to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the family is in compliance with the arrangements; or (3) the commissioner determines that it is in the best interests of the state to compromise debts owed to the state pursuant to section 16D.15.

(c) The county or commissioner must recover an overpayment from a provider if the overpayment did not benefit the family by causing it to receive more child care assistance or to pay less for child care expenses than the family otherwise would have been eligible to receive or required to pay under child care assistance program requirements, and benefited the provider by causing the provider to receive more child care assistance than otherwise would have been paid on the family's behalf under child care assistance program requirements. If the provider continues to care for children receiving child care assistance, the overpayment must be recovered through ~~reductions in child care assistance payments for services as described in an agreement with the county~~ recoupment as identified in Minnesota Rules, part 3400.0187. The provider may not charge families using that provider more to cover the cost of recouping the overpayment. If the provider no longer cares for children receiving child care assistance, the county or commissioner may choose to initiate efforts to recover overpayments of less than \$50 that were not the result 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 county or commissioner from the provider. If the overpayment is greater than or equal to \$50, or it resulted from 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 county or commissioner, the county or commissioner shall seek voluntary repayment of the overpayment from the provider. If the county or commissioner is unable to recoup the overpayment through voluntary repayment, the county or commissioner shall initiate civil court proceedings to recover the overpayment unless the county's or commissioner's costs to recover the overpayment will exceed the amount of the overpayment. A provider with an outstanding debt under this subdivision is not eligible to care for children receiving child care assistance until:

(1) the debt is paid in full; ~~or~~

(2) satisfactory arrangements are made with the county or commissioner to retire the debt consistent with the requirements of this chapter and Minnesota Rules, chapter 3400, and the provider is in compliance with the arrangements; or

(3) the commissioner determines that it is in the best interests of the state to compromise debts owed to the state pursuant to section 16D.15.

(d) When both the family and the provider acted together to intentionally cause the overpayment, both the family and the provider are jointly liable for the overpayment regardless of who benefited from the overpayment. The county or commissioner must recover the overpayment as provided in paragraphs (b) and (c). When the family or the provider is in compliance with a repayment agreement, the party in compliance is eligible to receive child care assistance or to care for children receiving child care assistance despite the other party's noncompliance with repayment arrangements.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 2. Minnesota Statutes 2020, section 119B.125, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** ~~Except as provided in subdivision 5,~~ A county or the commissioner must authorize the provider chosen by an applicant or a participant before the county can authorize payment for care provided by that provider. The commissioner must establish the requirements necessary for authorization of providers. A provider must be reauthorized every two years. A legal, nonlicensed family child care provider also must be reauthorized when another person over the age of 13 joins the household, a current household member turns 13, or there is reason to believe that a household member has a factor that prevents authorization. The provider is required to report all family changes that would require reauthorization. When a provider has been authorized for payment for providing care for families in more than one county, the county responsible for reauthorization of that provider is the county of the family with a current authorization for that provider and who has used the provider for the longest length of time.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 3. Minnesota Statutes 2020, section 119B.13, subdivision 6, is amended to read:

Subd. 6. **Provider payments.** (a) A provider shall bill only for services documented according to section 119B.125, subdivision 6. The provider shall bill for services provided within ten days of the end of the service period. Payments under the child care fund shall

be made within 21 days of receiving a complete bill from the provider. Counties or the state may establish policies that make payments on a more frequent basis.

(b) If a provider has received an authorization of care and been issued a billing form for an eligible family, the bill must be submitted within 60 days of the last date of service on the bill. A bill submitted more than 60 days after the last date of service must be paid if the county determines that the provider has shown good cause why the bill was not submitted within 60 days. Good cause must be defined in the county's child care fund plan under section 119B.08, subdivision 3, and the definition of good cause must include county error. Any bill submitted more than a year after the last date of service on the bill must not be paid.

(c) If a provider provided care for a time period without receiving an authorization of care and a billing form for an eligible family, payment of child care assistance may only be made retroactively for a maximum of six months from the date the provider is issued an authorization of care and billing form.

(d) A county or the commissioner may refuse to issue a child care authorization to a certified, licensed, or legal nonlicensed provider, revoke an existing child care authorization to a certified, licensed, or legal nonlicensed provider, stop payment issued to a certified, licensed, or legal nonlicensed provider, or refuse to pay a bill submitted by a certified, licensed, or legal nonlicensed provider if:

(1) the provider admits to intentionally giving the county materially false information on the provider's billing forms;

(2) a county or the commissioner finds by a preponderance of the evidence that the provider intentionally gave the county materially false information on the provider's billing forms, or provided false attendance records to a county or the commissioner;

(3) the provider is in violation of child care assistance program rules, until the agency determines those violations have been corrected;

(4) the provider is operating after:

(i) an order of suspension of the provider's license issued by the commissioner;

(ii) an order of revocation of the provider's license issued by the commissioner; or

~~(iii) a final order of conditional license issued by the commissioner for as long as the conditional license is in effect~~ an order of decertification issued to the provider;

(5) the provider submits false attendance reports or refuses to provide documentation of the child's attendance upon request;

(6) the provider gives false child care price information; or

(7) the provider fails to report decreases in a child's attendance as required under section 119B.125, subdivision 9.

(e) For purposes of paragraph (d), clauses (3), (5), (6), and (7), the county or the commissioner may withhold the provider's authorization or payment for a period of time not to exceed three months beyond the time the condition has been corrected.

(f) A county's payment policies must be included in the county's child care plan under section 119B.08, subdivision 3. If payments are made by the state, in addition to being in compliance with this subdivision, the payments must be made in compliance with section 16A.124.

(g) If the commissioner or responsible county agency suspends or refuses payment to a provider under paragraph (d), clause (1) or (2), or chapter 245E and the provider has:

(1) a disqualification for wrongfully obtaining assistance under section 256.98, subdivision 8, paragraph (c);

(2) an administrative disqualification under section 256.046, subdivision 3; or

(3) a termination under section 245E.02, subdivision 4, paragraph (c), clause (4), or 245E.06;

then the provider forfeits the payment to the commissioner or the responsible county agency, regardless of the amount assessed in an overpayment, charged in a criminal complaint, or ordered as criminal restitution.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 4. Minnesota Statutes 2020, section 119B.13, subdivision 7, is amended to read:

Subd. 7. **Absent days.** (a) Licensed child care providers and license-exempt centers must not be reimbursed for more than 25 full-day absent days per child, excluding holidays, in a calendar year, or for more than ten consecutive full-day absent days. "Absent day" means any day that the child is authorized and scheduled to be in care with a licensed provider or license-exempt center, and the child is absent from the care for the entire day. Legal nonlicensed family child care providers must not be reimbursed for absent days. If a child attends for part of the time authorized to be in care in a day, but is absent for part of the time authorized to be in care in that same day, the absent time must be reimbursed but

the time must not count toward the absent days limit. Child care providers must only be reimbursed for absent days if the provider has a written policy for child absences and charges all other families in care for similar absences.

(b) Notwithstanding paragraph (a), children with documented medical conditions that cause more frequent absences may exceed the 25 absent days limit, or ten consecutive full-day absent days limit. Absences due to a documented medical condition of a parent or sibling who lives in the same residence as the child receiving child care assistance do not count against the absent days limit in a calendar year. Documentation of medical conditions must be on the forms and submitted according to the timelines established by the commissioner. A public health nurse or school nurse may verify the illness in lieu of a medical practitioner. If a provider sends a child home early due to a medical reason, including, but not limited to, fever or contagious illness, the child care center director or lead teacher may verify the illness in lieu of a medical practitioner.

(c) Notwithstanding paragraph (a), children in families may exceed the absent days limit if at least one parent: (1) is under the age of 21; (2) does not have a high school diploma or commissioner of education-selected high school equivalency certification; and (3) is a student in a school district or another similar program that provides or arranges for child care, parenting support, social services, career and employment supports, and academic support to achieve high school graduation, upon request of the program and approval of the county. If a child attends part of an authorized day, payment to the provider must be for the full amount of care authorized for that day.

(d) Child care providers must be reimbursed for up to ten federal or state holidays or designated holidays per year when the provider charges all families for these days and the holiday or designated holiday falls on a day when the child is authorized to be in attendance. Parents may substitute other cultural or religious holidays for the ten recognized state and federal holidays. Holidays do not count toward the absent days limit.

(e) A family ~~or child care provider~~ must not be assessed an overpayment for an absent day payment unless (1) there was an error in the amount of care authorized for the family, or (2) all of the allowed full-day absent payments for the child have been paid, ~~or (3) the family or provider did not timely report a change as required under law.~~

(f) The provider and family shall receive notification of the number of absent days used upon initial provider authorization for a family and ongoing notification of the number of absent days used as of the date of the notification.

(g) For purposes of this subdivision, "absent days limit" means 25 full-day absent days per child, excluding holidays, in a calendar year; and ten consecutive full-day absent days.

(h) For purposes of this subdivision, "holidays limit" means ten full-day holidays per child, excluding absent days, in a calendar year.

(i) If a day meets the criteria of an absent day or a holiday under this subdivision, the provider must bill that day as an absent day or holiday. A provider's failure to properly bill an absent day or a holiday results in an overpayment, regardless of whether the child reached, or is exempt from, the absent days limit or holidays limit for the calendar year.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 5. Minnesota Statutes 2020, section 144.216, is amended by adding a subdivision to read:

**Subd. 3. Reporting safe place newborn births.** A hospital that receives a safe place newborn under section 145.902 shall report the birth of the newborn to the Office of Vital Records within five days after receiving the newborn. The state registrar must register information about the safe place newborn according to part 4601.0600, subpart 4, item C.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 6. Minnesota Statutes 2020, section 144.216, is amended by adding a subdivision to read:

**Subd. 4. Status of safe place birth registrations.** (a) Information about the safe place newborn registered under subdivision 3 shall constitute the record of birth for the child. The birth record for the child is confidential data on individuals as defined in section 13.02, subdivision 3. Information about the child's birth record or a child's birth certificate issued from the child's birth record shall be disclosed only to the responsible social services agency as defined in section 260C.007, subdivision 27a, or pursuant to court order.

(b) Pursuant to section 144.218, subdivision 6, if the safe place newborn was born in a hospital and it is known that the child's record of birth was registered, the Office of Vital Records shall replace the original birth record registered under section 144.215.

**EFFECTIVE DATE.** This section is effective August 1, 2021.



Sec. 7. Minnesota Statutes 2020, section 144.218, is amended by adding a subdivision to read:

Subd. 6. **Safe place newborns.** If a hospital receives a safe place newborn under section 145.902 and it is known that the child's record of birth was registered, the hospital shall report the newborn to the Office of Vital Records and identify the child's birth record. The state registrar shall issue a replacement birth record for the child that is free of information that identifies a parent. The prior vital record is confidential data on individuals as defined in section 13.02, subdivision 3, and shall not be disclosed except pursuant to court order.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 8. Minnesota Statutes 2020, section 144.226, subdivision 1, is amended to read:

Subdivision 1. **Which services are for fee.** (a) The fees for the following services shall be the following or an amount prescribed by rule of the commissioner:

(b) The fee for the administrative review and processing of a request for a certified vital record or a certification that the vital record cannot be found is \$9. The fee is payable at the time of application and is nonrefundable.

(c) The fee for processing a request for the replacement of a birth record for all events, except for safe place newborns pursuant to section 144.218, subdivision 6, and when filing a recognition of parentage pursuant to section 257.73, subdivision 1, is \$40. The fee is payable at the time of application and is nonrefundable.

(d) The fee for administrative review and processing of a request for the filing of a delayed registration of birth, stillbirth, or death is \$40. The fee is payable at the time of application and is nonrefundable.

(e) The fee for administrative review and processing of a request for the amendment of any vital record is \$40. The fee is payable at the time of application and is nonrefundable.

(f) The fee for administrative review and processing of a request for the verification of information from vital records is \$9 when the applicant furnishes the specific information to locate the vital record. When the applicant does not furnish specific information, the fee is \$20 per hour for staff time expended. Specific information includes the correct date of the event and the correct name of the subject of the record. Fees charged shall approximate the costs incurred in searching and copying the vital records. The fee is payable at the time of application and is nonrefundable.

(g) The fee for administrative review and processing of a request for the issuance of a copy of any document on file pertaining to a vital record or statement that a related document cannot be found is \$9. The fee is payable at the time of application and is nonrefundable.

**EFFECTIVE DATE.** This section is effective August 1, 2021.

Sec. 9. Minnesota Statutes 2020, section 145.902, is amended to read:

**145.902 GIVE LIFE A CHANCE; SAFE PLACE FOR NEWBORNS DUTIES; IMMUNITY.**

Subdivision 1. **General.** (a) For purposes of this section, a "safe place" means a hospital licensed under sections 144.50 to 144.56, including the hospital where the newborn was born, a health care provider who provides urgent care medical services, or an ambulance service licensed under chapter 144E dispatched in response to a 911 call from a mother or a person with the mother's permission to relinquish a newborn infant.

(b) A safe place shall receive a newborn left with an employee on the premises of the safe place during its hours of operation, provided that:

(1) the newborn was born within seven days of being left at the safe place, as determined within a reasonable degree of medical certainty; and

(2) the newborn is left in an unharmed condition.

(c) The safe place must not inquire as to the identity of the mother or the person leaving the newborn or call the police, provided the newborn is unharmed when presented to the hospital. The safe place may ask the mother or the person leaving the newborn about the medical history of the mother or newborn and if the newborn may have lineage to an Indian tribe and, if known, the name of the tribe but the mother or the person leaving the newborn is not required to provide any information. The safe place may provide the mother or the person leaving the newborn with information about how to contact relevant social service agencies.

(d) A safe place that is a health care provider who provides urgent care medical services shall dial 911, advise the dispatcher that the call is being made from a safe place for newborns, and ask the dispatcher to send an ambulance or take other appropriate action to transport the newborn to a hospital. An ambulance with whom a newborn is left shall transport the newborn to a hospital for care. Hospitals must receive a newborn left with a safe place and make the report as required in subdivision 2.

51.1 Subd. 2. **Reporting.** (a) Within 24 hours of receiving a newborn under this section, the  
51.2 hospital must inform the responsible social service agency that a newborn has been left at  
51.3 the hospital, but must not do so in the presence of the mother or the person leaving the  
51.4 newborn. The hospital must provide necessary care to the newborn pending assumption of  
51.5 legal responsibility by the responsible social service agency pursuant to section 260C.139,  
51.6 subdivision 5.

51.7 (b) Within five days of receiving a newborn under this section, a hospital shall report  
51.8 the newborn to the Office of Vital Records pursuant to section 144.216, subdivision 3. If a  
51.9 hospital receives a safe place newborn under section 145.902 and it is known that the child's  
51.10 record of birth was registered because the newborn was born at that hospital, the hospital  
51.11 shall report the newborn to the Office of Vital Records and identify the child's birth record.  
51.12 The state registrar shall issue a replacement birth record for the child pursuant to section  
51.13 144.218, subdivision 6.

51.14 Subd. 3. **Immunity.** (a) A safe place with responsibility for performing duties under  
51.15 this section, and any hospital, employee, doctor, ambulance personnel, or other medical  
51.16 professional working at the safe place, are immune from any criminal liability that otherwise  
51.17 might result from their actions, if they are acting in good faith in receiving a newborn, and  
51.18 are immune from any civil liability or administrative penalty that otherwise might result  
51.19 from merely receiving a newborn.

51.20 (b) A safe place performing duties under this section, or an employee, doctor, ambulance  
51.21 personnel, or other medical professional working at the safe place who is a mandated reporter  
51.22 under chapter 260E, is immune from any criminal or civil liability that otherwise might  
51.23 result from the failure to make a report under that section if the person is acting in good  
51.24 faith in complying with this section.

51.25 **EFFECTIVE DATE.** This section is effective August 1, 2021.

51.26 Sec. 10. Minnesota Statutes 2020, section 245.4885, subdivision 1, is amended to read:

51.27 Subdivision 1. **Admission criteria.** (a) Prior to admission or placement, except in the  
51.28 case of an emergency, all children referred for treatment of severe emotional disturbance  
51.29 in a treatment foster care setting, residential treatment facility, or informally admitted to a  
51.30 regional treatment center shall undergo an assessment to determine the appropriate level of  
51.31 care if public funds are used to pay for the child's services.

51.32 (b) The responsible social services agency shall determine the appropriate level of care  
51.33 for a child when county-controlled funds are used to pay for the child's services or placement

in a qualified residential treatment facility under chapter 260C and licensed by the commissioner under chapter 245A. In accordance with section 260C.157, a juvenile treatment screening team shall conduct a screening of a child before the team may recommend whether to place a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d. When a social services agency does not have responsibility for a child's placement and the child is enrolled in a prepaid health program under section 256B.69, the enrolled child's contracted health plan must determine the appropriate level of care for the child. When Indian Health Services funds or funds of a tribally owned facility funded under the Indian Self-Determination and Education Assistance Act, Public Law 93-638, are to be used for a child, the Indian Health Services or 638 tribal health facility must determine the appropriate level of care for the child. When more than one entity bears responsibility for a child's coverage, the entities shall coordinate level of care determination activities for the child to the extent possible.

(c) The responsible social services agency must make the child's level of care determination available to the child's juvenile treatment screening team, as permitted under chapter 13. The level of care determination shall inform the juvenile treatment screening team process and the assessment in section 260C.704 when considering whether to place the child in a qualified residential treatment program. When the responsible social services agency is not involved in determining a child's placement, the child's level of care determination shall determine whether the proposed treatment:

(1) is necessary;

(2) is appropriate to the child's individual treatment needs;

(3) cannot be effectively provided in the child's home; and

(4) provides a length of stay as short as possible consistent with the individual child's ~~need~~ needs.

(d) When a level of care determination is conducted, the responsible social services agency or other entity may not determine that a screening of a child under section 260C.157 or referral or admission to a treatment foster care setting or residential treatment facility is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment goals in the less restrictive setting. The level of care determination must be based on a diagnostic assessment of a child that includes a functional assessment which evaluates the child's family, school, and community living situations; and an assessment of the child's need for care out of the home using a validated tool which assesses a child's functional status and assigns an

appropriate level of care to the child. The validated tool must be approved by the commissioner of human services and may be the validated tool approved for the child's assessment under section 260C.704 if the juvenile treatment screening team recommended placement of the child in a qualified residential treatment program. If a diagnostic assessment including a functional assessment has been completed by a mental health professional within the past 180 days, a new diagnostic assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the level of care determination process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether ~~or not~~ these services are available and accessible to the child and the child's family.

(e) During the level of care determination process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

(f) When the responsible social services agency has authority, the agency must engage the child's parents in case planning under sections 260C.212 and 260C.708 unless a court terminates the parent's rights or court orders restrict the parent from participating in case planning, visitation, or parental responsibilities.

(g) The level of care determination, ~~and~~ placement decision, and recommendations for mental health services must be documented in the child's record, as required in chapter 260C.

**EFFECTIVE DATE.** This section is effective September 30, 2021.

Sec. 11. Minnesota Statutes 2020, section 245A.02, is amended by adding a subdivision to read:

**Subd. 3c. At risk of becoming a victim of sex trafficking or commercial sexual exploitation.** For the purposes of section 245A.25, a youth who is "at risk of becoming a victim of sex trafficking or commercial sexual exploitation" means a youth who meets the criteria established by the commissioner of human services for this purpose.

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

54.1 Sec. 12. Minnesota Statutes 2020, section 245A.02, is amended by adding a subdivision  
54.2 to read:

54.3 Subd. 4a. **Children's residential facility.** "Children's residential facility" is defined as  
54.4 a residential program licensed under this chapter or chapter 241 according to the applicable  
54.5 standards in Minnesota Rules, parts 2960.0010 to 2960.0710.

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

54.7 Sec. 13. Minnesota Statutes 2020, section 245A.02, is amended by adding a subdivision  
54.8 to read:

54.9 Subd. 6e. **Foster family setting.** "Foster family setting" has the meaning given in  
54.10 Minnesota Rules, chapter 2960.3010, subpart 23, and includes settings licensed by the  
54.11 commissioner of human services or the commissioner of corrections.

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

54.13 Sec. 14. Minnesota Statutes 2020, section 245A.02, is amended by adding a subdivision  
54.14 to read:

54.15 Subd. 6f. **Foster residence setting.** "Foster residence setting" has the meaning given in  
54.16 Minnesota Rules, chapter 2960.3010, subpart 26, and includes settings licensed by the  
54.17 commissioner of human services or the commissioner of corrections.

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

54.19 Sec. 15. Minnesota Statutes 2020, section 245A.02, is amended by adding a subdivision  
54.20 to read:

54.21 Subd. 18a. **Trauma.** For the purposes of section 245A.25, "trauma" means an event,  
54.22 series of events, or set of circumstances experienced by an individual as physically or  
54.23 emotionally harmful or life-threatening and has lasting adverse effects on the individual's  
54.24 functioning and mental, physical, social, emotional, or spiritual well-being. Trauma includes  
54.25 the cumulative emotional or psychological harm of group traumatic experiences transmitted  
54.26 across generations within a community that are often associated with racial and ethnic  
54.27 population groups that have suffered major intergenerational losses.

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

55.1 Sec. 16. Minnesota Statutes 2020, section 245A.02, is amended by adding a subdivision  
55.2 to read:

55.3 Subd. 23. **Victim of sex trafficking or commercial sexual exploitation.** For the purposes  
55.4 of section 245A.25, "victim of sex trafficking or commercial sexual exploitation" means a  
55.5 person who meets the definitions in section 260C.007, subdivision 31, clauses (4) and (5).

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

55.7 Sec. 17. Minnesota Statutes 2020, section 245A.02, is amended by adding a subdivision  
55.8 to read:

55.9 Subd. 24. **Youth.** For the purposes of section 245A.25, "youth" means a "child" as  
55.10 defined in section 260C.007, subdivision 4, and includes individuals under 21 years of age  
55.11 who are in foster care pursuant to section 260C.451.

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

55.13 Sec. 18. Minnesota Statutes 2020, section 245A.041, is amended by adding a subdivision  
55.14 to read:

55.15 Subd. 6. **First date of working in a children's residential facility or foster residence**  
55.16 **setting; documentation requirements.** Children's residential facility and foster residence  
55.17 setting license holders must document the first date that a person who is a background study  
55.18 subject begins working in the license holder's facility or setting. If the license holder does  
55.19 not maintain documentation of each background study subject's first date of working in the  
55.20 facility or setting in the license holder's personnel files, the license holder must provide  
55.21 documentation to the commissioner that contains the first date that each background study  
55.22 subject began working in the license holder's program upon the commissioner's request.

55.23 **EFFECTIVE DATE.** This section is effective August 1, 2021.

55.24 Sec. 19. **[245A.25] RESIDENTIAL PROGRAM CERTIFICATIONS FOR**  
55.25 **COMPLIANCE WITH THE FAMILY FIRST PREVENTION SERVICES ACT.**

55.26 Subdivision 1. **Certification scope and applicability.** (a) This section establishes the  
55.27 requirements that a children's residential facility or child foster residence setting must meet  
55.28 to be certified for the purposes of Title IV-E funding requirements as:

55.29 (1) a qualified residential treatment program;

(2) a residential setting specializing in providing care and supportive services for youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation; or

(3) a residential setting specializing in providing prenatal, postpartum, or parenting support for youth.

(b) This section does not apply to a foster family setting in which the license holder resides in the foster home.

(c) Children's residential facilities licensed as detention settings according to Minnesota Rules, parts 2960.0230 to 2960.0290, or secure programs according to Minnesota Rules, parts 2960.0300 to 2960.0420, may not be certified under this section.

(d) For purposes of this section, "license holder" means an individual, organization, or government entity that was issued a children's residential facility or foster residence setting license by the commissioner of human services under this chapter or by the commissioner of corrections under chapter 241.

(e) Certifications issued under this section for foster residence settings may only be issued by the commissioner of human services and are not delegated to county or private licensing agencies under section 245A.16.

**Subd. 2. Program certification types and requests for certification.** (a) The commissioner of human services may issue certifications to license holders for the following types of programs:

(1) qualified residential treatment programs;

(2) residential settings specializing in providing care and supportive services for youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation; and

(3) residential settings specializing in providing prenatal, postpartum, or parenting support for youth.

(b) An applicant or license holder must submit a request for certification under this section on a form and in a manner prescribed by the commissioner of human services. The decision of the commissioner of human services to grant or deny a certification request is final and not subject to appeal under chapter 14.

**Subd. 3. Trauma-informed care.** (a) Programs certified under subdivisions 4 or 5 must provide services to a person according to a trauma-informed model of care that meets the



57.1 requirements of this subdivision, except that programs certified under subdivision 5 are not  
57.2 required to meet the requirements of paragraph (e).

57.3 (b) For the purposes of this section, "trauma-informed care" is defined as care that:

57.4 (1) acknowledges the effects of trauma on a person receiving services and on the person's  
57.5 family;

57.6 (2) modifies services to respond to the effects of trauma on the person receiving services;

57.7 (3) emphasizes skill and strength-building rather than symptom management; and

57.8 (4) focuses on the physical and psychological safety of the person receiving services  
57.9 and the person's family.

57.10 (c) The license holder must have a process for identifying the signs and symptoms of  
57.11 trauma in a youth and must address the youth's needs related to trauma. This process must  
57.12 include:

57.13 (1) screening for trauma by completing a trauma-specific screening tool with each youth  
57.14 upon the youth's admission or obtaining the results of a trauma-specific screening tool that  
57.15 was completed with the youth within 30 days prior to the youth's admission to the program;  
57.16 and

57.17 (2) ensuring that trauma-based interventions targeting specific trauma-related symptoms  
57.18 are available to each youth when needed to assist the youth in obtaining services. For  
57.19 qualified residential treatment programs, this must include the provision of services in  
57.20 paragraph (e).

57.21 (d) The license holder must develop and provide services to each youth according to the  
57.22 principles of trauma-informed care including:

57.23 (1) recognizing the impact of trauma on a youth when determining the youth's service  
57.24 needs and providing services to the youth;

57.25 (2) allowing each youth to participate in selecting which services to receive;

57.26 (3) providing services to each youth that are person-centered and culturally responsive;  
57.27 and

57.28 (4) adjusting services for each youth to address additional needs of the youth.

57.29 (e) In addition to the other requirements of this subdivision, qualified residential treatment  
57.30 programs must use a trauma-based treatment model that includes:

58.1 (1) assessing each youth to determine if the youth needs trauma-specific treatment  
58.2 interventions;

58.3 (2) identifying in each youth's treatment plan how the program will provide  
58.4 trauma-specific treatment interventions to the youth;

58.5 (3) providing trauma-specific treatment interventions to a youth that target the youth's  
58.6 specific trauma-related symptoms; and

58.7 (4) training all clinical staff of the program on trauma-specific treatment interventions.

58.8 (f) At the license holder's program, the license holder must provide a physical, social,  
58.9 and emotional environment that:

58.10 (1) promotes the physical and psychological safety of each youth;

58.11 (2) avoids aspects that may be retraumatizing;

58.12 (3) responds to trauma experienced by each youth and the youth's other needs; and

58.13 (4) includes designated spaces that are available to each youth for engaging in sensory  
58.14 and self-soothing activities.

58.15 (g) The license holder must base the program's policies and procedures on  
58.16 trauma-informed principles. In the program's policies and procedures, the license holder  
58.17 must:

58.18 (1) describe how the program provides services according to a trauma-informed model  
58.19 of care;

58.20 (2) describe how the program's environment fulfills the requirements of paragraph (f);

58.21 (3) prohibit the use of aversive consequences for a youth's violation of program rules  
58.22 or any other reason;

58.23 (4) describe the process for how the license holder incorporates trauma-informed  
58.24 principles and practices into staff meetings; and

58.25 (5) if the program is certified to use restrictive procedures under Minnesota Rules, part  
58.26 2960.0710, how the program uses restrictive procedures only when necessary for a youth  
58.27 in a manner that addresses the youth's history of trauma and avoids causing the youth  
58.28 additional trauma.

58.29 (h) Prior to allowing a staff person to have direct contact, as defined in section 245C.02,  
58.30 subdivision 11, with a youth and annually thereafter, the license holder must train each staff  
58.31 person about:

59.1 (1) concepts of trauma-informed care and how to provide services to each youth according  
59.2 to these concepts; and

59.3 (2) impacts of each youth's culture, race, gender, and sexual orientation on the youth's  
59.4 behavioral health and traumatic experiences.

59.5 **Subd. 4. Qualified residential treatment programs; certification requirements. (a)**  
59.6 **To be certified as a qualified residential treatment program, a license holder must meet:**

59.7 (1) the definition of a qualified residential treatment program in section 260C.007,  
59.8 subdivision 26d;

59.9 (2) the requirements for providing trauma-informed care and using a trauma-based  
59.10 treatment model in subdivision 3; and

59.11 (3) the requirements of this subdivision.

59.12 (b) For each youth placed at the license holder's program, the license holder must  
59.13 collaborate with the responsible social services agency and other appropriate parties to  
59.14 implement the youth's out-of-home placement plan and the youth's short-term and long-term  
59.15 mental health and behavioral health goals in the assessment required by sections 260C.212,  
59.16 subdivision 1; 260C.704; and 260C.708.

59.17 (c) A qualified residential treatment program must use a trauma-based treatment model  
59.18 that meets all of the requirements of subdivision 3 that is designed to address the needs,  
59.19 including clinical needs, of youth with serious emotional or behavioral disorders or  
59.20 disturbances. The license holder must develop, document, and review a treatment plan for  
59.21 each youth according to the requirements of Minnesota Rules, parts 2960.0180, subpart 2,  
59.22 item B; and 2960.0190, subpart 2.

59.23 (d) The following types of staff must be on-site or face-to-face according to the program's  
59.24 treatment model and must be available 24 hours a day and seven days a week to provide  
59.25 care within the scope of their practice:

59.26 (1) a registered nurse or licensed practical nurse licensed by the Minnesota Board of  
59.27 Nursing to practice professional nursing or practical nursing as defined in section 148.171,  
59.28 subdivisions 14 and 15; and

59.29 (2) other licensed clinical staff to meet each youth's clinical needs.

59.30 (e) A qualified residential treatment program must be accredited by one of the following  
59.31 independent, not-for-profit organizations:

59.32 (1) the Commission on Accreditation of Rehabilitation Facilities (CARF);

60.1 (2) the Joint Commission;

60.2 (3) the Council on Accreditation (COA); or

60.3 (4) another independent, not-for-profit accrediting organization approved by the Secretary  
60.4 of the United States Department of Health and Human Services.

60.5 (f) The license holder must facilitate participation of a youth's family members in the  
60.6 youth's treatment program, consistent with the youth's best interests and according to the  
60.7 youth's out-of-home placement plan required by sections 260C.212, subdivision 1; and  
60.8 260C.708.

60.9 (g) The license holder must contact and facilitate outreach to each youth's family  
60.10 members, including the youth's siblings, and must document outreach to the youth's family  
60.11 members in the youth's file, including the contact method and each family member's contact  
60.12 information. In the youth's file, the license holder must record and maintain the contact  
60.13 information for all known biological family members and fictive kin of the youth.

60.14 (h) The license holder must document in the youth's file how the program integrates  
60.15 family members into the treatment process for the youth, including after the youth's discharge  
60.16 from the program, and how the program maintains the youth's connections to the youth's  
60.17 siblings.

60.18 (i) The program must provide discharge planning and family-based aftercare support to  
60.19 each youth for at least six months after the youth's discharge from the program. When  
60.20 providing aftercare to a youth, the program must have monthly contact with the youth and  
60.21 the youth's caregivers to promote the youth's engagement in aftercare services and to regularly  
60.22 evaluate the family's needs. The program's monthly contact with the youth may be  
60.23 face-to-face, by telephone, or virtual.

60.24 (j) The license holder must maintain a service delivery plan that describes how the  
60.25 program provides services according to the requirements in paragraphs (b) to (i).

60.26 **Subd. 5. Residential settings specializing in providing care and supportive services**  
60.27 **for youth who have been or are at risk of becoming victims of sex trafficking or**  
60.28 **commercial sexual exploitation; certification requirements.** (a) To be certified as a  
60.29 residential setting specializing in providing care and support services for youth who have  
60.30 been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation,  
60.31 a license holder must meet the requirements of this subdivision.

60.32 (b) Settings certified according to this subdivision are exempt from the requirements of  
60.33 section 245A.04, subdivision 11, paragraph (b).

(c) The program must use a trauma-informed model of care that meets all of the applicable requirements of subdivision 3, and that is designed to address the needs, including emotional and mental health needs, of youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation.

(d) The program must provide high quality care and supportive services for youth who have been or are at risk of becoming victims of sex trafficking or commercial sexual exploitation and must:

(1) offer a safe setting to each youth designed to prevent ongoing and future trafficking of the youth;

(2) provide equitable, culturally responsive, and individualized services to each youth;

(3) assist each youth with accessing medical, mental health, legal, advocacy, and family services based on the youth's individual needs;

(4) provide each youth with relevant educational, life skills, and employment supports based on the youth's individual needs;

(5) offer a trafficking prevention education curriculum and provide support for each youth at risk of future sex trafficking or commercial sexual exploitation; and

(6) engage with the discharge planning process for each youth and the youth's family.

(e) The license holder must maintain a service delivery plan that describes how the program provides services according to the requirements in paragraphs (c) and (d).

(f) The license holder must ensure that each staff person who has direct contact, as defined in section 245C.02, subdivision 11, with a youth served by the license holder's program completes a human trafficking training approved by the Department of Human Services' Children and Family Services Administration before the staff person has direct contact with a youth served by the program and annually thereafter. For programs certified prior to January 1, 2022, the license holder must ensure that each staff person at the license holder's program completes the initial training by January 1, 2022.

**Subd. 6. Residential settings specializing in providing prenatal, postpartum, or parenting supports for youth; certification requirements.** (a) To be certified as a residential setting specializing in providing prenatal, postpartum, or parenting supports for youth, a license holder must meet the requirements of this subdivision.

62.1 (b) The license holder must collaborate with the responsible social services agency and  
62.2 other appropriate parties to implement each youth's out-of-home placement plan required  
62.3 by section 260C.212, subdivision 1.

62.4 (c) The license holder must specialize in providing prenatal, postpartum, or parenting  
62.5 supports for youth and must:

62.6 (1) provide equitable, culturally responsive, and individualized services to each youth;

62.7 (2) assist each youth with accessing postpartum services for at least six weeks postpartum,  
62.8 including providing each youth with:

62.9 (i) sexual and reproductive health services and education;

62.10 (ii) a postpartum mental health assessment and follow-up services; and

62.11 (3) discharge planning that includes the youth and the youth's family.

62.12 (d) On or before the date of a youth's initial physical presence at the facility, the license  
62.13 holder must provide education to the child's parent related to safe bathing and reducing the  
62.14 risk of sudden unexpected infant death and abusive head trauma from shaking infants and  
62.15 young children. The license holder must use the educational material developed by the  
62.16 commissioner of human services to comply with this requirement. At a minimum, the  
62.17 education must address:

62.18 (1) instruction that: (i) a child or infant should never be left unattended around water;

62.19 (ii) a tub should be filled with only two to four inches of water for infants; and (iii) an infant  
62.20 should never be put into a tub when the water is running; and

62.21 (2) the risk factors related to sudden unexpected infant death and abusive head trauma  
62.22 from shaking infants and young children and means of reducing the risks, including the  
62.23 safety precautions identified in section 245A.1435 and the risks of co-sleeping.

62.24 The license holder must document the parent's receipt of the education and keep the  
62.25 documentation in the parent's file. The documentation must indicate whether the parent  
62.26 agrees to comply with the safeguards described in this paragraph. If the parent refuses to  
62.27 comply, program staff must provide additional education to the parent as described in the  
62.28 parental supervision plan. The parental supervision plan must include the intervention,  
62.29 frequency, and staff responsible for the duration of the parent's participation in the program  
62.30 or until the parent agrees to comply with the safeguards described in this paragraph.

(e) On or before the date of a youth's initial physical presence at the facility, the license holder must document the parent's capacity to meet the health and safety needs of the child while on the facility premises considering the following factors:

(1) the parent's physical and mental health;

(2) the parent being under the influence of drugs, alcohol, medications, or other chemicals;

(3) the child's physical and mental health; and

(4) any other information available to the license holder indicating that the parent may not be able to adequately care for the child.

(f) The license holder must have written procedures specifying the actions that staff shall take if a parent is or becomes unable to adequately care for the parent's child.

(g) If the parent refuses to comply with the safeguards described in paragraph (d) or is unable to adequately care for the child, the license holder must develop a parental supervision plan in conjunction with the parent. The plan must account for any factors in paragraph (e) that contribute to the parent's inability to adequately care for the child. The plan must be dated and signed by the staff person who completed the plan.

(h) The license holder must have written procedures addressing whether the program permits a parent to arrange for supervision of the parent's child by another youth in the program. If permitted, the facility must have a procedure that requires staff approval of the supervision arrangement before the supervision by the nonparental youth occurs. The procedure for approval must include an assessment of the nonparental youth's capacity to assume the supervisory responsibilities using the criteria in paragraph (e). The license holder must document the license holder's approval of the supervisory arrangement and the assessment of the nonparental youth's capacity to supervise the child and must keep this documentation in the file of the parent whose child is being supervised by the nonparental youth.

(i) The license holder must maintain a service delivery plan that describes how the program provides services according to the requirements in paragraphs (b) to (h).

Subd. 7. **Monitoring and inspections.** (a) For a program licensed by the commissioner of human services, the commissioner of human services may review a program's compliance with certification requirements by conducting an inspection, a licensing review, or an investigation of the program. The commissioner may issue a correction order to the license holder for a program's noncompliance with the certification requirements of this section. For a program licensed by the commissioner of human services, a license holder must make

64.1 a request for reconsideration of a correction order according to section 245A.06, subdivision  
64.2 2.

64.3 (b) For a program licensed by the commissioner of corrections, the commissioner of  
64.4 human services may review the program's compliance with the requirements for a certification  
64.5 issued under this section biennially and may issue a correction order identifying the program's  
64.6 noncompliance with the requirements of this section. The correction order must state the  
64.7 following:

64.8 (1) the conditions that constitute a violation of a law or rule;

64.9 (2) the specific law or rule violated; and

64.10 (3) the time allowed for the program to correct each violation.

64.11 (c) For a program licensed by the commissioner of corrections, if a license holder believes  
64.12 that there are errors in the correction order of the commissioner of human services, the  
64.13 license holder may ask the Department of Human Services to reconsider the parts of the  
64.14 correction order that the license holder alleges are in error. To submit a request for  
64.15 reconsideration, the license holder must send a written request for reconsideration by United  
64.16 States mail to the commissioner of human services. The request for reconsideration must  
64.17 be postmarked within 20 calendar days of the date that the correction order was received  
64.18 by the license holder and must:

64.19 (1) specify the parts of the correction order that are alleged to be in error;

64.20 (2) explain why the parts of the correction order are in error; and

64.21 (3) include documentation to support the allegation of error.

64.22 A request for reconsideration does not stay any provisions or requirements of the correction  
64.23 order. The commissioner of human services' disposition of a request for reconsideration is  
64.24 final and not subject to appeal under chapter 14.

64.25 (d) Nothing in this subdivision prohibits the commissioner of human services from  
64.26 decertifying a license holder according to subdivision 8 prior to issuing a correction order.

64.27 Subd. 8. **Decertification.** (a) The commissioner of human services may rescind a  
64.28 certification issued under this section if a license holder fails to comply with the certification  
64.29 requirements in this section.

64.30 (b) The license holder may request reconsideration of a decertification by notifying the  
64.31 commissioner of human services by certified mail or personal service. The license holder  
64.32 must request reconsideration of a decertification in writing. If the license holder sends the



request for reconsideration of a decertification by certified mail, the license holder must send the request by United States mail to the commissioner of human services and the request must be postmarked within 20 calendar days after the license holder received the notice of decertification. If the license holder requests reconsideration of a decertification by personal service, the request for reconsideration must be received by the commissioner of human services within 20 calendar days after the license holder received the notice of decertification. When submitting a request for reconsideration of a decertification, the license holder must submit a written argument or evidence in support of the request for reconsideration.

(c) The commissioner of human services' disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

Subd. 9. **Variances.** The commissioner of human services may grant variances to the requirements in this section that do not affect a youth's health or safety or compliance with federal requirements for Title IV-E funding if the conditions in section 245A.04, subdivision 9, are met.

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

Sec. 20. Minnesota Statutes 2020, section 256.741, is amended by adding a subdivision to read:

Subd. 12a. **Appeals of good cause determinations.** According to section 256.045, an individual may appeal the determination or redetermination of good cause under this section. To initiate an appeal of a good cause determination or redetermination, the individual must make a request for a state agency hearing in writing within 30 calendar days after the date that a notice of denial for good cause is mailed or otherwise transmitted to the individual. Until a human services judge issues a decision under section 256.0451, subdivision 22, the child support agency shall cease all child support enforcement efforts and shall not report the individual's noncooperation to public assistance agencies.

Sec. 21. Minnesota Statutes 2020, section 256.741, is amended by adding a subdivision to read:

Subd. 12b. **Reporting noncooperation.** The public authority may issue a notice of the individual's noncooperation to each public assistance agency providing public assistance to the individual if:

66.1 (1) 30 calendar days have passed since the later of the initial county denial or the date  
66.2 of the denial following the state agency hearing; or

66.3 (2) the individual has not cooperated with the child support agency as required in  
66.4 subdivision 5.

66.5 Sec. 22. Minnesota Statutes 2020, section 256J.08, subdivision 21, is amended to read:

66.6 Subd. 21. **Date of application.** "Date of application" means the date on which the county  
66.7 agency receives an applicant's ~~signed~~ application as a signed application, an application  
66.8 submitted by telephone, or an application submitted through Internet telepresence.

66.9 Sec. 23. Minnesota Statutes 2020, section 256J.09, subdivision 3, is amended to read:

66.10 Subd. 3. **Submitting application form.** (a) A county agency must offer, in person or  
66.11 by mail, the application forms prescribed by the commissioner as soon as a person makes  
66.12 a written or oral inquiry. At that time, the county agency must:

66.13 (1) inform the person that assistance begins ~~with~~ on the date ~~that~~ the signed application  
66.14 is received by the county agency as a signed application; an application submitted by  
66.15 telephone; or an application submitted through Internet telepresence; or on the date ~~that~~ all  
66.16 eligibility criteria are met, whichever is later;

66.17 (2) inform a person that the person may submit the application by telephone or through  
66.18 Internet telepresence;

66.19 (3) inform a person that when the person submits the application by telephone or through  
66.20 Internet telepresence, the county agency must receive a signed application within 30 days  
66.21 of the date that the person submitted the application by telephone or through Internet  
66.22 telepresence;

66.23 ~~(2)~~ (4) inform the person that any delay in submitting the application will reduce the  
66.24 amount of assistance paid for the month of application;

66.25 ~~(3)~~ (5) inform a person that the person may submit the application before an interview;

66.26 ~~(4)~~ (6) explain the information that will be verified during the application process by  
66.27 the county agency as provided in section 256J.32;

66.28 ~~(5)~~ (7) inform a person about the county agency's average application processing time  
66.29 and explain how the application will be processed under subdivision 5;

66.30 ~~(6)~~ (8) explain how to contact the county agency if a person's application information  
66.31 changes and how to withdraw the application;

(7) (9) inform a person that the next step in the application process is an interview and what a person must do if the application is approved including, but not limited to, attending orientation under section 256J.45 and complying with employment and training services requirements in sections 256J.515 to 256J.57;

(8) (10) inform the person that ~~the~~ an interview must be conducted. The interview may be conducted face-to-face in the county office or at a location mutually agreed upon, through Internet telepresence, or ~~at a location mutually agreed upon by telephone;~~

(9) ~~inform a person who has received MFIP or DWP in the past 12 months of the option to have a face-to-face, Internet telepresence, or telephone interview;~~

(10) (11) explain the child care and transportation services that are available under paragraph (c) to enable caregivers to attend the interview, screening, and orientation; and

(11) (12) identify any language barriers and arrange for translation assistance during appointments, including, but not limited to, screening under subdivision 3a, orientation under section 256J.45, and assessment under section 256J.521.

(b) Upon receipt of a signed application, the county agency must stamp the date of receipt on the face of the application. The county agency must process the application within the time period required under subdivision 5. An applicant may withdraw the application at any time by giving written or oral notice to the county agency. The county agency must issue a written notice confirming the withdrawal. The notice must inform the applicant of the county agency's understanding that the applicant has withdrawn the application and no longer wants to pursue it. When, within ten days of the date of the agency's notice, an applicant informs a county agency, in writing, that the applicant does not wish to withdraw the application, the county agency must reinstate the application and finish processing the application.

(c) Upon a participant's request, the county agency must arrange for transportation and child care or reimburse the participant for transportation and child care expenses necessary to enable participants to attend the screening under subdivision 3a and orientation under section 256J.45.

Sec. 24. Minnesota Statutes 2020, section 256J.45, subdivision 1, is amended to read:

Subdivision 1. **County agency to provide orientation.** A county agency must provide ~~a face-to-face~~ an orientation to each MFIP caregiver unless the caregiver is:

(1) a single parent, or one parent in a two-parent family, employed at least 35 hours per week; or

(2) a second parent in a two-parent family who is employed for 20 or more hours per week provided the first parent is employed at least 35 hours per week.

The county agency must inform caregivers who are not exempt under clause (1) or (2) that failure to attend the orientation is considered an occurrence of noncompliance with program requirements, and will result in the imposition of a sanction under section 256J.46. If the client complies with the orientation requirement prior to the first day of the month in which the grant reduction is proposed to occur, the orientation sanction shall be lifted.

Sec. 25. Minnesota Statutes 2020, section 256J.95, subdivision 5, is amended to read:

**Subd. 5. Submitting application form.** The eligibility date for the diversionary work program begins ~~with~~ on the date that the signed combined application form (CAF) is received by the county agency as a signed application; an application submitted by telephone; or an application submitted through Internet telepresence; or on the date that diversionary work program eligibility criteria are met, whichever is later. The county agency must inform an applicant that when the applicant submits the application by telephone or through Internet telepresence, the county agency must receive a signed application within 30 days of the date that the applicant submitted the application by telephone or through Internet telepresence. The county agency must inform the applicant that any delay in submitting the application will reduce the benefits paid for the month of application. The county agency must inform a person that an application may be submitted before the person has an interview appointment. Upon receipt of a signed application, the county agency must stamp the date of receipt on the face of the application. The applicant may withdraw the application at any time prior to approval by giving written or oral notice to the county agency. The county agency must follow the notice requirements in section 256J.09, subdivision 3, when issuing a notice confirming the withdrawal.

Sec. 26. Minnesota Statutes 2020, section 256N.02, subdivision 16, is amended to read:

**Subd. 16. Permanent legal and physical custody.** "Permanent legal and physical custody" means: (1) a full transfer of permanent legal and physical custody of a child ordered by a Minnesota juvenile court under section 260C.515, subdivision 4, to a relative ordered by a Minnesota juvenile court under section 260C.515, subdivision 4, who is not the child's parent as defined in section 260C.007, subdivision 25; or (2) for a child under jurisdiction of a tribal court, a judicial determination under a similar provision in tribal code which means that a relative will assume the duty and authority to provide care, control, and protection of a child who is residing in foster care, and to make decisions regarding the

69.1 child's education, health care, and general welfare until adulthood. To establish eligibility  
69.2 for Northstar kinship assistance, permanent legal and physical custody does not include  
69.3 joint legal custody, joint physical custody, or joint legal and joint physical custody of a child  
69.4 shared by the child's parent and relative custodian.

69.5 Sec. 27. Minnesota Statutes 2020, section 256N.02, subdivision 17, is amended to read:

69.6 Subd. 17. **Reassessment.** "Reassessment" means an update of a previous assessment  
69.7 through the process under section 256N.24 for a child who has been continuously eligible  
69.8 for Northstar Care for Children, or when a child identified as an at-risk child (Level A)  
69.9 under ~~guardianship~~ or adoption assistance has manifested the disability upon which eligibility  
69.10 for the agreement was based according to section 256N.25, subdivision 3, paragraph (b).  
69.11 A reassessment may be used to update an initial assessment, a special assessment, or a  
69.12 previous reassessment.

69.13 Sec. 28. Minnesota Statutes 2020, section 256N.22, subdivision 1, is amended to read:

69.14 Subdivision 1. **General eligibility requirements.** (a) To be eligible for Northstar kinship  
69.15 assistance under this section, there must be a judicial determination under section 260C.515,  
69.16 subdivision 4, that a transfer of permanent legal and physical custody to a relative who is  
69.17 not the child's parent is in the child's best interest. For a child under jurisdiction of a tribal  
69.18 court, a judicial determination under a similar provision in tribal code indicating that a  
69.19 relative will assume the duty and authority to provide care, control, and protection of a child  
69.20 who is residing in foster care, and to make decisions regarding the child's education, health  
69.21 care, and general welfare until adulthood, and that this is in the child's best interest is  
69.22 considered equivalent. A child whose parent shares legal, physical, or legal and physical  
69.23 custody of the child with a relative custodian is not eligible for Northstar kinship assistance.  
69.24 Additionally, a child must:

69.25 (1) have been removed from the child's home pursuant to a voluntary placement  
69.26 agreement or court order;

69.27 (2)(i) have resided with the prospective relative custodian who has been a licensed child  
69.28 foster parent for at least six consecutive months; or

69.29 (ii) have received from the commissioner an exemption from the requirement in item  
69.30 (i) that the prospective relative custodian has been a licensed child foster parent for at least  
69.31 six consecutive months, based on a determination that:

69.32 (A) an expedited move to permanency is in the child's best interest;

70.1 (B) expedited permanency cannot be completed without provision of Northstar kinship  
70.2 assistance;

70.3 (C) the prospective relative custodian is uniquely qualified to meet the child's needs, as  
70.4 defined in section 260C.212, subdivision 2, on a permanent basis;

70.5 (D) the child and prospective relative custodian meet the eligibility requirements of this  
70.6 section; and

70.7 (E) efforts were made by the legally responsible agency to place the child with the  
70.8 prospective relative custodian as a licensed child foster parent for six consecutive months  
70.9 before permanency, or an explanation why these efforts were not in the child's best interests;

70.10 (3) meet the agency determinations regarding permanency requirements in subdivision  
70.11 2;

70.12 (4) meet the applicable citizenship and immigration requirements in subdivision 3;

70.13 (5) have been consulted regarding the proposed transfer of permanent legal and physical  
70.14 custody to a relative, if the child is at least 14 years of age or is expected to attain 14 years  
70.15 of age prior to the transfer of permanent legal and physical custody; and

70.16 (6) have a written, binding agreement under section 256N.25 among the caregiver or  
70.17 caregivers, the financially responsible agency, and the commissioner established prior to  
70.18 transfer of permanent legal and physical custody.

70.19 (b) In addition to the requirements in paragraph (a), the child's prospective relative  
70.20 custodian or custodians must meet the applicable background study requirements in  
70.21 subdivision 4.

70.22 (c) To be eligible for title IV-E Northstar kinship assistance, a child must also meet any  
70.23 additional criteria in section 473(d) of the Social Security Act. The sibling of a child who  
70.24 meets the criteria for title IV-E Northstar kinship assistance in section 473(d) of the Social  
70.25 Security Act is eligible for title IV-E Northstar kinship assistance if the child and sibling  
70.26 are placed with the same prospective relative custodian or custodians, and the legally  
70.27 responsible agency, relatives, and commissioner agree on the appropriateness of the  
70.28 arrangement for the sibling. A child who meets all eligibility criteria except those specific  
70.29 to title IV-E Northstar kinship assistance is entitled to Northstar kinship assistance paid  
70.30 through funds other than title IV-E.

71.1 Sec. 29. Minnesota Statutes 2020, section 256N.23, subdivision 2, is amended to read:

71.2 Subd. 2. **Special needs determination.** (a) A child is considered a child with special  
71.3 needs under this section if the requirements in paragraphs (b) to (g) are met.

71.4 (b) There must be a determination that the child must not or should not be returned to  
71.5 the home of the child's parents as evidenced by:

71.6 (1) a court-ordered termination of parental rights;

71.7 (2) a petition to terminate parental rights;

71.8 (3) consent of the child's parent to adoption accepted by the court under chapter 260C  
71.9 or, in the case of a child receiving Northstar kinship assistance payments under section  
71.10 256N.22, consent of the child's parent to the child's adoption executed under chapter 259;

71.11 (4) in circumstances when tribal law permits the child to be adopted without a termination  
71.12 of parental rights, a judicial determination by a tribal court indicating the valid reason why  
71.13 the child cannot or should not return home;

71.14 (5) a voluntary relinquishment under section 259.25 ~~or 259.47~~ or, if relinquishment  
71.15 occurred in another state, the applicable laws in that state; or

71.16 (6) the death of the legal parent or parents if the child has two legal parents.

71.17 (c) There exists a specific factor or condition of which it is reasonable to conclude that  
71.18 the child cannot be placed with adoptive parents without providing adoption assistance as  
71.19 evidenced by:

71.20 (1) a determination by the Social Security Administration that the child meets all medical  
71.21 or disability requirements of title XVI of the Social Security Act with respect to eligibility  
71.22 for Supplemental Security Income benefits;

71.23 (2) a documented physical, mental, emotional, or behavioral disability not covered under  
71.24 clause (1);

71.25 (3) a member of a sibling group being adopted at the same time by the same parent;

71.26 (4) an adoptive placement in the home of a parent who previously adopted a sibling for  
71.27 whom they receive adoption assistance; or

71.28 (5) documentation that the child is an at-risk child.

71.29 (d) A reasonable but unsuccessful effort must have been made to place the child with  
71.30 adoptive parents without providing adoption assistance as evidenced by:

71.31 (1) a documented search for an appropriate adoptive placement; or

72.1 (2) a determination by the commissioner that a search under clause (1) is not in the best  
72.2 interests of the child.

72.3 (e) The requirement for a documented search for an appropriate adoptive placement  
72.4 under paragraph (d), including the registration of the child with the state adoption exchange  
72.5 and other recruitment methods under paragraph (f), must be waived if:

72.6 (1) the child is being adopted by a relative and it is determined by the child-placing  
72.7 agency that adoption by the relative is in the best interests of the child;

72.8 (2) the child is being adopted by a foster parent with whom the child has developed  
72.9 significant emotional ties while in the foster parent's care as a foster child and it is determined  
72.10 by the child-placing agency that adoption by the foster parent is in the best interests of the  
72.11 child; or

72.12 (3) the child is being adopted by a parent that previously adopted a sibling of the child,  
72.13 and it is determined by the child-placing agency that adoption by this parent is in the best  
72.14 interests of the child.

72.15 For an Indian child covered by the Indian Child Welfare Act, a waiver must not be  
72.16 granted unless the child-placing agency has complied with the placement preferences required  
72.17 by the Indian Child Welfare Act, United States Code, title 25, section 1915(a).

72.18 (f) To meet the requirement of a documented search for an appropriate adoptive placement  
72.19 under paragraph (d), clause (1), the child-placing agency minimally must:

72.20 (1) conduct a relative search as required by section 260C.221 and give consideration to  
72.21 placement with a relative, as required by section 260C.212, subdivision 2;

72.22 (2) comply with the placement preferences required by the Indian Child Welfare Act  
72.23 when the Indian Child Welfare Act, United States Code, title 25, section 1915(a), applies;

72.24 (3) locate prospective adoptive families by registering the child on the state adoption  
72.25 exchange, as required under section 259.75; and

72.26 (4) if registration with the state adoption exchange does not result in the identification  
72.27 of an appropriate adoptive placement, the agency must employ additional recruitment  
72.28 methods prescribed by the commissioner.

72.29 (g) Once the legally responsible agency has determined that placement with an identified  
72.30 parent is in the child's best interests and made full written disclosure about the child's social  
72.31 and medical history, the agency must ask the prospective adoptive parent if the prospective  
72.32 adoptive parent is willing to adopt the child without receiving adoption assistance under



73.1 this section. If the identified parent is either unwilling or unable to adopt the child without  
73.2 adoption assistance, the legally responsible agency must provide documentation as prescribed  
73.3 by the commissioner to fulfill the requirement to make a reasonable effort to place the child  
73.4 without adoption assistance. If the identified parent is willing to adopt the child without  
73.5 adoption assistance, the parent must provide a written statement to this effect to the legally  
73.6 responsible agency and the statement must be maintained in the permanent adoption record  
73.7 of the legally responsible agency. For children under guardianship of the commissioner,  
73.8 the legally responsible agency shall submit a copy of this statement to the commissioner to  
73.9 be maintained in the permanent adoption record.

73.10 Sec. 30. Minnesota Statutes 2020, section 256N.23, subdivision 6, is amended to read:

73.11 Subd. 6. **Exclusions.** The commissioner must not enter into an adoption assistance  
73.12 agreement with the following individuals:

73.13 (1) a child's biological parent or stepparent;

73.14 (2) a child's relative under section 260C.007, subdivision 26b or 27, with whom the  
73.15 child resided immediately prior to child welfare involvement unless:

73.16 (i) the child was in the custody of a Minnesota county or tribal agency pursuant to an  
73.17 order under chapter 260C or equivalent provisions of tribal code and the agency had  
73.18 placement and care responsibility for permanency planning for the child; and

73.19 (ii) the child is under guardianship of the commissioner of human services according to  
73.20 the requirements of section 260C.325, subdivision 1 or 3, or is a ward of a Minnesota tribal  
73.21 court after termination of parental rights, suspension of parental rights, or a finding by the  
73.22 tribal court that the child cannot safely return to the care of the parent;

73.23 (3) an individual adopting a child who is the subject of a direct adoptive placement under  
73.24 section 259.47 or the equivalent in tribal code;

73.25 (4) a child's legal custodian or guardian who is now adopting the child, except for a  
73.26 relative custodian as defined in section 256N.02, subdivision 19, who is currently receiving  
73.27 Northstar kinship assistance benefits on behalf of the child; or

73.28 (5) an individual who is adopting a child who is not a citizen or resident of the United  
73.29 States and was either adopted in another country or brought to the United States for the  
73.30 purposes of adoption.

74.1 Sec. 31. Minnesota Statutes 2020, section 256N.24, subdivision 1, is amended to read:

74.2 Subdivision 1. **Assessment.** (a) Each child eligible under sections 256N.21, 256N.22,  
74.3 and 256N.23, must be assessed to determine the benefits the child may receive under section  
74.4 256N.26, in accordance with the assessment tool, process, and requirements specified in  
74.5 subdivision 2.

74.6 (b) If an agency applies the emergency foster care rate for initial placement under section  
74.7 256N.26, the agency may wait up to 30 days to complete the initial assessment.

74.8 (c) Unless otherwise specified in paragraph (d), a child must be assessed at the basic  
74.9 level, level B, or one of ten supplemental difficulty of care levels, levels C to L.

74.10 (d) An assessment must not be completed for:

74.11 (1) a child eligible for Northstar kinship assistance under section 256N.22 or adoption  
74.12 assistance under section 256N.23 who is determined to be an at-risk child. A child under  
74.13 this clause must be assigned level A under section 256N.26, subdivision 1; and

74.14 (2) a child transitioning into Northstar Care for Children under section 256N.28,  
74.15 subdivision 7, unless the commissioner determines an assessment is appropriate.

74.16 Sec. 32. Minnesota Statutes 2020, section 256N.24, subdivision 8, is amended to read:

74.17 Subd. 8. **Completing the special assessment.** (a) The special assessment must be  
74.18 completed in consultation with the child's caregiver. Face-to-face contact with the caregiver  
74.19 is not required to complete the special assessment.

74.20 (b) If a new special assessment is required prior to the effective date of the Northstar  
74.21 kinship assistance agreement, it must be completed by the financially responsible agency,  
74.22 in consultation with the legally responsible agency if different. If the prospective relative  
74.23 custodian is unable or unwilling to cooperate with the special assessment process, the child  
74.24 shall be assigned the basic level, level B under section 256N.26, subdivision 3, ~~unless the~~  
74.25 ~~child is known to be an at-risk child, in which case, the child shall be assigned level A under~~  
74.26 ~~section 256N.26, subdivision 1.~~

74.27 (c) If a special assessment is required prior to the effective date of the adoption assistance  
74.28 agreement, it must be completed by the financially responsible agency, in consultation with  
74.29 the legally responsible agency if different. If there is no financially responsible agency, the  
74.30 special assessment must be completed by the agency designated by the commissioner. If  
74.31 the prospective adoptive parent is unable or unwilling to cooperate with the special  
74.32 assessment process, the child must be assigned the basic level, level B under section 256N.26,

75.1 subdivision 3, unless the child is known to be an at-risk child, in which case, the child shall  
75.2 be assigned level A under section 256N.26, subdivision 1.

75.3 (d) Notice to the prospective relative custodians or prospective adoptive parents must  
75.4 be provided as specified in subdivision 13.

75.5 Sec. 33. Minnesota Statutes 2020, section 256N.24, subdivision 11, is amended to read:

75.6 Subd. 11. **Completion of reassessment.** (a) The reassessment must be completed in  
75.7 consultation with the child's caregiver. Face-to-face contact with the caregiver is not required  
75.8 to complete the reassessment.

75.9 (b) For foster children eligible under section 256N.21, reassessments must be completed  
75.10 by the financially responsible agency, in consultation with the legally responsible agency  
75.11 if different.

75.12 (c) If reassessment is required after the effective date of the Northstar kinship assistance  
75.13 agreement, the reassessment must be completed by the financially responsible agency.

75.14 (d) If a reassessment is required after the effective date of the adoption assistance  
75.15 agreement, it must be completed by the financially responsible agency or, if there is no  
75.16 financially responsible agency, the agency designated by the commissioner.

75.17 (e) If the child's caregiver is unable or unwilling to cooperate with the reassessment, the  
75.18 child must be assessed at level B under section 256N.26, subdivision 3, unless the child has  
75.19 ~~an a Northstar adoption assistance or Northstar kinship assistance agreement in place~~ and  
75.20 is known to be an at-risk child, in which case the child must be assessed at level A under  
75.21 section 256N.26, subdivision 1.

75.22 Sec. 34. Minnesota Statutes 2020, section 256N.24, subdivision 12, is amended to read:

75.23 Subd. 12. **Approval of initial assessments, special assessments, and reassessments.** (a)  
75.24 Any agency completing initial assessments, special assessments, or reassessments must  
75.25 designate one or more supervisors or other staff to examine and approve assessments  
75.26 completed by others in the agency under subdivision 2. The person approving an assessment  
75.27 must not be the case manager or staff member completing that assessment.

75.28 (b) In cases where a special assessment or reassessment for ~~guardian~~ Northstar kinship  
75.29 assistance and adoption assistance is required under subdivision 8 or 11, the commissioner  
75.30 shall review and approve the assessment as part of the eligibility determination process  
75.31 outlined in section 256N.22, subdivision 7, for Northstar kinship assistance, or section

76.1 256N.23, subdivision 7, for adoption assistance. The assessment determines the maximum  
76.2 ~~for~~ of the negotiated agreement amount under section 256N.25.

76.3 (c) The new rate is effective the calendar month that the assessment is approved, or the  
76.4 effective date of the agreement, whichever is later.

76.5 Sec. 35. Minnesota Statutes 2020, section 256N.24, subdivision 14, is amended to read:

76.6 Subd. 14. **Assessment tool determines rate of benefits.** The assessment tool established  
76.7 by the commissioner in subdivision 2 determines the monthly benefit level for children in  
76.8 foster care. The monthly payment for ~~guardian~~ Northstar kinship assistance or adoption  
76.9 assistance may be negotiated up to the monthly benefit level under foster care for those  
76.10 children eligible for a payment under section 256N.26, subdivision 1.

76.11 Sec. 36. Minnesota Statutes 2020, section 256N.25, subdivision 1, is amended to read:

76.12 Subdivision 1. **Agreement; Northstar kinship assistance; adoption assistance.** (a) In  
76.13 order to receive Northstar kinship assistance or adoption assistance benefits on behalf of  
76.14 an eligible child, a written, binding agreement between the caregiver or caregivers, the  
76.15 financially responsible agency, or, if there is no financially responsible agency, the agency  
76.16 designated by the commissioner, and the commissioner must be established prior to  
76.17 finalization of the adoption or a transfer of permanent legal and physical custody. The  
76.18 agreement must be negotiated with the caregiver or caregivers under subdivision 2 and  
76.19 renegotiated under subdivision 3, if applicable.

76.20 (b) The agreement must be on a form approved by the commissioner and must specify  
76.21 the following:

76.22 (1) duration of the agreement;

76.23 (2) the nature and amount of any payment, services, and assistance to be provided under  
76.24 such agreement;

76.25 (3) the child's eligibility for Medicaid services;

76.26 (4) the terms of the payment, including any child care portion as specified in section  
76.27 256N.24, subdivision 3;

76.28 (5) eligibility for reimbursement of nonrecurring expenses associated with adopting or  
76.29 obtaining permanent legal and physical custody of the child, to the extent that the total cost  
76.30 does not exceed \$2,000 per child pursuant to subdivision 1a;

(6) that the agreement must remain in effect regardless of the state of which the adoptive parents or relative custodians are residents at any given time;

(7) provisions for modification of the terms of the agreement, including renegotiation of the agreement;

(8) the effective date of the agreement; and

(9) the successor relative custodian or custodians for Northstar kinship assistance, when applicable. The successor relative custodian or custodians may be added or changed by mutual agreement under subdivision 3.

(c) The caregivers, the commissioner, and the financially responsible agency, or, if there is no financially responsible agency, the agency designated by the commissioner, must sign the agreement. A copy of the signed agreement must be given to each party. Once signed by all parties, the commissioner shall maintain the official record of the agreement.

(d) The effective date of the Northstar kinship assistance agreement must be the date of the court order that transfers permanent legal and physical custody to the relative. The effective date of the adoption assistance agreement is the date of the finalized adoption decree.

(e) Termination or disruption of the preadoptive placement or the foster care placement prior to assignment of custody makes the agreement with that caregiver void.

Sec. 37. Minnesota Statutes 2020, section 256N.25, is amended by adding a subdivision to read:

Subd. 1a. **Reimbursement of nonrecurring expenses.** (a) The commissioner of human services must reimburse a relative custodian with a fully executed Northstar kinship assistance benefit agreement for costs that the relative custodian incurs while seeking permanent legal and physical custody of a child who is the subject of a Northstar kinship assistance benefit agreement. The commissioner must reimburse a relative custodian for expenses that are reasonable and necessary that the relative incurs during the transfer of permanent legal and physical custody of a child to the relative custodian, subject to a maximum of \$2,000. To be eligible for reimbursement, the expenses must directly relate to the legal transfer of permanent legal and physical custody of the child to the relative custodian, must not have been incurred by the relative custodian in violation of state or federal law, and must not have been reimbursed from other sources or funds. The relative custodian must submit reimbursement requests to the commissioner within 21 months of the date of the child's

78.1 finalized transfer of permanent legal and physical custody, and the relative custodian must  
78.2 follow all requirements and procedures that the commissioner prescribes.

78.3 (b) The commissioner of human services must reimburse an adoptive parent for costs  
78.4 that the adoptive parent incurs in an adoption of a child with special needs according to  
78.5 section 256N.23, subdivision 2. The commissioner must reimburse an adoptive parent for  
78.6 expenses that are reasonable and necessary for the adoption of the child to occur, subject  
78.7 to a maximum of \$2,000. To be eligible for reimbursement, the expenses must directly relate  
78.8 to the legal adoption of the child, must not have been incurred by the adoptive parent in  
78.9 violation of state or federal law, and must not have been reimbursed from other sources or  
78.10 funds.

78.11 (1) Children who have special needs but who are not citizens or residents of the United  
78.12 States and were either adopted in another country or brought to this country for the purposes  
78.13 of adoption are categorically ineligible for the reimbursement program in this section, except  
78.14 when the child meets the eligibility criteria in this section after the dissolution of the child's  
78.15 international adoption.

78.16 (2) An adoptive parent, in consultation with the responsible child-placing agency, may  
78.17 request reimbursement of nonrecurring adoption expenses by submitting a complete  
78.18 application to the commissioner that follows the commissioner's requirements and procedures  
78.19 on forms that the commissioner prescribes.

78.20 (3) The commissioner must determine a child's eligibility for adoption expense  
78.21 reimbursement under title IV-E of the Social Security Act, United States Code, title 42,  
78.22 sections 670 to 679c. If the commissioner determines that a child is eligible, the commissioner  
78.23 of human services must fully execute the agreement for nonrecurring adoption expense  
78.24 reimbursement by signing the agreement. For a child to be eligible, the commissioner must  
78.25 have fully executed the agreement for nonrecurring adoption expense reimbursement prior  
78.26 to finalizing a child's adoption.

78.27 (4) An adoptive parent who has a fully executed Northstar adoption assistance agreement  
78.28 is not required to submit a separate application for reimbursement of nonrecurring adoption  
78.29 expenses for the child who is the subject of the Northstar adoption assistance agreement.

78.30 (5) If the commissioner has determined the child to be eligible, the adoptive parent must  
78.31 submit reimbursement requests to the commissioner within 21 months of the date of the  
78.32 child's adoption decree, and the adoptive parent must follow requirements and procedures  
78.33 that the commissioner prescribes.

79.1 Sec. 38. Minnesota Statutes 2020, section 259.22, subdivision 4, is amended to read:

79.2 Subd. 4. **Time for filing petition.** A petition shall be filed not later than 12 months after  
79.3 a child is placed in a prospective adoptive home. If a petition is not filed by that time, the  
79.4 agency that placed the child, or, in a direct adoptive placement, the agency that is supervising  
79.5 the placement shall file with the district court in the county where the prospective adoptive  
79.6 parent resides a motion for an order and a report recommending one of the following:

79.7 (1) that the time for filing a petition be extended because of the child's special needs as  
79.8 defined under title IV-E of the Social Security Act, United States Code, title 42, section  
79.9 673;

79.10 (2) that, based on a written plan for completing filing of the petition, including a specific  
79.11 timeline, to which the prospective adoptive parents have agreed, the time for filing a petition  
79.12 be extended long enough to complete the plan because such an extension is in the best  
79.13 interests of the child and additional time is needed for the child to adjust to the adoptive  
79.14 home; or

79.15 (3) that the child be removed from the prospective adoptive home.

79.16 The prospective adoptive parent must reimburse an agency for the cost of preparing and  
79.17 filing the motion and report under this section, unless the costs are reimbursed by the  
79.18 commissioner under section 259.73 or ~~259A.70~~ 256N.25, subdivision 1a.

79.19 Sec. 39. Minnesota Statutes 2020, section 259.241, is amended to read:

79.20 **259.241 ADULT ADOPTION.**

79.21 (a) Any adult person may be adopted, regardless of the adult person's residence. A  
79.22 resident of Minnesota may petition the court of record having jurisdiction of adoption  
79.23 proceedings to adopt an individual who has reached the age of 18 years or older.

79.24 (b) The consent of the person to be adopted shall be the only consent necessary, according  
79.25 to section 259.24. The consent of an adult in the adult person's own adoption is invalid if  
79.26 the adult is considered to be a vulnerable adult under section 626.5572, subdivision 21, or  
79.27 if the person consenting to the adoption is determined not competent to give consent.

79.28 (c) Notwithstanding paragraph (b), a person in extended foster care under section  
79.29 260C.451 may consent to the person's own adoption as long as the court with jurisdiction  
79.30 finds the person competent to give consent.

79.31 ~~(e)~~ (d) The decree of adoption establishes a parent-child relationship between the adopting  
79.32 parent or parents and the person adopted, including the right to inherit, and also terminates

80.1 the parental rights ~~and sibling relationship~~ between the adopted person and the adopted  
80.2 person's birth parents ~~and siblings~~ according to section 259.59.

80.3 ~~(d)~~ (e) If the adopted person requests a change of name, the adoption decree shall order  
80.4 the name change.

80.5 Sec. 40. Minnesota Statutes 2020, section 259.35, subdivision 1, is amended to read:

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

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

80.21 Sec. 41. Minnesota Statutes 2020, section 259.53, subdivision 4, is amended to read:

80.22 Subd. 4. **Preadoption residence.** No petition shall be granted under this chapter until  
80.23 the child ~~shall have~~ has lived for three months in the proposed adoptive home, subject to a  
80.24 right of visitation by the commissioner or an agency or their authorized representatives.

80.25 Sec. 42. Minnesota Statutes 2020, section 259.73, is amended to read:

80.26 **259.73 REIMBURSEMENT OF NONRECURRING ADOPTION EXPENSES.**

80.27 An individual may apply for reimbursement for costs incurred in an adoption of a child  
80.28 with special needs under section ~~259A.70~~ 256N.25, subdivision 1a.



81.1 Sec. 43. Minnesota Statutes 2020, section 259.75, subdivision 5, is amended to read:

81.2 Subd. 5. **Withdrawal of registration.** A child's registration shall be withdrawn when  
81.3 the exchange service has been notified in writing by the local social service agency or the  
81.4 licensed child-placing agency that the child has been placed in an adoptive home ~~or~~ has  
81.5 died, or is no longer under the guardianship of the commissioner and is no longer seeking  
81.6 an adoptive home.

81.7 Sec. 44. Minnesota Statutes 2020, section 259.75, subdivision 6, is amended to read:

81.8 Subd. 6. **Periodic review of status.** (a) The ~~exchange service~~ commissioner shall  
81.9 ~~semiannually check~~ review the state adoption exchange status of listed children for whom  
81.10 ~~inquiries have been received~~ identified under subdivision 2, including a child whose  
81.11 registration was withdrawn pursuant to subdivision 5. The commissioner may determine  
81.12 that a child who is unregistered, or whose registration has been deferred, must be registered  
81.13 and require the authorized child-placing agency to register the child with the state adoption  
81.14 exchange within ten working days of the commissioner's determination.

81.15 (b) Periodic ~~checks~~ reviews shall be made by the ~~service~~ commissioner to determine the  
81.16 progress toward adoption of ~~those children and the status of~~ children registered but never  
81.17 listed in the ~~exchange book because of placement in an adoptive home prior to or at the~~  
81.18 time of registration state adoption exchange.

81.19 Sec. 45. Minnesota Statutes 2020, section 259.75, subdivision 9, is amended to read:

81.20 Subd. 9. **Rules; staff.** The commissioner of human services shall make rules as necessary  
81.21 to administer this section and shall employ necessary staff to carry out the purposes of this  
81.22 section. The commissioner may contract for services to carry out the purposes of this section.

81.23 Sec. 46. Minnesota Statutes 2020, section 259.83, subdivision 1a, is amended to read:

81.24 Subd. 1a. **Social and medical history.** (a) If a person aged 19 years and over who was  
81.25 adopted on or after August 1, 1994, or the adoptive parent requests the detailed nonidentifying  
81.26 social and medical history of the adopted person's birth family that was provided at the time  
81.27 of the adoption, agencies must provide the information to the adopted person or adoptive  
81.28 parent on the applicable form required under ~~section~~ sections 259.43 and 260C.212,  
81.29 subdivision 15.

81.30 (b) If an adopted person aged 19 years and over or the adoptive parent requests the  
81.31 agency to contact the adopted person's birth parents to request current nonidentifying social  
81.32 and medical history of the adopted person's birth family, agencies must use the applicable

82.1 form required under ~~section~~ sections 259.43 and 260C.212, subdivision 15, when obtaining  
82.2 the information for the adopted person or adoptive parent.

82.3 Sec. 47. Minnesota Statutes 2020, section 259A.75, subdivision 1, is amended to read:

82.4 Subdivision 1. **General information.** (a) Subject to the procedures required by the  
82.5 commissioner and the provisions of this section, a Minnesota county or tribal agency shall  
82.6 receive a reimbursement from the commissioner equal to 100 percent of the reasonable and  
82.7 appropriate cost for contracted adoption placement services identified for a specific child  
82.8 that are not reimbursed under other federal or state funding sources.

82.9 (b) The commissioner may spend up to \$16,000 for each purchase of service contract.  
82.10 Only one contract per child per adoptive placement is permitted. Funds encumbered and  
82.11 obligated under the contract for the child remain available until the terms of the contract  
82.12 are fulfilled or the contract is terminated.

82.13 (c) The commissioner shall set aside an amount not to exceed five percent of the total  
82.14 amount of the fiscal year appropriation from the state for the adoption assistance program  
82.15 to reimburse a Minnesota county or tribal social services placing agency for child-specific  
82.16 adoption placement services. When adoption assistance payments for children's needs exceed  
82.17 95 percent of the total amount of the fiscal year appropriation from the state for the adoption  
82.18 assistance program, the amount of reimbursement available to placing agencies for adoption  
82.19 services is reduced correspondingly.

82.20 Sec. 48. Minnesota Statutes 2020, section 259A.75, subdivision 2, is amended to read:

82.21 Subd. 2. **Purchase of service contract child eligibility criteria.** ~~(a)~~ A child who is the  
82.22 subject of a purchase of service contract must:

82.23 (1) have the goal of adoption, which may include an adoption in accordance with tribal  
82.24 law;

82.25 (2) be under the guardianship of the commissioner of human services or be a ward of  
82.26 tribal court pursuant to section 260.755, subdivision 20; and

82.27 (3) meet all of the special needs criteria according to section ~~259A.10, subdivision 2~~  
82.28 256N.23, subdivision 2.

82.29 ~~(b) A child under the guardianship of the commissioner must have an identified adoptive~~  
82.30 ~~parent and a fully executed adoption placement agreement according to section 260C.613,~~  
82.31 ~~subdivision 1, paragraph (a).~~

83.1 Sec. 49. Minnesota Statutes 2020, section 259A.75, subdivision 3, is amended to read:

83.2 Subd. 3. **Agency eligibility criteria.** (a) A Minnesota county or tribal social services  
83.3 agency shall receive reimbursement for child-specific adoption placement services for an  
83.4 eligible child that it purchases from a private adoption agency licensed in Minnesota or any  
83.5 other state or tribal social services agency.

83.6 (b) Reimbursement for adoption services is available only for services provided prior  
83.7 to the date of the adoption decree.

83.8 Sec. 50. Minnesota Statutes 2020, section 259A.75, subdivision 4, is amended to read:

83.9 Subd. 4. **Application and eligibility determination.** (a) A Minnesota county or tribal  
83.10 social services agency may request reimbursement of costs for adoption placement services  
83.11 by submitting a complete purchase of service application, according to the requirements  
83.12 and procedures and on forms prescribed by the commissioner.

83.13 (b) The commissioner shall determine eligibility for reimbursement of adoption placement  
83.14 services. If determined eligible, the commissioner of human services shall sign the purchase  
83.15 of service agreement, making this a fully executed contract. No reimbursement under this  
83.16 section shall be made to an agency for services provided prior to the fully executed contract.

83.17 (c) Separate purchase of service agreements shall be made, and separate records  
83.18 maintained, on each child. Only one agreement per child per adoptive placement is permitted.  
83.19 For siblings who are placed together, services shall be planned and provided to best maximize  
83.20 efficiency of the contracted hours.

83.21 Sec. 51. Minnesota Statutes 2020, section 260C.007, subdivision 22a, is amended to read:

83.22 Subd. 22a. **Licensed residential family-based substance use disorder treatment**  
83.23 **program.** "Licensed residential family-based substance use disorder treatment program"  
83.24 means a residential treatment facility that provides the parent or guardian with parenting  
83.25 skills training, parent education, or individual and family counseling, under an organizational  
83.26 structure and treatment framework that involves understanding, recognizing, and responding  
83.27 to the effects of all types of trauma according to recognized principles of a trauma-informed  
83.28 approach and trauma-specific interventions to address the consequences of trauma and  
83.29 facilitate healing. The residential program must be licensed by the Department of Human  
83.30 Services under ~~chapter~~ chapters 245A and ~~sections 245G.01 to 245G.16, 245G.19, and~~  
83.31 ~~245G.21~~ 245G or tribally licensed or approved as a residential substance use disorder  
83.32 treatment program specializing in the treatment of clients with children.

84.1 Sec. 52. Minnesota Statutes 2020, section 260C.007, subdivision 26c, is amended to read:

84.2 Subd. 26c. **Qualified individual.** "Qualified individual" means a trained culturally  
84.3 competent professional or licensed clinician, including a mental health professional under  
84.4 section 245.4871, subdivision 27, who is not an employee of the responsible social services  
84.5 agency and who is not connected to or affiliated with any placement setting in which a  
84.6 responsible social services agency has placed children.

84.7 When the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901  
84.8 to 1963, applies to a child, the county must contact the child's tribe without delay to give  
84.9 the tribe the option to designate a qualified individual who is a trained culturally competent  
84.10 professional or licensed clinician, including a mental health professional under section  
84.11 245.4871, subdivision 27, who is not employed by the responsible social services agency  
84.12 and who is not connected to or affiliated with any placement setting in which a responsible  
84.13 social services agency has placed children. Only a federal waiver that demonstrates  
84.14 maintained objectivity may allow a responsible social services agency employee or tribal  
84.15 employee affiliated with any placement setting in which the responsible social services  
84.16 agency has placed children to be designated the qualified individual.

84.17 Sec. 53. Minnesota Statutes 2020, section 260C.007, subdivision 31, is amended to read:

84.18 Subd. 31. **Sexually exploited youth.** "Sexually exploited youth" means an individual  
84.19 who:

84.20 (1) is alleged to have engaged in conduct which would, if committed by an adult, violate  
84.21 any federal, state, or local law relating to being hired, offering to be hired, or agreeing to  
84.22 be hired by another individual to engage in sexual penetration or sexual conduct;

84.23 (2) is a victim of a crime described in section 609.342, 609.343, 609.344, 609.345,  
84.24 609.3451, 609.3453, 609.352, 617.246, or 617.247;

84.25 (3) is a victim of a crime described in United States Code, title 18, section 2260; 2421;  
84.26 2422; 2423; 2425; 2425A; or 2256; ~~or~~

84.27 (4) is a sex trafficking victim as defined in section 609.321, subdivision 7b.; or

84.28 (5) is a victim of commercial sexual exploitation as defined in United States Code, title  
84.29 22, section 7102(11)(A) and (12).

84.30 **EFFECTIVE DATE.** This section is effective September 30, 2021.

85.1 Sec. 54. Minnesota Statutes 2020, section 260C.157, subdivision 3, is amended to read:

85.2 Subd. 3. **Juvenile treatment screening team.** (a) The responsible social services agency  
85.3 shall establish a juvenile treatment screening team to conduct screenings under this chapter,  
85.4 chapter 260D, and section 245.487, subdivision 3, for a child to receive treatment for an  
85.5 emotional disturbance, a developmental disability, or related condition in a residential  
85.6 treatment facility licensed by the commissioner of human services under chapter 245A, or  
85.7 licensed or approved by a tribe. A screening team is not required for a child to be in: (1) a  
85.8 residential facility specializing in prenatal, postpartum, or parenting support; (2) a facility  
85.9 specializing in high-quality residential care and supportive services to children and youth  
85.10 ~~who are~~ have been or are at risk of becoming victims of sex-trafficking victims or are at  
85.11 ~~risk of becoming sex-trafficking victims or commercial sexual exploitation;~~ (3) supervised  
85.12 settings for youth who are 18 years ~~old~~ of age or older and living independently; or (4) a  
85.13 licensed residential family-based treatment facility for substance abuse consistent with  
85.14 section 260C.190. Screenings are also not required when a child must be placed in a facility  
85.15 due to an emotional crisis or other mental health emergency.

85.16 (b) The responsible social services agency shall conduct screenings within 15 days of a  
85.17 request for a screening, unless the screening is for the purpose of residential treatment and  
85.18 the child is enrolled in a prepaid health program under section 256B.69, in which case the  
85.19 agency shall conduct the screening within ten working days of a request. The responsible  
85.20 social services agency shall convene the juvenile treatment screening team, which may be  
85.21 constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to  
85.22 9530.6655. The team shall consist of social workers; persons with expertise in the treatment  
85.23 of juveniles who are emotionally disabled, chemically dependent, or have a developmental  
85.24 disability; and the child's parent, guardian, or permanent legal custodian. The team may  
85.25 include the child's relatives as defined in section 260C.007, subdivisions 26b and 27, the  
85.26 child's foster care provider, and professionals who are a resource to the child's family such  
85.27 as teachers, medical or mental health providers, and clergy, as appropriate, consistent with  
85.28 the family and permanency team as defined in section 260C.007, subdivision 16a. Prior to  
85.29 forming the team, the responsible social services agency must consult with the child if the  
85.30 child is age 14 or older, the child's parents, and, if applicable, the child's tribe to ensure that  
85.31 the team is family-centered and will act in the child's best interest. If the child, child's parents,  
85.32 or legal guardians raise concerns about specific relatives or professionals, the team should  
85.33 not include those individuals. This provision does not apply to paragraph (c).

85.34 (c) If the agency provides notice to tribes under section 260.761, and the child screened  
85.35 is an Indian child, the responsible social services agency must make a rigorous and concerted

effort to include a designated representative of the Indian child's tribe on the juvenile treatment screening team, unless the child's tribal authority declines to appoint a representative. The Indian child's tribe may delegate its authority to represent the child to any other federally recognized Indian tribe, as defined in section 260.755, subdivision 12. The provisions of the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835, apply to this section.

(d) If the court, prior to, or as part of, a final disposition or other court order, proposes to place a child with an emotional disturbance or developmental disability or related condition in residential treatment, the responsible social services agency must conduct a screening. If the team recommends treating the child in a qualified residential treatment program, the agency must follow the requirements of sections 260C.70 to 260C.714.

The court shall ascertain whether the child is an Indian child and shall notify the responsible social services agency and, if the child is an Indian child, shall notify the Indian child's tribe as paragraph (c) requires.

(e) When the responsible social services agency is responsible for placing and caring for the child and the screening team recommends placing a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, the agency must: (1) begin the assessment and processes required in section 260C.704 without delay; and (2) conduct a relative search according to section 260C.221 to assemble the child's family and permanency team under section 260C.706. Prior to notifying relatives regarding the family and permanency team, the responsible social services agency must consult with the child if the child is age 14 or older, the child's parents and, if applicable, the child's tribe to ensure that the agency is providing notice to individuals who will act in the child's best interest. The child and the child's parents may identify a culturally competent qualified individual to complete the child's assessment. The agency shall make efforts to refer the assessment to the identified qualified individual. The assessment may not be delayed for the purpose of having the assessment completed by a specific qualified individual.

(f) When a screening team determines that a child does not need treatment in a qualified residential treatment program, the screening team must:

(1) document the services and supports that will prevent the child's foster care placement and will support the child remaining at home;

(2) document the services and supports that the agency will arrange to place the child in a family foster home; or

87.1 (3) document the services and supports that the agency has provided in any other setting.

87.2 (g) When the Indian child's tribe or tribal health care services provider or Indian Health  
87.3 Services provider proposes to place a child for the primary purpose of treatment for an  
87.4 emotional disturbance, a developmental disability, or co-occurring emotional disturbance  
87.5 and chemical dependency, the Indian child's tribe or the tribe delegated by the child's tribe  
87.6 shall submit necessary documentation to the county juvenile treatment screening team,  
87.7 which must invite the Indian child's tribe to designate a representative to the screening team.

87.8 (h) The responsible social services agency must conduct and document the screening in  
87.9 a format approved by the commissioner of human services.

87.10 **EFFECTIVE DATE.** This section is effective September 30, 2021.

87.11 Sec. 55. Minnesota Statutes 2020, section 260C.212, subdivision 1, is amended to read:

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

87.16 (b) An out-of-home placement plan means a written document which is prepared by the  
87.17 responsible social services agency jointly with the parent or parents or guardian of the child  
87.18 and in consultation with the child's guardian ad litem, the child's tribe, if the child is an  
87.19 Indian child, the child's foster parent or representative of the foster care facility, and, where  
87.20 appropriate, the child. When a child is age 14 or older, the child may include two other  
87.21 individuals on the team preparing the child's out-of-home placement plan. The child may  
87.22 select one member of the case planning team to be designated as the child's advisor and to  
87.23 advocate with respect to the application of the reasonable and prudent parenting standards.  
87.24 The responsible social services agency may reject an individual selected by the child if the  
87.25 agency has good cause to believe that the individual would not act in the best interest of the  
87.26 child. For a child in voluntary foster care for treatment under chapter 260D, preparation of  
87.27 the out-of-home placement plan shall additionally include the child's mental health treatment  
87.28 provider. For a child 18 years of age or older, the responsible social services agency shall  
87.29 involve the child and the child's parents as appropriate. As appropriate, the plan shall be:

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

87.31 (2) ordered by the court, either as presented or modified after hearing, under section  
87.32 260C.178, subdivision 7, or 260C.201, subdivision 6; and

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

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

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

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

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

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

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

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

88.29 (5) the visitation plan for the parent or parents or guardian, other relatives as defined in  
88.30 section 260C.007, subdivision 26b or 27, and siblings of the child if the siblings are not  
88.31 placed together in foster care, and whether visitation is consistent with the best interest of  
88.32 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 transfer of permanent legal and physical custody or the reasons why these efforts were not made;

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

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

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

90.1 (9) the educational records of the child including the most recent information available  
90.2 regarding:

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

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

90.5 (iii) the child's school record;

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

90.8 (v) any other relevant educational information;

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

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

90.12 (ii) how the child's known medical problems and identified needs from the screens,  
90.13 including any known communicable diseases, as defined in section 144.4172, subdivision  
90.14 2, shall be monitored and treated while the child is in foster care;

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

90.17 (iv) who is responsible to coordinate and respond to the child's health care needs,  
90.18 including the role of the parent, the agency, and the foster parent;

90.19 (v) who is responsible for oversight of the child's prescription medications;

90.20 (vi) how physicians or other appropriate medical and nonmedical professionals shall be  
90.21 consulted and involved in assessing the health and well-being of the child and determine  
90.22 the appropriate medical treatment for the child; and

90.23 (vii) the responsibility to ensure that the child has access to medical care through either  
90.24 medical insurance or medical assistance;

90.25 (11) the health records of the child including information available regarding:

90.26 (i) the names and addresses of the child's health care and dental care providers;

90.27 (ii) a record of the child's immunizations;

90.28 (iii) the child's known medical problems, including any known communicable diseases  
90.29 as defined in section 144.4172, subdivision 2;

90.30 (iv) the child's medications; and

91.1 (v) any other relevant health care information such as the child's eligibility for medical  
91.2 insurance or medical assistance;

91.3 (12) an independent living plan for a child 14 years of age or older, developed in  
91.4 consultation with the child. The child may select one member of the case planning team to  
91.5 be designated as the child's advisor and to advocate with respect to the application of the  
91.6 reasonable and prudent parenting standards in subdivision 14. The plan should include, but  
91.7 not be limited to, the following objectives:

91.8 (i) educational, vocational, or employment planning;

91.9 (ii) health care planning and medical coverage;

91.10 (iii) transportation including, where appropriate, assisting the child in obtaining a driver's  
91.11 license;

91.12 (iv) money management, including the responsibility of the responsible social services  
91.13 agency to ensure that the child annually receives, at no cost to the child, a consumer report  
91.14 as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies  
91.15 in the report;

91.16 (v) planning for housing;

91.17 (vi) social and recreational skills;

91.18 (vii) establishing and maintaining connections with the child's family and community;  
91.19 and

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

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

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

91.31 (15) for a child placed in a qualified residential treatment program, the plan must include  
91.32 the requirements in section 260C.708.

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

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

Upon the child's discharge from foster care, the responsible social services agency must provide the child's parent, adoptive parent, or permanent legal and physical custodian, ~~as appropriate,~~ and the child, if ~~appropriate, must be provided~~ the child is 14 years of age or older, with a current copy of the child's health and education record. If a child meets the conditions in subdivision 15, paragraph (b), the agency must also provide the child with the child's social and medical history. The responsible social services agency may give a copy of the child's health and education record and social and medical history to a child who is younger than 14 years of age, if it is appropriate and if subdivision 15, paragraph (b), applies.

Sec. 56. Minnesota Statutes 2020, section 260C.212, subdivision 1a, is amended to read:

Subd. 1a. **Out-of-home placement plan update.** (a) Within 30 days of placing the child in foster care, the agency must file the child's initial out-of-home placement plan with the court. After filing the child's initial out-of-home placement plan, the agency shall update and file the child's out-of-home placement plan with the court as follows:

(1) when the agency moves a child to a different foster care setting, the agency shall inform the court within 30 days of the child's placement change or court-ordered trial home visit. The agency must file the child's updated out-of-home placement plan with the court at the next required review hearing;

(2) when the agency places a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, or moves a child from one qualified residential treatment program to a different qualified residential treatment program, the agency must update the child's out-of-home placement plan within 60 days. To meet the requirements of section 260C.708, the agency must file the child's out-of-home placement plan ~~with the court as part of the 60-day hearing and~~ along with the agency's report seeking the court's approval of the child's placement at a qualified residential treatment program under section

93.1 260C.71. After the court issues an order, the agency must update the child's out-of-home  
93.2 placement plan after the court hearing to document the court's approval or disapproval of  
93.3 the child's placement in a qualified residential treatment program;

93.4 (3) when the agency places a child with the child's parent in a licensed residential  
93.5 family-based substance use disorder treatment program under section 260C.190, the agency  
93.6 must identify the treatment program where the child will be placed in the child's out-of-home  
93.7 placement plan prior to the child's placement. The agency must file the child's out-of-home  
93.8 placement plan with the court at the next required review hearing; and

93.9 (4) under sections 260C.227 and 260C.521, the agency must update the child's  
93.10 out-of-home placement plan and file the child's out-of-home placement plan with the court.

93.11 (b) When none of the items in paragraph (a) apply, the agency must update the child's  
93.12 out-of-home placement plan no later than 180 days after the child's initial placement and  
93.13 every six months thereafter, consistent with section 260C.203, paragraph (a).

93.14 **EFFECTIVE DATE.** This section is effective September 30, 2021.

93.15 Sec. 57. Minnesota Statutes 2020, section 260C.212, subdivision 2, is amended to read:

93.16 Subd. 2. **Placement decisions based on best interests of the child.** (a) The policy of  
93.17 the state of Minnesota is to ensure that the child's best interests are met by requiring an  
93.18 individualized determination of the needs of the child and of how the selected placement  
93.19 will serve the needs of the child being placed. The authorized child-placing agency shall  
93.20 place a child, released by court order or by voluntary release by the parent or parents, in a  
93.21 family foster home selected by considering placement with relatives and important friends  
93.22 in the following order:

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

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

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

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

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

93.32 (2) the medical needs of the child;

- 94.1 (3) the educational needs of the child;
- 94.2 (4) the developmental needs of the child;
- 94.3 (5) the child's history and past experience;
- 94.4 (6) the child's religious and cultural needs;
- 94.5 (7) the child's connection with a community, school, and faith community;
- 94.6 (8) the child's interests and talents;
- 94.7 (9) the child's relationship to current caretakers, parents, siblings, and relatives;
- 94.8 (10) the reasonable preference of the child, if the court, or the child-placing agency in
- 94.9 the case of a voluntary placement, deems the child to be of sufficient age to express
- 94.10 preferences; and
- 94.11 (11) for an Indian child, the best interests of an Indian child as defined in section 260.755,
- 94.12 subdivision 2a.
- 94.13 (c) Placement of a child cannot be delayed or denied based on race, color, or national
- 94.14 origin of the foster parent or the child.
- 94.15 (d) Siblings should be placed together for foster care and adoption at the earliest possible
- 94.16 time unless it is documented that a joint placement would be contrary to the safety or
- 94.17 well-being of any of the siblings or unless it is not possible after reasonable efforts by the
- 94.18 responsible social services agency. In cases where siblings cannot be placed together, the
- 94.19 agency is required to provide frequent visitation or other ongoing interaction between
- 94.20 siblings unless the agency documents that the interaction would be contrary to the safety
- 94.21 or well-being of any of the siblings.
- 94.22 (e) Except for emergency placement as provided for in section 245A.035, the following
- 94.23 requirements must be satisfied before the approval of a foster or adoptive placement in a
- 94.24 related or unrelated home: (1) a completed background study under section 245C.08; and
- 94.25 (2) a completed review of the written home study required under section 260C.215,
- 94.26 subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective foster or
- 94.27 adoptive parent to ensure the placement will meet the needs of the individual child.
- 94.28 (f) The agency must determine whether colocation with a parent who is receiving services
- 94.29 in a licensed residential family-based substance use disorder treatment program is in the
- 94.30 child's best interests according to paragraph (b) and include that determination in the child's
- 94.31 case plan under subdivision 1. The agency may consider additional factors not identified

95.1 in paragraph (b). The agency's determination must be documented in the child's case plan  
95.2 before the child is colocated with a parent.

95.3 (g) The agency must establish a juvenile treatment screening team under section 260C.157  
95.4 to determine whether it is necessary and appropriate to recommend placing a child in a  
95.5 qualified residential treatment program, as defined in section 260C.007, subdivision 26d.

95.6 Sec. 58. Minnesota Statutes 2020, section 260C.212, subdivision 13, is amended to read:

95.7 Subd. 13. **Protecting missing and runaway children and youth at risk of sex**  
95.8 **trafficking or commercial sexual exploitation**. (a) The local social services agency shall  
95.9 expeditiously locate any child missing from foster care.

95.10 (b) The local social services agency shall report immediately, but no later than 24 hours,  
95.11 after receiving information on a missing or abducted child to the local law enforcement  
95.12 agency for entry into the National Crime Information Center (NCIC) database of the Federal  
95.13 Bureau of Investigation, and to the National Center for Missing and Exploited Children.

95.14 (c) The local social services agency shall not discharge a child from foster care or close  
95.15 the social services case until diligent efforts have been exhausted to locate the child and the  
95.16 court terminates the agency's jurisdiction.

95.17 (d) The local social services agency shall determine the primary factors that contributed  
95.18 to the child's running away or otherwise being absent from care and, to the extent possible  
95.19 and appropriate, respond to those factors in current and subsequent placements.

95.20 (e) The local social services agency shall determine what the child experienced while  
95.21 absent from care, including screening the child to determine if the child is a possible sex  
95.22 trafficking or commercial sexual exploitation victim as defined in section ~~609.321,~~  
95.23 ~~subdivision 7b~~ 260C.007, subdivision 31.

95.24 (f) The local social services agency shall report immediately, but no later than 24 hours,  
95.25 to the local law enforcement agency any reasonable cause to believe a child is, or is at risk  
95.26 of being, a sex trafficking or commercial sexual exploitation victim.

95.27 (g) The local social services agency shall determine appropriate services as described  
95.28 in section 145.4717 with respect to any child for whom the local social services agency has  
95.29 responsibility for placement, care, or supervision when the local social services agency has  
95.30 reasonable cause to believe that the child is, or is at risk of being, a sex trafficking or  
95.31 commercial sexual exploitation victim.

95.32 **EFFECTIVE DATE.** This section is effective September 30, 2021.

Sec. 59. Minnesota Statutes 2020, section 260C.212, is amended by adding a subdivision to read:

**Subd. 15. Social and medical history.** (a) The responsible social services agency must complete each child's social and medical history using forms developed by the commissioner. The responsible social services agency must work with each child's birth family, foster family, medical and treatment providers, and school to ensure that there is a detailed and up-to-date social and medical history of the child on forms provided by the commissioner.

(b) If the child continues to be in placement out of the home of the parent or guardian from whom the child was removed, reasonable efforts by the responsible social services agency to complete the child's social and medical history must begin no later than the child's permanency progress review hearing required under section 260C.204 or six months after the child's placement in foster care, whichever occurs earlier.

(c) In a child's social and medical history, the responsible social services agency must include background information and health history specific to the child, the child's birth parents, and the child's other birth relatives. Applicable background and health information about the child includes the child's current health 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 history; physical health and mental health history; and reasons for the child's placement.

Sec. 60. Minnesota Statutes 2020, section 260C.219, subdivision 5, is amended to read:

**Subd. 5. Children reaching age of majority; copies of records.** Regardless of whether a child is 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 described in section 259.43, 260C.212, subdivision 15, including the child's health and education report.

Sec. 61. Minnesota Statutes 2020, section 260C.452, is amended to read:

**260C.452 SUCCESSFUL TRANSITION TO ADULTHOOD.**

**Subdivision 1. Scope and purpose.** (a) For purposes of this section, "youth" means a person who is at least 14 years of age and under 23 years of age.



97.1 (b) This section pertains to a ~~child~~ youth who:

97.2 (1) is in foster care and is 14 years of age or older, including a youth who is under the  
97.3 guardianship of the commissioner of human services, ~~or who~~;

97.4 (2) has a permanency disposition of permanent custody to the agency, ~~or who~~;

97.5 (3) will leave foster care ~~at 18 to 21 years of age~~. when the youth is 18 years of age or  
97.6 older and under 21 years of age;

97.7 (4) has left foster care and was placed at a permanent adoptive placement when the youth  
97.8 was 16 years of age or older;

97.9 (5) is 16 years of age or older, has left foster care, and was placed with a relative to  
97.10 whom permanent legal and physical custody of the youth has been transferred; or

97.11 (6) was reunified with the youth's primary caretaker when the youth was 14 years of age  
97.12 or older and under 18 years of age.

97.13 (c) The purpose of this section is to provide support to each youth who is transitioning  
97.14 to adulthood by providing services to the youth in the areas of:

97.15 (1) education;

97.16 (2) employment;

97.17 (3) daily living skills such as financial literacy training and driving instruction; preventive  
97.18 health activities including promoting abstinence from substance use and smoking; and  
97.19 nutrition education and pregnancy prevention;

97.20 (4) forming meaningful, permanent connections with caring adults;

97.21 (5) engaging in age and developmentally appropriate activities under section 260C.212,  
97.22 subdivision 14, and positive youth development;

97.23 (6) financial, housing, counseling, and other services to assist a youth over 18 years of  
97.24 age in achieving self-sufficiency and accepting personal responsibility for the transition  
97.25 from adolescence to adulthood; and

97.26 (7) making vouchers available for education and training.

97.27 (d) The responsible social services agency may provide support and case management  
97.28 services to a youth as defined in paragraph (a) until the youth reaches the age of 23 years.  
97.29 According to section 260C.451, a youth's placement in a foster care setting will end when  
97.30 the youth reaches the age of 21 years.

98.1 Subd. 1a. **Case management services.** Case management services include the  
98.2 responsibility for planning, coordinating, authorizing, monitoring, and evaluating services  
98.3 for a youth and shall be provided to a youth by the responsible social services agency. Case  
98.4 management services include the out-of-home placement plan under section 260C.212,  
98.5 subdivision 1, when the youth is in out-of-home placement.

98.6 Subd. 2. **Independent living plan.** When the ~~child~~ youth is 14 years of age or older and  
98.7 is receiving support from the responsible social services agency under this section, the  
98.8 responsible social services agency, in consultation with the ~~child~~ youth, shall complete the  
98.9 youth's independent living plan according to section 260C.212, subdivision 1, paragraph  
98.10 (c), clause (12), regardless of the youth's current placement status.

98.11 ~~Subd. 3. **Notification.** Six months before the child is expected to be discharged from~~  
98.12 ~~foster care, the responsible social services agency shall provide written notice to the child~~  
98.13 ~~regarding the right to continued access to services for certain children in foster care past 18~~  
98.14 ~~years of age and of the right to appeal a denial of social services under section 256.045.~~

98.15 Subd. 4. **Administrative or court review of placements.** (a) When the ~~child~~ youth is  
98.16 14 years of age or older, the court, in consultation with the ~~child~~ youth, shall review the  
98.17 youth's independent living plan according to section 260C.203, paragraph (d).

98.18 (b) The responsible social services agency shall file a copy of the notification required  
98.19 in subdivision 3 of foster care benefits for a youth who is 18 years of age or older according  
98.20 to section 260C.451, subdivision 1, with the court. If the responsible social services agency  
98.21 does not file the notice by the time the ~~child~~ youth is 17-1/2 years of age, the court shall  
98.22 require the responsible social services agency to file the notice.

98.23 (c) When a youth is 18 years of age or older, the court shall ensure that the responsible  
98.24 social services agency assists the ~~child~~ youth in obtaining the following documents before  
98.25 the ~~child~~ youth leaves foster care: a Social Security card; an official or certified copy of the  
98.26 ~~child's~~ youth's birth certificate; a state identification card or driver's license, tribal enrollment  
98.27 identification card, green card, or school visa; health insurance information; the ~~child's~~  
98.28 youth's school, medical, and dental records; a contact list of the ~~child's~~ youth's medical,  
98.29 dental, and mental health providers; and contact information for the ~~child's~~ youth's siblings,  
98.30 if the siblings are in foster care.

98.31 (d) For a ~~child~~ youth who will be discharged from foster care at 18 years of age or older,  
98.32 the responsible social services agency must develop a personalized transition plan as directed  
98.33 by the ~~child~~ youth during the 90-day period immediately prior to the expected date of

99.1 discharge. The transition plan must be as detailed as the ~~child~~ youth elects and include  
99.2 specific options, including but not limited to:

99.3 (1) affordable housing with necessary supports that does not include a homeless shelter;

99.4 (2) health insurance, including eligibility for medical assistance as defined in section  
99.5 256B.055, subdivision 17;

99.6 (3) education, including application to the Education and Training Voucher Program;

99.7 (4) local opportunities for mentors and continuing support services, ~~including the Healthy~~  
99.8 ~~Transitions and Homeless Prevention program, if available;~~

99.9 (5) workforce supports and employment services;

99.10 (6) a copy of the ~~child's~~ youth's consumer credit report as defined in section 13C.001  
99.11 and assistance in interpreting and resolving any inaccuracies in the report, at no cost to the  
99.12 ~~child~~ youth;

99.13 (7) information on executing a health care directive under chapter 145C and on the  
99.14 importance of designating another individual to make health care decisions on behalf of the  
99.15 ~~child~~ youth if the ~~child~~ youth becomes unable to participate in decisions;

99.16 (8) appropriate contact information through 21 years of age if the ~~child~~ youth needs  
99.17 information or help dealing with a crisis situation; and

99.18 (9) official documentation that the youth was previously in foster care.

99.19 Subd. 5. **Notice of termination of foster care social services.** (a) ~~When~~ Before a ~~child~~  
99.20 youth who is 18 years of age or older leaves foster care ~~at 18 years of age or older~~, the  
99.21 responsible social services agency shall give the ~~child~~ youth written notice that foster care  
99.22 shall terminate 30 days from the date that the notice is sent by the agency according to  
99.23 section 260C.451, subdivision 8.

99.24 ~~(b) The child or the child's guardian ad litem may file a motion asking the court to review~~  
99.25 ~~the responsible social services agency's determination within 15 days of receiving the notice.~~  
99.26 ~~The child shall not be discharged from foster care until the motion is heard. The responsible~~  
99.27 ~~social services agency shall work with the child to transition out of foster care.~~

99.28 ~~(c) The written notice of termination of benefits shall be on a form prescribed by the~~  
99.29 ~~commissioner and shall give notice of the right to have the responsible social services~~  
99.30 ~~agency's determination reviewed by the court under this section or sections 260C.203,~~  
99.31 ~~260C.317, and 260C.515, subdivision 5 or 6. A copy of the termination notice shall be sent~~  
99.32 ~~to the child and the child's attorney, if any, the foster care provider, the child's guardian ad~~

100.1 ~~item, and the court. The responsible social services agency is not responsible for paying~~  
100.2 ~~foster care benefits for any period of time after the child leaves foster care.~~

100.3 (b) Before case management services will end for a youth who is at least 18 years of  
100.4 age and under 23 years of age, the responsible social services agency shall give the youth:  
100.5 (1) written notice that case management services for the youth shall terminate; and (2)  
100.6 written notice that the youth has the right to appeal the termination of case management  
100.7 services under section 256.045, subdivision 3, by responding in writing within ten days of  
100.8 the date that the agency mailed the notice. The termination notice must include information  
100.9 about services for which the youth is eligible and how to access the services.

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

100.11 Sec. 62. Minnesota Statutes 2020, section 260C.503, subdivision 2, is amended to read:

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

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

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

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

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

100.23 (5) the parent has committed sexual abuse as defined in section 260E.03, against the  
100.24 child or another child of the parent;

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

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

100.30 The county attorney shall file a termination of parental rights petition unless the conditions  
100.31 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.

Sec. 63. Minnesota Statutes 2020, section 260C.515, subdivision 3, is amended to read:

Subd. 3. **Guardianship; commissioner.** The court may issue an order that the child is under the guardianship to ~~of~~ the commissioner of human services under the following procedures and conditions:

(1) there is an identified prospective adoptive parent agreed to by the responsible social services agency ~~having that has~~ legal custody of the child pursuant to court order under this chapter and that prospective adoptive parent has agreed to adopt the child;

(2) the court accepts the parent's voluntary consent to adopt in writing on a form prescribed by the commissioner, executed before two competent witnesses and confirmed by the consenting parent before the court or executed before the court. The consent shall contain notice that consent given under this chapter:

(i) is irrevocable upon acceptance by the court unless fraud is established and an order is issued permitting revocation as stated in clause (9) unless the matter is governed by the Indian Child Welfare Act, United States Code, title 25, section 1913(c); and

102.1 (ii) will result in an order that the child is under the guardianship of the commissioner  
102.2 of human services;

102.3 (3) a consent executed and acknowledged outside of this state, either in accordance with  
102.4 the law of this state or in accordance with the law of the place where executed, is valid;

102.5 (4) the court must review the matter at least every 90 days under section 260C.317;

102.6 (5) a consent to adopt under this subdivision vests guardianship of the child with the  
102.7 commissioner of human services and makes the child a ward of the commissioner of human  
102.8 services under section 260C.325;

102.9 (6) the court must forward to the commissioner a copy of the consent to adopt, together  
102.10 with a certified copy of the order transferring guardianship to the commissioner;

102.11 (7) if an adoption is not finalized by the identified prospective adoptive parent within  
102.12 six months of the execution of the consent to adopt under this clause, the responsible social  
102.13 services agency shall pursue adoptive placement in another home unless the court finds in  
102.14 a hearing under section 260C.317 that the failure to finalize is not due to either an action  
102.15 or a failure to act by the prospective adoptive parent;

102.16 (8) notwithstanding clause (7), the responsible social services agency must pursue  
102.17 adoptive placement in another home as soon as the agency determines that finalization of  
102.18 the adoption with the identified prospective adoptive parent is not possible, that the identified  
102.19 prospective adoptive parent is not willing to adopt the child, or that the identified prospective  
102.20 adoptive parent is not cooperative in completing the steps necessary to finalize the adoption.  
102.21 The court may order a termination of parental rights under subdivision 2; and

102.22 (9) unless otherwise required by the Indian Child Welfare Act, United States Code, title  
102.23 25, section 1913(c), a consent to adopt executed under this section shall be irrevocable upon  
102.24 acceptance by the court except upon order permitting revocation issued by the same court  
102.25 after written findings that consent was obtained by fraud.

102.26 Sec. 64. Minnesota Statutes 2020, section 260C.605, subdivision 1, is amended to read:

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

102.30 (b) Reasonable efforts to make a placement in a home according to the placement  
102.31 considerations under section 260C.212, subdivision 2, with a relative or foster parent who  
102.32 will commit to being the permanent resource for the child in the event the child cannot be

103.1 reunified with a parent are required under section 260.012 and may be made concurrently  
103.2 with reasonable, or if the child is an Indian child, active efforts to reunify the child with the  
103.3 parent.

103.4 (c) Reasonable efforts under paragraph (b) must begin as soon as possible when the  
103.5 child is in foster care under this chapter, but not later than the hearing required under section  
103.6 260C.204.

103.7 (d) Reasonable efforts to finalize the adoption of the child include:

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

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

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

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

103.14 (A) relatives who have kept the agency or the court apprised of their whereabouts and  
103.15 who have indicated an interest in adopting the child; or

103.16 (B) relatives of the child who are located in an updated search;

103.17 (ii) an updated search is required whenever:

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

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

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

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

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

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

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

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

104.5 (D) using newspapers and other media to promote the particular child;

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

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

104.10 (4) updating and completing the social and medical history required under sections  
104.11 ~~259.43~~ 260C.212, subdivision 15, and 260C.609;

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

104.14 (6) giving notice regarding the responsibilities of an adoptive parent to any prospective  
104.15 adoptive parent as required under section 259.35;

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

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

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

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

104.28 Sec. 65. Minnesota Statutes 2020, section 260C.607, subdivision 6, is amended to read:

104.29 Subd. 6. **Motion and hearing to order adoptive placement.** (a) At any time after the  
104.30 district court orders the child under the guardianship of the commissioner of human services,  
104.31 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 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.

Sec. 66. Minnesota Statutes 2020, 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 responsible social services agency shall thoroughly discuss the child's history with the ~~adopting~~ prospective adoptive parent of the child and shall give a redacted copy of ~~the report of~~ the child's social and medical history as described in section 260C.212, subdivision 15, including redacted attachments, to the ~~adopting~~ prospective adoptive parent. If the prospective adoptive parent does not pursue adoption of the child, the prospective adoptive parent must return the child's social and medical history and redacted attachments to the agency. The responsible social services agency may give 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 of the child's relevant evaluations, assessments, and records must be attached to the social and medical history.

107.1 (c) The agency must submit the child's social and medical history to the Department of  
107.2 Human Services at the time that the agency submits the child's adoption placement agreement.  
107.3 Pursuant to section 260C.623, subdivision 4, the child's social and medical history must be  
107.4 submitted to the court at the time the adoption petition is filed with the court.

107.5 Sec. 67. Minnesota Statutes 2020, section 260C.615, is amended to read:

107.6 **260C.615 DUTIES OF COMMISSIONER.**

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

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

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

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

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

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

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

107.24 (4) maintain records as required in chapter 259.

107.25 Subd. 2. **Duties not reserved.** All duties, obligations, and consents not specifically  
107.26 reserved to the commissioner in this section are delegated to the responsible social services  
107.27 agency, subject to supervision by the commissioner under section 393.07.

108.1 Sec. 68. Minnesota Statutes 2020, section 260C.704, is amended to read:

108.2 **260C.704 REQUIREMENTS FOR THE QUALIFIED INDIVIDUAL'S**  
108.3 **ASSESSMENT OF THE CHILD FOR PLACEMENT IN A QUALIFIED**  
108.4 **RESIDENTIAL TREATMENT PROGRAM.**

108.5 (a) A qualified individual must complete an assessment of the child prior to or within  
108.6 30 days of the child's placement in a qualified residential treatment program in a format  
108.7 approved by the commissioner of human services, and must:

108.8 (1) assess the child's needs and strengths, using an age-appropriate, evidence-based,  
108.9 validated, functional assessment approved by the commissioner of human services;

108.10 (2) determine whether the child's needs can be met by the child's family members or  
108.11 through placement in a family foster home; or, if not, determine which residential setting  
108.12 would provide the child with the most effective and appropriate level of care to the child  
108.13 in the least restrictive environment;

108.14 (3) develop a list of short- and long-term mental and behavioral health goals for the  
108.15 child; and

108.16 (4) work with the child's family and permanency team using culturally competent  
108.17 practices.

108.18 (b) The child and the child's parents, when appropriate, may request that a specific  
108.19 culturally competent qualified individual complete the child's assessment. The agency shall  
108.20 make efforts to refer the child to the identified qualified individual to complete the  
108.21 assessment. The assessment must not be delayed for a specific qualified individual to  
108.22 complete the assessment.

108.23 (c) The qualified individual must provide the assessment, when complete, to the  
108.24 responsible social services agency, ~~the child's parents or legal guardians, the guardian ad~~  
108.25 ~~litem, and the court.~~ If the assessment recommends placement of the child in a qualified  
108.26 residential treatment facility, the agency must distribute the assessment along with the court  
108.27 report as required in section 260C.71, subdivision 2. If the assessment does not recommend  
108.28 placement in a qualified residential treatment facility, the agency must provide a copy of  
108.29 the assessment to the parents or legal guardians and the guardian ad litem and file the  
108.30 assessment determination with the court at the next required hearing as required in section  
108.31 260C.71, subdivision 5. If court rules and chapter 13 permit disclosure of the results of the  
108.32 child's assessment, the agency may share the results of the child's assessment with the child's  
108.33 foster care provider, other members of the child's family, and the family and permanency

team. The agency must not share the child's private medical data with the family and permanency team unless: (1) chapter 13 permits the agency to disclose the child's private medical data to the family and permanency team; or (2) the child's parent has authorized the agency to disclose the child's private medical data to the family and permanency team.

(d) For an Indian child, the assessment of the child must follow the order of placement preferences in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915.

(e) In the assessment determination, the qualified individual must specify in writing:

(1) the reasons why the child's needs cannot be met by the child's family or in a family foster home. A shortage of family foster homes is not an acceptable reason for determining that a family foster home cannot meet a child's needs;

(2) why the recommended placement in a qualified residential treatment program will provide the child with the most effective and appropriate level of care to meet the child's needs in the least restrictive environment possible and how placing the child at the treatment program is consistent with the short-term and long-term goals of the child's permanency plan; and

(3) if the qualified individual's placement recommendation is not the placement setting that the parent, family and permanency team, child, or tribe prefer, the qualified individual must identify the reasons why the qualified individual does not recommend the parent's, family and permanency team's, child's, or tribe's placement preferences. The out-of-home placement plan under section 260C.708 must also include reasons why the qualified individual did not recommend the preferences of the parents, family and permanency team, child, or tribe.

(f) If the qualified individual determines that the child's family or a family foster home or other less restrictive placement may meet the child's needs, the agency must move the child out of the qualified residential treatment program and transition the child to a less restrictive setting within 30 days of the determination. If the responsible social services agency has placement authority of the child, the agency must make a plan for the child's placement according to section 260C.212, subdivision 2. The agency must file the child's assessment determination with the court at the next required hearing.

(g) If the qualified individual recommends placing the child in a qualified residential treatment program, the responsible social services agency shall make referrals to appropriate qualified residential treatment programs and upon acceptance by an appropriate program, place the child in an approved or certified qualified residential treatment program.

**EFFECTIVE DATE.** This section is effective September 30, 2021.

Sec. 69. Minnesota Statutes 2020, section 260C.706, is amended to read:

**260C.706 FAMILY AND PERMANENCY TEAM REQUIREMENTS.**

(a) When the responsible social services agency's juvenile treatment screening team, as defined in section 260C.157, recommends placing the child in a qualified residential treatment program, the agency must assemble a family and permanency team within ten days.

(1) The team must include all appropriate biological family members, the child's parents, legal guardians or custodians, foster care providers, and relatives as defined in section 260C.007, subdivisions ~~26e~~ 26b and 27, and professionals, as appropriate, who are a resource to the child's family, such as teachers, medical or mental health providers, or clergy.

(2) When a child is placed in foster care prior to the qualified residential treatment program, the agency shall include relatives responding to the relative search notice as required under section 260C.221 on this team, unless the juvenile court finds that contacting a specific relative would endanger the parent, guardian, child, sibling, or any other family member.

(3) When a qualified residential treatment program is the child's initial placement setting, the responsible social services agency must engage with the child and the child's parents to determine the appropriate family and permanency team members.

(4) When the permanency goal is to reunify the child with the child's parent or legal guardian, the purpose of the relative search and focus of the family and permanency team is to preserve family relationships and identify and develop supports for the child and parents.

(5) The responsible agency must make a good faith effort to identify and assemble all appropriate individuals to be part of the child's family and permanency team and request input from the parents regarding relative search efforts consistent with section 260C.221. The out-of-home placement plan in section 260C.708 must include all contact information for the team members, as well as contact information for family members or relatives who are not a part of the family and permanency team.

(6) If the child is age 14 or older, the team must include members of the family and permanency team that the child selects in accordance with section 260C.212, subdivision 1, paragraph (b).

(7) Consistent with section 260C.221, a responsible social services agency may disclose relevant and appropriate private data about the child to relatives in order for the relatives to participate in caring and planning for the child's placement.

(8) If the child is an Indian child under section 260.751, the responsible social services agency must make active efforts to include the child's tribal representative on the family and permanency team.

(b) The family and permanency team shall meet regarding the assessment required under section 260C.704 to determine whether it is necessary and appropriate to place the child in a qualified residential treatment program and to participate in case planning under section 260C.708.

(c) When reunification of the child with the child's parent or legal guardian is the permanency plan, the family and permanency team shall support the parent-child relationship by recognizing the parent's legal authority, consulting with the parent regarding ongoing planning for the child, and assisting the parent with visiting and contacting the child.

(d) When the agency's permanency plan is to transfer the child's permanent legal and physical custody to a relative or for the child's adoption, the team shall:

(1) coordinate with the proposed guardian to provide the child with educational services, medical care, and dental care;

(2) coordinate with the proposed guardian, the agency, and the foster care facility to meet the child's treatment needs after the child is placed in a permanent placement with the proposed guardian;

(3) plan to meet the child's need for safety, stability, and connection with the child's family and community after the child is placed in a permanent placement with the proposed guardian; and

(4) in the case of an Indian child, communicate with the child's tribe to identify necessary and appropriate services for the child, transition planning for the child, the child's treatment needs, and how to maintain the child's connections to the child's community, family, and tribe.

(e) The agency shall invite the family and permanency team to participate in case planning and the agency shall give the team notice of court reviews under sections 260C.152 and 260C.221 until: (1) the child is reunited with the child's parents; or (2) the child's foster care placement ends and the child is in a permanent placement.

**EFFECTIVE DATE.** This section is effective September 30, 2021.

112.1 Sec. 70. Minnesota Statutes 2020, section 260C.708, is amended to read:

112.2 **260C.708 OUT-OF-HOME PLACEMENT PLAN FOR QUALIFIED**  
112.3 **RESIDENTIAL TREATMENT PROGRAM PLACEMENTS.**

112.4 (a) When the responsible social services agency places a child in a qualified residential  
112.5 treatment program as defined in section 260C.007, subdivision 26d, the out-of-home  
112.6 placement plan must include:

112.7 (1) the case plan requirements in section ~~260.212, subdivision 1~~ 260C.212;

112.8 (2) the reasonable and good faith efforts of the responsible social services agency to  
112.9 identify and include all of the individuals required to be on the child's family and permanency  
112.10 team under section 260C.007;

112.11 (3) all contact information for members of the child's family and permanency team and  
112.12 for other relatives who are not part of the family and permanency team;

112.13 (4) evidence that the agency scheduled meetings of the family and permanency team,  
112.14 including meetings relating to the assessment required under section 260C.704, at a time  
112.15 and place convenient for the family;

112.16 (5) evidence that the family and permanency team is involved in the assessment required  
112.17 under section 260C.704 to determine the appropriateness of the child's placement in a  
112.18 qualified residential treatment program;

112.19 (6) the family and permanency team's placement preferences for the child in the  
112.20 assessment required under section 260C.704. When making a decision about the child's  
112.21 placement preferences, the family and permanency team must recognize:

112.22 (i) that the agency should place a child with the child's siblings unless a court finds that  
112.23 placing a child with the child's siblings is contrary to the child's best interests; and

112.24 (ii) that the agency should place an Indian child according to the requirements of the  
112.25 Indian Child Welfare Act, the Minnesota Family Preservation Act under sections 260.751  
112.26 to 260.835, and section 260C.193, subdivision 3, paragraph (g);

112.27 ~~(5)~~ (7) when reunification of the child with the child's parent or legal guardian is the  
112.28 agency's goal, evidence demonstrating that the parent or legal guardian provided input about  
112.29 the members of the family and permanency team under section 260C.706;

112.30 ~~(6)~~ (8) when the agency's permanency goal is to reunify the child with the child's parent  
112.31 or legal guardian, the out-of-home placement plan must identify services and supports that  
112.32 maintain the parent-child relationship and the parent's legal authority, decision-making, and



responsibility for ongoing planning for the child. In addition, the agency must assist the parent with visiting and contacting the child;

~~(7)~~ (9) when the agency's permanency goal is to transfer permanent legal and physical custody of the child to a proposed guardian or to finalize the child's adoption, the case plan must document the agency's steps to transfer permanent legal and physical custody of the child or finalize adoption, as required in section 260C.212, subdivision 1, paragraph (c), clauses (6) and (7); and

~~(8)~~ (10) the qualified individual's recommendation regarding the child's placement in a qualified residential treatment program and the court approval or disapproval of the placement as required in section 260C.71.

(b) If the placement preferences of the family and permanency team, child, and tribe, if applicable, are not consistent with the placement setting that the qualified individual recommends, the case plan must include the reasons why the qualified individual did not recommend following the preferences of the family and permanency team, child, and the tribe.

(c) The agency must file the out-of-home placement plan with the court as part of the 60-day ~~hearing~~ court order under section 260C.71.

**EFFECTIVE DATE.** This section is effective September 30, 2021.

Sec. 71. Minnesota Statutes 2020, section 260C.71, is amended to read:

**260C.71 COURT APPROVAL REQUIREMENTS.**

Subdivision 1. **Judicial review.** When the responsible social services agency has legal authority to place a child at a qualified residential treatment facility under section 260C.007, subdivision 21a, and the child's assessment under section 260C.704 recommends placing the child in a qualified residential treatment facility, the agency shall place the child at a qualified residential facility. Within 60 days of placing the child at a qualified residential treatment facility, the agency must obtain a court order finding that the child's placement is appropriate and meets the child's individualized needs.

Subd. 2. **Qualified residential treatment program; agency report to court.** (a) The responsible social services agency shall file a written report with the court within 35 days of the date of the child's placement in a qualified residential treatment facility. The written report shall contain or have attached:

(1) the child's name, date of birth, race, gender, and current address;

114.1 (2) the names, races, dates of birth, residence, and post office address of the child's  
114.2 parents or legal custodian, or guardian;

114.3 (3) the name and address of the qualified residential treatment program, including a  
114.4 chief administrator of the facility;

114.5 (4) a statement of the facts that necessitated the child's foster care placement;

114.6 (5) the child's out-of-home placement plan under section 260C.212, subdivision 1,  
114.7 including the requirements in section 260C.708;

114.8 (6) if the child is placed in an out-of-state qualified residential treatment program, the  
114.9 compelling reasons why the child's needs cannot be met by an in-state placement;

114.10 (7) the qualified individual's assessment of the child under section 260C.704, paragraph  
114.11 (c), in a format approved by the commissioner;

114.12 (8) if, at the time required for the report under this subdivision, a child who is ten years  
114.13 of age or older, a child's parent, the family and permanency team, or a tribe disagrees with  
114.14 the recommended qualified residential treatment program placement, the agency shall  
114.15 include information regarding the disagreement, and to the extent possible, the basis for the  
114.16 disagreement in the report;

114.17 (9) any other information that the responsible social services agency, child's parent, legal  
114.18 custodian or guardian, child, or in the case of an Indian child, tribe would like the court to  
114.19 consider; and

114.20 (10) the agency shall file the written report with the court and serve on the parties a  
114.21 request for a hearing or a court order without a hearing.

114.22 (b) The agency must inform a child who is ten years of age or older and the child's parent  
114.23 of the court review requirements of this section and the child and child's parent's right to  
114.24 submit information to the court:

114.25 (1) the agency must inform the child ten years of age or older and the child's parent of  
114.26 the reporting date and the date by which the agency must receive information from the child  
114.27 and child's parent so that the agency is able to submit the report required by this subdivision  
114.28 to the court;

114.29 (2) the agency must inform a child who is ten years of age or older and the child's parent  
114.30 that the court will hold a hearing upon the request of the child or the child's parent; and

(3) the agency must inform a child who is ten years of age or older and the child's parent that they have the right to request a hearing and the right to present information to the court for the court's review under this subdivision.

Subd. 3. **Court hearing.** (a) The court shall hold a hearing when a party or a child who is ten years of age or older requests a hearing.

(b) In all other circumstances, the court has the discretion to hold a hearing or issue an order without a hearing.

Subd. 4. **Court findings and order.** (a) Within 60 days from the beginning of each placement in a qualified residential treatment program when the qualified individual's assessment of the child recommends placing the child in a qualified residential treatment program, the court must consider the qualified individual's assessment of the child under section 260C.704 and issue an order to:

~~(1) consider the qualified individual's assessment of whether it is necessary and appropriate to place the child in a qualified residential treatment program under section 260C.704;~~

~~(2) (1) determine whether a family foster home can meet the child's needs, whether it is necessary and appropriate to place a child in a qualified residential treatment program that is the least restrictive environment possible, and whether the child's placement is consistent with the child's short and long term goals as specified in the permanency plan; and~~

~~(3) (2) approve or disapprove of the child's placement.~~

~~(b) In the out-of-home placement plan, the agency must document the court's approval or disapproval of the placement, as specified in section 260C.708. If the court disapproves of the child's placement in a qualified residential treatment program, the responsible social services agency shall: (1) remove the child from the qualified residential treatment program within 30 days of the court's order; and (2) make a plan for the child's placement that is consistent with the child's best interests under section 260C.212, subdivision 2.~~

Subd. 5. **Court review and approval is not required.** When the responsible social services agency has legal authority to place a child under section 260C.007, subdivision 21a, and the qualified individual's assessment of the child does not recommend placing the child in a qualified residential treatment program, the court is not required to hold a hearing and the court is not required to issue an order. Pursuant to section 260C.704, paragraph (f), the responsible social services agency shall make a plan for the child's placement consistent with the child's best interests under section 260C.212, subdivision 2. The agency must file

116.1 the agency's assessment determination for the child with the court at the next required  
116.2 hearing.

116.3 **EFFECTIVE DATE.** This section is effective September 30, 2021.

116.4 Sec. 72. Minnesota Statutes 2020, section 260C.712, is amended to read:

116.5 **260C.712 ONGOING REVIEWS AND PERMANENCY HEARING**  
116.6 **REQUIREMENTS.**

116.7 As long as a child remains placed in a qualified residential treatment program, the  
116.8 responsible social services agency shall submit evidence at each administrative review under  
116.9 section 260C.203; each court review under sections 260C.202, 260C.203, ~~and~~ 260C.204,  
116.10 260D.06, 260D.07, and 260D.08; and each permanency hearing under section 260C.515,  
116.11 260C.519, ~~or~~ 260C.521, or 260D.07 that:

116.12 (1) demonstrates that an ongoing assessment of the strengths and needs of the child  
116.13 continues to support the determination that the child's needs cannot be met through placement  
116.14 in a family foster home;

116.15 (2) demonstrates that the placement of the child in a qualified residential treatment  
116.16 program provides the most effective and appropriate level of care for the child in the least  
116.17 restrictive environment;

116.18 (3) demonstrates how the placement is consistent with the short-term and long-term  
116.19 goals for the child, as specified in the child's permanency plan;

116.20 (4) documents how the child's specific treatment or service needs will be met in the  
116.21 placement;

116.22 (5) documents the length of time that the agency expects the child to need treatment or  
116.23 services; ~~and~~

116.24 (6) documents the responsible social services agency's efforts to prepare the child to  
116.25 return home or to be placed with a fit and willing relative, legal guardian, adoptive parent,  
116.26 or foster family; and

116.27 (7) if the child is placed in a qualified residential treatment program out-of-state, the  
116.28 compelling reasons for placing the child out-of-state and the reasons that the child's needs  
116.29 cannot be met by an in-state placement.

116.30 **EFFECTIVE DATE.** This section is effective September 30, 2021.

117.1 Sec. 73. Minnesota Statutes 2020, section 260C.714, is amended to read:

117.2 **260C.714 REVIEW OF EXTENDED QUALIFIED RESIDENTIAL TREATMENT**  
117.3 **PROGRAM PLACEMENTS.**

117.4 (a) When a responsible social services agency places a child in a qualified residential  
117.5 treatment program for more than 12 consecutive months or 18 nonconsecutive months or,  
117.6 in the case of a child who is under 13 years of age, for more than six consecutive or  
117.7 nonconsecutive months, the agency must submit: (1) the signed approval by the county  
117.8 social services director of the responsible social services agency; and (2) the evidence  
117.9 supporting the child's placement at the most recent court review or permanency hearing  
117.10 under section 260C.712, ~~paragraph (b).~~

117.11 (b) The commissioner shall specify the procedures and requirements for the agency's  
117.12 review and approval of a child's extended qualified residential treatment program placement.  
117.13 The commissioner may consult with counties, tribes, child-placing agencies, mental health  
117.14 providers, licensed facilities, the child, the child's parents, and the family and permanency  
117.15 team members to develop case plan requirements and engage in periodic reviews of the  
117.16 case plan.

117.17 **EFFECTIVE DATE.** This section is effective September 30, 2021.

117.18 Sec. 74. Minnesota Statutes 2020, section 260D.01, is amended to read:

117.19 **260D.01 CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

117.20 (a) Sections 260D.01 to 260D.10, may be cited as the "child in voluntary foster care for  
117.21 treatment" provisions of the Juvenile Court Act.

117.22 (b) The juvenile court has original and exclusive jurisdiction over a child in voluntary  
117.23 foster care for treatment upon the filing of a report or petition required under this chapter.  
117.24 All obligations of the responsible social services agency to a child and family in foster care  
117.25 contained in chapter 260C not inconsistent with this chapter are also obligations of the  
117.26 agency with regard to a child in foster care for treatment under this chapter.

117.27 (c) This chapter shall be construed consistently with the mission of the children's mental  
117.28 health service system as set out in section 245.487, subdivision 3, and the duties of an agency  
117.29 under sections 256B.092 and 260C.157 and Minnesota Rules, parts 9525.0004 to 9525.0016,  
117.30 to meet the needs of a child with a developmental disability or related condition. This  
117.31 chapter:

118.1 (1) establishes voluntary foster care through a voluntary foster care agreement as the  
118.2 means for an agency and a parent to provide needed treatment when the child must be in  
118.3 foster care to receive necessary treatment for an emotional disturbance or developmental  
118.4 disability or related condition;

118.5 (2) establishes court review requirements for a child in voluntary foster care for treatment  
118.6 due to emotional disturbance or developmental disability or a related condition;

118.7 (3) establishes the ongoing responsibility of the parent as legal custodian to visit the  
118.8 child, to plan together with the agency for the child's treatment needs, to be available and  
118.9 accessible to the agency to make treatment decisions, and to obtain necessary medical,  
118.10 dental, and other care for the child; ~~and~~

118.11 (4) applies to voluntary foster care when the child's parent and the agency agree that the  
118.12 child's treatment needs require foster care either:

118.13 (i) due to a level of care determination by the agency's screening team informed by the  
118.14 child's diagnostic and functional assessment under section 245.4885; or

118.15 (ii) due to a determination regarding the level of services needed by the child by the  
118.16 responsible social services' services agency's screening team under section 256B.092, and  
118.17 Minnesota Rules, parts 9525.0004 to 9525.0016; and

118.18 (5) includes the requirements for a child's placement in sections 260C.70 to 260C.714,  
118.19 when the juvenile treatment screening team recommends placing a child in a qualified  
118.20 residential treatment program.

118.21 (d) This chapter does not apply when there is a current determination under chapter  
118.22 260E that the child requires child protective services or when the child is in foster care for  
118.23 any reason other than treatment for the child's emotional disturbance or developmental  
118.24 disability or related condition. When there is a determination under chapter 260E that the  
118.25 child requires child protective services based on an assessment that there are safety and risk  
118.26 issues for the child that have not been mitigated through the parent's engagement in services  
118.27 or otherwise, or when the child is in foster care for any reason other than the child's emotional  
118.28 disturbance or developmental disability or related condition, the provisions of chapter 260C  
118.29 apply.

118.30 (e) The paramount consideration in all proceedings concerning a child in voluntary foster  
118.31 care for treatment is the safety, health, and the best interests of the child. The purpose of  
118.32 this chapter is:

119.1 (1) to ensure that a child with a disability is provided the services necessary to treat or  
119.2 ameliorate the symptoms of the child's disability;

119.3 (2) to preserve and strengthen the child's family ties whenever possible and in the child's  
119.4 best interests, approving the child's placement away from the child's parents only when the  
119.5 child's need for care or treatment requires ~~it~~ out-of-home placement and the child cannot  
119.6 be maintained in the home of the parent; and

119.7 (3) to ensure that the child's parent retains legal custody of the child and associated  
119.8 decision-making authority unless the child's parent willfully fails or is unable to make  
119.9 decisions that meet the child's safety, health, and best interests. The court may not find that  
119.10 the parent willfully fails or is unable to make decisions that meet the child's needs solely  
119.11 because the parent disagrees with the agency's choice of foster care facility, unless the  
119.12 agency files a petition under chapter 260C, and establishes by clear and convincing evidence  
119.13 that the child is in need of protection or services.

119.14 (f) The legal parent-child relationship shall be supported under this chapter by maintaining  
119.15 the parent's legal authority and responsibility for ongoing planning for the child and by the  
119.16 agency's assisting the parent, ~~where~~ when necessary, to exercise the parent's ongoing right  
119.17 and obligation to visit or to have reasonable contact with the child. Ongoing planning means:

119.18 (1) actively participating in the planning and provision of educational services, medical,  
119.19 and dental care for the child;

119.20 (2) actively planning and participating with the agency and the foster care facility for  
119.21 the child's treatment needs; ~~and~~

119.22 (3) planning to meet the child's need for safety, stability, and permanency, and the child's  
119.23 need to stay connected to the child's family and community-; and

119.24 (4) engaging with the responsible social services agency to ensure that the family and  
119.25 permanency team under section 260C.706 consists of appropriate family members and if  
119.26 applicable, expressing concerns about any individual on the team. The responsible social  
119.27 services agency must make efforts to contact and engage with the child's parent when  
119.28 assembling the family and permanency team and must address all of the child's parent's  
119.29 concerns to the extent possible.

119.30 (g) The provisions of section 260.012 to ensure placement prevention, family  
119.31 reunification, and all active and reasonable effort requirements of that section apply. This  
119.32 chapter shall be construed consistently with the requirements of the Indian Child Welfare

120.1 Act of 1978, United States Code, title 25, section 1901, et al., and the provisions of the  
120.2 Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

120.3 **EFFECTIVE DATE.** This section is effective September 30, 2021.

120.4 Sec. 75. Minnesota Statutes 2020, section 260D.05, is amended to read:

120.5 **260D.05 ADMINISTRATIVE REVIEW OF CHILD IN VOLUNTARY FOSTER**  
120.6 **CARE FOR TREATMENT.**

120.7 The administrative reviews required under section 260C.203 must be conducted for a  
120.8 child in voluntary foster care for treatment, except that the initial administrative review  
120.9 must take place prior to the submission of the report to the court required under section  
120.10 260D.06, subdivision 2. When a child is placed in a qualified residential treatment program  
120.11 as defined in section 260C.007, subdivision 26d, the responsible social services agency  
120.12 must submit evidence to the court as specified in section 260C.712.

120.13 **EFFECTIVE DATE.** This section is effective September 30, 2021.

120.14 Sec. 76. Minnesota Statutes 2020, section 260D.06, subdivision 2, is amended to read:

120.15 Subd. 2. **Agency report to court; court review.** The agency shall obtain judicial review  
120.16 by reporting to the court according to the following procedures:

120.17 (a) A written report shall be forwarded to the court within 165 days of the date of the  
120.18 voluntary placement agreement. The written report shall contain or have attached:

120.19 (1) a statement of facts that necessitate the child's foster care placement;

120.20 (2) the child's name, date of birth, race, gender, and current address;

120.21 (3) the names, race, date of birth, residence, and post office addresses of the child's  
120.22 parents or legal custodian;

120.23 (4) a statement regarding the child's eligibility for membership or enrollment in an Indian  
120.24 tribe and the agency's compliance with applicable provisions of sections 260.751 to 260.835;

120.25 (5) the names and addresses of the foster parents or chief administrator of the facility in  
120.26 which the child is placed, if the child is not in a family foster home or group home;

120.27 (6) a copy of the out-of-home placement plan required under section 260C.212,  
120.28 subdivision 1;

120.29 (7) a written summary of the proceedings of any administrative review required under  
120.30 section 260C.203; ~~and~~



121.1 (8) evidence as specified in section 260C.712 when a child is placed in a qualified  
121.2 residential treatment program as defined in section 260C.007, subdivision 26d; and

121.3 (9) any other information the agency, parent or legal custodian, the child or the foster  
121.4 parent, or other residential facility wants the court to consider.

121.5 (b) In the case of a child in placement due to emotional disturbance, the written report  
121.6 shall include as an attachment, the child's individual treatment plan developed by the child's  
121.7 treatment professional, as provided in section 245.4871, subdivision 21, or the child's  
121.8 standard written plan, as provided in section 125A.023, subdivision 3, paragraph (e).

121.9 (c) In the case of a child in placement due to developmental disability or a related  
121.10 condition, the written report shall include as an attachment, the child's individual service  
121.11 plan, as provided in section 256B.092, subdivision 1b; the child's individual program plan,  
121.12 as provided in Minnesota Rules, part 9525.0004, subpart 11; the child's waiver care plan;  
121.13 or the child's standard written plan, as provided in section 125A.023, subdivision 3, paragraph  
121.14 (e).

121.15 (d) The agency must inform the child, age 12 or older, the child's parent, and the foster  
121.16 parent or foster care facility of the reporting and court review requirements of this section  
121.17 and of their right to submit information to the court:

121.18 (1) if the child or the child's parent or the foster care provider wants to send information  
121.19 to the court, the agency shall advise those persons of the reporting date and the date by  
121.20 which the agency must receive the information they want forwarded to the court so the  
121.21 agency is timely able submit it with the agency's report required under this subdivision;

121.22 (2) the agency must also inform the child, age 12 or older, the child's parent, and the  
121.23 foster care facility that they have the right to be heard in person by the court and how to  
121.24 exercise that right;

121.25 (3) the agency must also inform the child, age 12 or older, the child's parent, and the  
121.26 foster care provider that an in-court hearing will be held if requested by the child, the parent,  
121.27 or the foster care provider; and

121.28 (4) if, at the time required for the report under this section, a child, age 12 or older,  
121.29 disagrees about the foster care facility or services provided under the out-of-home placement  
121.30 plan required under section 260C.212, subdivision 1, the agency shall include information  
121.31 regarding the child's disagreement, and to the extent possible, the basis for the child's  
121.32 disagreement in the report required under this section.

122.1 (e) After receiving the required report, the court has jurisdiction to make the following  
122.2 determinations and must do so within ten days of receiving the forwarded report, whether  
122.3 a hearing is requested:

122.4 (1) whether the voluntary foster care arrangement is in the child's best interests;

122.5 (2) whether the parent and agency are appropriately planning for the child; and

122.6 (3) in the case of a child age 12 or older, who disagrees with the foster care facility or  
122.7 services provided under the out-of-home placement plan, whether it is appropriate to appoint  
122.8 counsel and a guardian ad litem for the child using standards and procedures under section  
122.9 260C.163.

122.10 (f) Unless requested by a parent, representative of the foster care facility, or the child,  
122.11 no in-court hearing is required in order for the court to make findings and issue an order as  
122.12 required in paragraph (e).

122.13 (g) If the court finds the voluntary foster care arrangement is in the child's best interests  
122.14 and that the agency and parent are appropriately planning for the child, the court shall issue  
122.15 an order containing explicit, individualized findings to support its determination. The  
122.16 individualized findings shall be based on the agency's written report and other materials  
122.17 submitted to the court. The court may make this determination notwithstanding the child's  
122.18 disagreement, if any, reported under paragraph (d).

122.19 (h) The court shall send a copy of the order to the county attorney, the agency, parent,  
122.20 child, age 12 or older, and the foster parent or foster care facility.

122.21 (i) The court shall also send the parent, the child, age 12 or older, the foster parent, or  
122.22 representative of the foster care facility notice of the permanency review hearing required  
122.23 under section 260D.07, paragraph (e).

122.24 (j) If the court finds continuing the voluntary foster care arrangement is not in the child's  
122.25 best interests or that the agency or the parent are not appropriately planning for the child,  
122.26 the court shall notify the agency, the parent, the foster parent or foster care facility, the child,  
122.27 age 12 or older, and the county attorney of the court's determinations and the basis for the  
122.28 court's determinations. In this case, the court shall set the matter for hearing and appoint a  
122.29 guardian ad litem for the child under section 260C.163, subdivision 5.

122.30 **EFFECTIVE DATE.** This section is effective September 30, 2021.

123.1 Sec. 77. Minnesota Statutes 2020, section 260D.07, is amended to read:

123.2 **260D.07 REQUIRED PERMANENCY REVIEW HEARING.**

123.3 (a) When the court has found that the voluntary arrangement is in the child's best interests  
123.4 and that the agency and parent are appropriately planning for the child pursuant to the report  
123.5 submitted under section 260D.06, and the child continues in voluntary foster care as defined  
123.6 in section 260D.02, subdivision 10, for 13 months from the date of the voluntary foster care  
123.7 agreement, or has been in placement for 15 of the last 22 months, the agency must:

123.8 (1) terminate the voluntary foster care agreement and return the child home; or

123.9 (2) determine whether there are compelling reasons to continue the voluntary foster care  
123.10 arrangement and, if the agency determines there are compelling reasons, seek judicial  
123.11 approval of its determination; or

123.12 (3) file a petition for the termination of parental rights.

123.13 (b) When the agency is asking for the court's approval of its determination that there are  
123.14 compelling reasons to continue the child in the voluntary foster care arrangement, the agency  
123.15 shall file a "Petition for Permanency Review Regarding a Child in Voluntary Foster Care  
123.16 for Treatment" and ask the court to proceed under this section.

123.17 (c) The "Petition for Permanency Review Regarding a Child in Voluntary Foster Care  
123.18 for Treatment" shall be drafted or approved by the county attorney and be under oath. The  
123.19 petition shall include:

123.20 (1) the date of the voluntary placement agreement;

123.21 (2) whether the petition is due to the child's developmental disability or emotional  
123.22 disturbance;

123.23 (3) the plan for the ongoing care of the child and the parent's participation in the plan;

123.24 (4) a description of the parent's visitation and contact with the child;

123.25 (5) the date of the court finding that the foster care placement was in the best interests  
123.26 of the child, if required under section 260D.06, or the date the agency filed the motion under  
123.27 section 260D.09, paragraph (b);

123.28 (6) the agency's reasonable efforts to finalize the permanent plan for the child, including  
123.29 returning the child to the care of the child's family; ~~and~~

123.30 (7) a citation to this chapter as the basis for the petition; and

124.1 (8) evidence as specified in section 260C.712 when a child is placed in a qualified  
124.2 residential treatment program as defined in section 260C.007, subdivision 26d.

124.3 (d) An updated copy of the out-of-home placement plan required under section 260C.212,  
124.4 subdivision 1, shall be filed with the petition.

124.5 (e) The court shall set the date for the permanency review hearing no later than 14 months  
124.6 after the child has been in placement or within 30 days of the petition filing date when the  
124.7 child has been in placement 15 of the last 22 months. The court shall serve the petition  
124.8 together with a notice of hearing by United States mail on the parent, the child age 12 or  
124.9 older, the child's guardian ad litem, if one has been appointed, the agency, the county  
124.10 attorney, and counsel for any party.

124.11 (f) The court shall conduct the permanency review hearing on the petition no later than  
124.12 14 months after the date of the voluntary placement agreement, within 30 days of the filing  
124.13 of the petition when the child has been in placement 15 of the last 22 months, or within 15  
124.14 days of a motion to terminate jurisdiction and to dismiss an order for foster care under  
124.15 chapter 260C, as provided in section 260D.09, paragraph (b).

124.16 (g) At the permanency review hearing, the court shall:

124.17 (1) inquire of the parent if the parent has reviewed the "Petition for Permanency Review  
124.18 Regarding a Child in Voluntary Foster Care for Treatment," whether the petition is accurate,  
124.19 and whether the parent agrees to the continued voluntary foster care arrangement as being  
124.20 in the child's best interests;

124.21 (2) inquire of the parent if the parent is satisfied with the agency's reasonable efforts to  
124.22 finalize the permanent plan for the child, including whether there are services available and  
124.23 accessible to the parent that might allow the child to safely be with the child's family;

124.24 (3) inquire of the parent if the parent consents to the court entering an order that:

124.25 (i) approves the responsible agency's reasonable efforts to finalize the permanent plan  
124.26 for the child, which includes ongoing future planning for the safety, health, and best interests  
124.27 of the child; and

124.28 (ii) approves the responsible agency's determination that there are compelling reasons  
124.29 why the continued voluntary foster care arrangement is in the child's best interests; and

124.30 (4) inquire of the child's guardian ad litem and any other party whether the guardian or  
124.31 the party agrees that:

125.1 (i) the court should approve the responsible agency's reasonable efforts to finalize the  
125.2 permanent plan for the child, which includes ongoing and future planning for the safety,  
125.3 health, and best interests of the child; and

125.4 (ii) the court should approve of the responsible agency's determination that there are  
125.5 compelling reasons why the continued voluntary foster care arrangement is in the child's  
125.6 best interests.

125.7 (h) At a permanency review hearing under this section, the court may take the following  
125.8 actions based on the contents of the sworn petition and the consent of the parent:

125.9 (1) approve the agency's compelling reasons that the voluntary foster care arrangement  
125.10 is in the best interests of the child; and

125.11 (2) find that the agency has made reasonable efforts to finalize the permanent plan for  
125.12 the child.

125.13 (i) A child, age 12 or older, may object to the agency's request that the court approve its  
125.14 compelling reasons for the continued voluntary arrangement and may be heard on the reasons  
125.15 for the objection. Notwithstanding the child's objection, the court may approve the agency's  
125.16 compelling reasons and the voluntary arrangement.

125.17 (j) If the court does not approve the voluntary arrangement after hearing from the child  
125.18 or the child's guardian ad litem, the court shall dismiss the petition. In this case, either:

125.19 (1) the child must be returned to the care of the parent; or

125.20 (2) the agency must file a petition under section 260C.141, asking for appropriate relief  
125.21 under sections 260C.301 or 260C.503 to 260C.521.

125.22 (k) When the court approves the agency's compelling reasons for the child to continue  
125.23 in voluntary foster care for treatment, and finds that the agency has made reasonable efforts  
125.24 to finalize a permanent plan for the child, the court shall approve the continued voluntary  
125.25 foster care arrangement, and continue the matter under the court's jurisdiction for the purposes  
125.26 of reviewing the child's placement every 12 months while the child is in foster care.

125.27 (l) A finding that the court approves the continued voluntary placement means the agency  
125.28 has continued legal authority to place the child while a voluntary placement agreement  
125.29 remains in effect. The parent or the agency may terminate a voluntary agreement as provided  
125.30 in section 260D.10. Termination of a voluntary foster care placement of an Indian child is  
125.31 governed by section 260.765, subdivision 4.

125.32 **EFFECTIVE DATE.** This section is effective September 30, 2021.

126.1 Sec. 78. Minnesota Statutes 2020, section 260D.08, is amended to read:

126.2 **260D.08 ANNUAL REVIEW.**

126.3 (a) After the court conducts a permanency review hearing under section 260D.07, the  
126.4 matter must be returned to the court for further review of the responsible social services  
126.5 reasonable efforts to finalize the permanent plan for the child and the child's foster care  
126.6 placement at least every 12 months while the child is in foster care. The court shall give  
126.7 notice to the parent and child, age 12 or older, and the foster parents of the continued review  
126.8 requirements under this section at the permanency review hearing.

126.9 (b) Every 12 months, the court shall determine whether the agency made reasonable  
126.10 efforts to finalize the permanency plan for the child, which means the exercise of due  
126.11 diligence by the agency to:

126.12 (1) ensure that the agreement for voluntary foster care is the most appropriate legal  
126.13 arrangement to meet the child's safety, health, and best interests and to conduct a genuine  
126.14 examination of whether there is another permanency disposition order under chapter 260C,  
126.15 including returning the child home, that would better serve the child's need for a stable and  
126.16 permanent home;

126.17 (2) engage and support the parent in continued involvement in planning and decision  
126.18 making for the needs of the child;

126.19 (3) strengthen the child's ties to the parent, relatives, and community;

126.20 (4) implement the out-of-home placement plan required under section 260C.212,  
126.21 subdivision 1, and ensure that the plan requires the provision of appropriate services to  
126.22 address the physical health, mental health, and educational needs of the child; and

126.23 (5) submit evidence to the court as specified in section 260C.712 when a child is placed  
126.24 in a qualified residential treatment program setting as defined in section 260C.007,  
126.25 subdivision 26d; and

126.26 ~~(5)~~ (6) ensure appropriate planning for the child's safe, permanent, and independent  
126.27 living arrangement after the child's 18th birthday.

126.28 **EFFECTIVE DATE.** This section is effective September 30, 2021.

127.1 Sec. 79. Minnesota Statutes 2020, section 260D.14, is amended to read:

127.2 **260D.14 SUCCESSFUL TRANSITION TO ADULTHOOD FOR CHILDREN**  
127.3 **YOUTH IN VOLUNTARY PLACEMENT.**

127.4 Subdivision 1. **Case planning.** When ~~the child~~ a youth is 14 years of age or older, the  
127.5 responsible social services agency shall ensure that a child youth in foster care under this  
127.6 chapter is provided with the case plan requirements in section 260C.212, subdivisions 1  
127.7 and 14.

127.8 Subd. 2. **Notification.** The responsible social services agency shall provide a youth with  
127.9 written notice of ~~the right to continued access to services for certain children in foster care~~  
127.10 ~~past 18 years of age under section 260C.452, subdivision 3~~ foster care benefits that a youth  
127.11 who is 18 years of age or older may continue to receive according to section 260C.451,  
127.12 subdivision 1, and of the right to appeal a denial of social services under section 256.045.  
127.13 The notice must be provided to the ~~child~~ youth six months before the ~~child's~~ youth's 18th  
127.14 birthday.

127.15 Subd. 3. **Administrative or court reviews.** When ~~the child~~ a youth is ~~17~~ 14 years of  
127.16 age or older, the administrative review or court hearing must include a review of the  
127.17 responsible social services agency's support for the ~~child's~~ youth's successful transition to  
127.18 adulthood as required in section 260C.452, subdivision 4.

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

127.20 Sec. 80. Minnesota Statutes 2020, section 260E.36, is amended by adding a subdivision  
127.21 to read:

127.22 Subd. 1b. **Sex trafficking and sexual exploitation training requirement.** As required  
127.23 by the Child Abuse Prevention and Treatment Act amendments through Public Law 114-22  
127.24 and to implement Public Law 115-123, all child protection social workers and social services  
127.25 staff who have responsibility for child protective duties under this chapter or chapter 260C  
127.26 shall complete training implemented by the commissioner of human services regarding sex  
127.27 trafficking and sexual exploitation of children and youth.

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

127.29 Sec. 81. **[518A.80] MOTION TO TRANSFER TO TRIBAL COURT.**

127.30 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this  
127.31 subdivision have the meanings given.

128.1 (b) "Case participant" means a person who is a party to the case.

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

128.3 (d) "Party" means a person or entity named or admitted as a party or seeking to be  
128.4 admitted as a party in the district court action, including the county IV-D agency, regardless  
128.5 of whether the person or entity is named in the caption.

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

128.10 (f) "Tribal IV-D agency" has the meaning given in Code of Federal Regulations, title  
128.11 45, part 309.05.

128.12 (g) "Title IV-D child support case" has the meaning given in section 518A.26, subdivision  
128.13 10.

128.14 Subd. 2. **Actions eligible for transfer.** Under this section, a postjudgment child support,  
128.15 custody, or parenting time action is eligible for transfer to a tribal court. This section does  
128.16 not apply to a child protection action or a dissolution action involving a child.

128.17 Subd. 3. **Motion to transfer.** (a) A party's or tribal IV-D agency's motion to transfer a  
128.18 child support, custody, or parenting time action to a tribal court shall include:

128.19 (1) the address of each case participant;

128.20 (2) the tribal affiliation of each case participant, if applicable;

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

128.23 (4) the legal and factual basis for the court to find that the district court and a tribal court  
128.24 have concurrent jurisdiction in the case.

128.25 (b) A party or tribal IV-D agency bringing a motion to transfer a child support, custody,  
128.26 or parenting time action to a tribal court must file the motion with the district court and  
128.27 serve the required documents on each party and the tribal IV-D agency, regardless of whether  
128.28 the tribal IV-D agency is a party to the action.

128.29 (c) A party's or tribal IV-D agency's motion to transfer a child support, custody, or  
128.30 parenting time action to a tribal court must be accompanied by an affidavit setting forth  
128.31 facts in support of the motion.



(d) When a party other than the tribal IV-D agency has filed a motion to transfer a child support, custody, or parenting time action to a tribal court, an affidavit of the tribal IV-D agency stating whether the tribal IV-D agency provides services to a party must be filed and served on each party within 15 days from the date of service of the motion to transfer the action.

Subd. 4. **Order to transfer to tribal court.** (a) Unless a district court holds a hearing under subdivision 6, upon motion of a party or a tribal IV-D agency, a district court must transfer a postjudgment child support, custody, or parenting time action to a tribal court when the district court finds that:

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

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

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

(b) When the district court finds that each requirement of this subdivision is satisfied, the district court is not required to hold a hearing on the motion to transfer the action to a tribal court. The district court's order transferring the action to a tribal court must include written findings that describe how each requirement of this subdivision is met.

Subd. 5. **Objection to motion to transfer.** (a) To object to a motion to transfer a child support, custody, or parenting time action 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 of the motion to transfer's date of service.

(b) If a party or tribal IV-D agency files with the district court and properly serves a timely objection to the motion to transfer a child support, custody, or parenting time action to a tribal court, the district court must hold a hearing on the motion.

Subd. 6. **Hearing.** If a district court holds a hearing under this section, the district court must evaluate and make written findings about 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 to the action;

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

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

130.2 (6) where the claim arises that forms the basis of the action;

130.3 (7) the location of the residence of each case participant in the action and each child  
130.4 who is a subject of the action;

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

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

130.10 (10) which court will hear and decide the action more expeditiously;

130.11 (11) the burden on each party if the court transfers the action to a tribal court, including  
130.12 costs, access to and admissibility of evidence, and matters of procedure; and

130.13 (12) any other factor that the court determines to be relevant.

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

130.18 Subd. 8. **Transfer to Red Lake Nation Tribal Court.** When a party or tribal IV-D  
130.19 agency brings a motion to transfer a child support, custody, or parenting time action to the  
130.20 Red Lake Nation Tribal Court, the court must transfer the action to the Red Lake Nation  
130.21 Tribal Court if the case participants and child resided within the boundaries of the Red Lake  
130.22 Reservation for six months preceding the motion to transfer the action to the Red Lake  
130.23 Nation Tribal Court.

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

130.25 Sec. 82. Laws 2014, chapter 150, article 4, section 6, is amended to read:

130.26 Sec. 6. **SUPPLEMENTAL COUNTY PROGRAM AID PAYMENTS.**

130.27 (a) Before the money appropriated to county need aid is apportioned among the counties,  
130.28 as provided in Minnesota Statutes, section 477A.0124, subdivision 3, for aids payable in  
130.29 2015 through ~~2024~~ 2019 only, the total aid paid to Beltrami County shall be increased by  
130.30 \$3,000,000. For aids payable in 2020 through 2024, the total aid paid to Beltrami County  
130.31 under Minnesota Statutes, section 477A.0126, shall be increased by \$3,000,000. The

131.1 increased aid shall be used for out-of-home placement costs. When the commissioner of  
 131.2 human services certifies to the commissioner of revenue that the Red Lake Nation has  
 131.3 assumed child welfare responsibilities under Minnesota Statutes, section 256.01, subdivision  
 131.4 14b, for Red Lake members on the reservation for any years remaining through aids payable  
 131.5 in 2024, the increased aid shall be paid annually to the Red Lake Nation as part of the  
 131.6 reimbursement amount received under Minnesota Statutes, section 477A.0126. If the  
 131.7 certification by the commissioner of human services to the commissioner of revenue is  
 131.8 received after June 1 of any aids payable year, the commissioner of revenue shall pay  
 131.9 Beltrami County the increased aid under this section, and the county treasurer of Beltrami  
 131.10 County must transfer the increased aid to the Red Lake Nation by January 31 of the following  
 131.11 aids payable year in the amount proportional to the calendar months that the Red Lake  
 131.12 Nation had assumed child welfare responsibilities under Minnesota Statutes, section 256.01,  
 131.13 subdivision 14b.

131.14 (b) Before the money appropriated to county need aid is apportioned among the counties,  
 131.15 as provided in Minnesota Statutes, section 477A.0124, subdivision 3, for aids payable in  
 131.16 2015 only, the total aid paid to Mahnomen County shall be increased by \$1,500,000. Of  
 131.17 this amount, \$750,000 shall be paid from Mahnomen County to the White Earth Band of  
 131.18 Ojibwe for transition costs associated with health and human services.

131.19 (c) For aids payable in 2015 through 2019, the increased aid under this section shall be  
 131.20 paid in the same manner and at the same time as the regular aid payments under Minnesota  
 131.21 Statutes, section 477A.0124. For aids payable in 2020 through 2024, the increased aid under  
 131.22 this section shall be paid in the same manner and at the same time as the regular aid payments  
 131.23 under Minnesota Statutes, section 477A.0126.

131.24 (d) For aids payable in 2015 only, the total aid paid to counties under Minnesota Statutes,  
 131.25 section 477A.03, subdivision 2b, paragraph (a), is \$105,295,000

131.26 (e) For aids payable in 2016 through ~~2024~~ 2019 only, the total aid paid to counties under  
 131.27 Minnesota Statutes, section 477A.03, subdivision 2b, paragraph (a), is \$103,795,000. For  
 131.28 aids payable in 2020 through 2024, the total aid paid to counties and tribes under Minnesota  
 131.29 Statutes, section 477A.0126, subdivision 7, paragraph (a), is \$8,000,000.

131.30 **EFFECTIVE DATE.** This section is effective for aids payable in 2020 through 2024.

131.31 Sec. 83. **REPEALER.**

131.32 (a) Minnesota Statutes 2020, sections 119B.04; and 119B.125, subdivision 5, are repealed.

131.33 (b) Minnesota Statutes 2020, section 259A.70, is repealed.

132.1 **ARTICLE 3**

132.2 **COMMUNITY SUPPORTS**

132.3 Section 1. Minnesota Statutes 2020, section 245.4874, subdivision 1, is amended to read:

132.4 Subdivision 1. **Duties of county board.** (a) The county board must:

132.5 (1) develop a system of affordable and locally available children's mental health services  
132.6 according to sections 245.487 to 245.4889;

132.7 (2) consider the assessment of unmet needs in the county as reported by the local  
132.8 children's mental health advisory council under section 245.4875, subdivision 5, paragraph  
132.9 (b), clause (3). The county shall provide, upon request of the local children's mental health  
132.10 advisory council, readily available data to assist in the determination of unmet needs;

132.11 (3) assure that parents and providers in the county receive information about how to  
132.12 gain access to services provided according to sections 245.487 to 245.4889;

132.13 (4) coordinate the delivery of children's mental health services with services provided  
132.14 by social services, education, corrections, health, and vocational agencies to improve the  
132.15 availability of mental health services to children and the cost-effectiveness of their delivery;

132.16 (5) assure that mental health services delivered according to sections 245.487 to 245.4889  
132.17 are delivered expeditiously and are appropriate to the child's diagnostic assessment and  
132.18 individual treatment plan;

132.19 (6) provide for case management services to each child with severe emotional disturbance  
132.20 according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions  
132.21 1, 3, and 5;

132.22 (7) provide for screening of each child under section 245.4885 upon admission to a  
132.23 residential treatment facility, acute care hospital inpatient treatment, or informal admission  
132.24 to a regional treatment center;

132.25 (8) prudently administer grants and purchase-of-service contracts that the county board  
132.26 determines are necessary to fulfill its responsibilities under sections 245.487 to 245.4889;

132.27 (9) assure that mental health professionals, mental health practitioners, and case managers  
132.28 employed by or under contract to the county to provide mental health services are qualified  
132.29 under section 245.4871;

132.30 (10) assure that children's mental health services are coordinated with adult mental health  
132.31 services specified in sections 245.461 to 245.486 so that a continuum of mental health  
132.32 services is available to serve persons with mental illness, regardless of the person's age;

133.1 (11) assure that culturally competent mental health consultants are used as necessary to  
133.2 assist the county board in assessing and providing appropriate treatment for children of  
133.3 cultural or racial minority heritage; and

133.4 (12) consistent with section 245.486, arrange for or provide a children's mental health  
133.5 screening for:

133.6 (i) a child receiving child protective services;

133.7 (ii) a child in out-of-home placement;

133.8 (iii) a child for whom parental rights have been terminated;

133.9 (iv) a child found to be delinquent; or

133.10 (v) a child found to have committed a juvenile petty offense for the third or subsequent  
133.11 time.

133.12 A children's mental health screening is not required when a screening or diagnostic  
133.13 assessment has been performed within the previous 180 days, or the child is currently under  
133.14 the care of a mental health professional.

133.15 (b) When a child is receiving protective services or is in out-of-home placement, the  
133.16 court or county agency must notify a parent or guardian whose parental rights have not been  
133.17 terminated of the potential mental health screening and the option to prevent the screening  
133.18 by notifying the court or county agency in writing.

133.19 (c) When a child is found to be delinquent or a child is found to have committed a  
133.20 juvenile petty offense for the third or subsequent time, the court or county agency must  
133.21 obtain written informed consent from the parent or legal guardian before a screening is  
133.22 conducted unless the court, notwithstanding the parent's failure to consent, determines that  
133.23 the screening is in the child's best interest.

133.24 (d) The screening shall be conducted with a screening instrument approved by the  
133.25 commissioner of human services according to criteria that are updated and issued annually  
133.26 to ensure that approved screening instruments are valid and useful for child welfare and  
133.27 juvenile justice populations. Screenings shall be conducted by a mental health practitioner  
133.28 as defined in section 245.4871, subdivision 26, or a probation officer or local social services  
133.29 agency staff person who is trained in the use of the screening instrument. Training in the  
133.30 use of the instrument shall include:

133.31 (1) training in the administration of the instrument;

133.32 (2) the interpretation of its validity given the child's current circumstances;

134.1 (3) the state and federal data practices laws and confidentiality standards;

134.2 (4) the parental consent requirement; and

134.3 (5) providing respect for families and cultural values.

134.4 If the screen indicates a need for assessment, the child's family, or if the family lacks  
134.5 mental health insurance, the local social services agency, in consultation with the child's  
134.6 family, shall have conducted a diagnostic assessment, including a functional assessment.

134.7 The administration of the screening shall safeguard the privacy of children receiving the  
134.8 screening and their families and shall comply with the Minnesota Government Data Practices  
134.9 Act, chapter 13, and the federal Health Insurance Portability and Accountability Act of  
134.10 1996, Public Law 104-191. Screening results shall be considered private data ~~and the~~  
134.11 ~~commissioner shall not collect individual screening results.~~ The commissioner may collect  
134.12 individual screening results for the purposes of program evaluation and improvement.

134.13 (e) When the county board refers clients to providers of children's therapeutic services  
134.14 and supports under section 256B.0943, the county board must clearly identify the desired  
134.15 services components not covered under section 256B.0943 and identify the reimbursement  
134.16 source for those requested services, the method of payment, and the payment rate to the  
134.17 provider.

134.18 Sec. 2. Minnesota Statutes 2020, section 245.697, subdivision 1, is amended to read:

134.19 Subdivision 1. **Creation.** (a) A State Advisory Council on Mental Health is created. The  
134.20 council must have members appointed by the governor in accordance with federal  
134.21 requirements. In making the appointments, the governor shall consider appropriate  
134.22 representation of communities of color. The council must be composed of:

134.23 (1) the assistant commissioner of mental health for the department of human services;

134.24 (2) a representative of the Department of Human Services responsible for the medical  
134.25 assistance program;

134.26 (3) a representative of the Department of Health;

134.27 ~~(3)~~ (4) one member of each of the following professions:

134.28 (i) psychiatry;

134.29 (ii) psychology;

134.30 (iii) social work;

134.31 (iv) nursing;

135.1 (v) marriage and family therapy; and

135.2 (vi) professional clinical counseling;

135.3 ~~(4)~~ (5) one representative from each of the following advocacy groups: Mental Health  
 135.4 Association of Minnesota, NAMI-MN, ~~Mental Health Consumer/Survivor Network of~~  
 135.5 ~~Minnesota, and Minnesota Disability Law Center, American Indian Mental Health Advisory~~  
 135.6 Council, and a consumer-run mental health advocacy group;

135.7 ~~(5)~~ (6) providers of mental health services;

135.8 ~~(6)~~ (7) consumers of mental health services;

135.9 ~~(7)~~ (8) family members of persons with mental illnesses;

135.10 ~~(8)~~ (9) legislators;

135.11 ~~(9)~~ (10) social service agency directors;

135.12 ~~(10)~~ (11) county commissioners; and

135.13 ~~(11)~~ (12) other members reflecting a broad range of community interests, including  
 135.14 family physicians, or members as the United States Secretary of Health and Human Services  
 135.15 may prescribe by regulation or as may be selected by the governor.

135.16 (b) The council shall select a chair. Terms, compensation, and removal of members and  
 135.17 filling of vacancies are governed by section 15.059. Notwithstanding provisions of section  
 135.18 15.059, the council and its subcommittee on children's mental health do not expire. The  
 135.19 commissioner of human services shall provide staff support and supplies to the council.

135.20 Sec. 3. Minnesota Statutes 2020, section 252.43, is amended to read:

135.21 **252.43 COMMISSIONER'S DUTIES.**

135.22 (a) The commissioner shall supervise lead agencies' provision of day services to adults  
 135.23 with disabilities. The commissioner shall:

135.24 (1) determine the need for day ~~services~~ programs under ~~section~~ sections 256B.4914 and  
 135.25 252.41 to 252.46;

135.26 (2) establish payment rates as provided under section 256B.4914;

135.27 (3) adopt rules for the administration and provision of day services under sections  
 135.28 245A.01 to 245A.16<sub>2</sub>; 252.28, subdivision 2<sub>2</sub>; or 252.41 to 252.46<sub>2</sub>; or Minnesota Rules,  
 135.29 parts 9525.1200 to 9525.1330;

(4) enter into interagency agreements necessary to ensure effective coordination and provision of day services;

(5) monitor and evaluate the costs and effectiveness of day services; and

(6) provide information and technical help to lead agencies and vendors in their administration and provision of day services.

(b) A determination of need in paragraph (a), clause (1), shall not be required for a change in day service provider name or ownership.

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

Sec. 4. Minnesota Statutes 2020, section 252A.01, subdivision 1, is amended to read:

Subdivision 1. **Policy.** (a) It is the policy of the state of Minnesota to provide a coordinated approach to the supervision, protection, and habilitation of its adult citizens with a developmental disability. In furtherance of this policy, sections 252A.01 to 252A.21 are enacted to authorize the commissioner of human services to:

(1) supervise those adult citizens with a developmental disability who are unable to fully provide for their own needs and for whom no qualified person is willing and able to seek guardianship ~~or conservatorship~~ under sections 524.5-101 to 524.5-502; and

(2) protect adults with a developmental disability from violation of their human and civil rights by ~~assuring~~ ensuring that they receive the full range of needed social, financial, residential, and habilitative services to which they are lawfully entitled.

(b) Public guardianship ~~or conservatorship~~ is the most restrictive form of guardianship ~~or conservatorship~~ and should be imposed only when ~~no other acceptable alternative is available~~ less restrictive alternatives have been attempted and determined to be insufficient to meet the person's needs. Less restrictive alternatives include but are not limited to supported decision making, community or residential services, or appointment of a health care agent.

Sec. 5. Minnesota Statutes 2020, section 252A.02, subdivision 2, is amended to read:

Subd. 2. **Person with a developmental disability.** "Person with a developmental disability" refers to any person age 18 or older who:

(1) has been diagnosed as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior such as to require supervision



137.1 ~~and protection for the person's welfare or the public welfare.~~ a developmental disability or  
137.2 related condition;

137.3 (2) is impaired to the extent of lacking sufficient understanding or capacity to make  
137.4 personal decisions; and

137.5 (3) is unable to meet personal needs for medical care, nutrition, clothing, shelter, or  
137.6 safety, even with appropriate technological and supported decision-making assistance.

137.7 Sec. 6. Minnesota Statutes 2020, section 252A.02, subdivision 9, is amended to read:

137.8 Subd. 9. **Ward Person subject to public guardianship.** ~~"Ward"~~ "Person subject to  
137.9 public guardianship" means a person with a developmental disability for whom the court  
137.10 has appointed a public guardian.

137.11 Sec. 7. Minnesota Statutes 2020, section 252A.02, subdivision 11, is amended to read:

137.12 Subd. 11. **Interested person.** "Interested person" means an interested responsible adult,  
137.13 ~~including, but not limited to, a public official, guardian, spouse, parent, adult sibling, legal~~  
137.14 ~~counsel, adult child, or next of kin of a person alleged to have a developmental disability.~~  
137.15 including but not limited to:

137.16 (1) the person subject to guardianship, protected person, or respondent;

137.17 (2) a nominated guardian or conservator;

137.18 (3) a legal representative;

137.19 (4) the spouse; parent, including stepparent; adult children, including adult stepchildren  
137.20 of a living spouse; and siblings. If no such persons are living or can be located, the next of  
137.21 kin of the person subject to public guardianship or the respondent is an interested person;

137.22 (5) a representative of a state ombudsman's office or a federal protection and advocacy  
137.23 program that has notified the commissioner or lead agency that it has a matter regarding  
137.24 the protected person subject to guardianship, person subject to conservatorship, or respondent;  
137.25 and

137.26 (6) a health care agent or proxy appointed pursuant to a health care directive as defined  
137.27 in section 145C.01, subdivision 5a; a living will under chapter 145B; or other similar  
137.28 documentation executed in another state and enforceable under the laws of this state.

138.1 Sec. 8. Minnesota Statutes 2020, section 252A.02, subdivision 12, is amended to read:

138.2 Subd. 12. **Comprehensive evaluation.** (a) "Comprehensive evaluation" shall consist  
138.3 consists of:

138.4 (1) a medical report on the health status and physical condition of the proposed ~~ward,~~  
138.5 person subject to public guardianship prepared under the direction of a licensed physician  
138.6 or advanced practice registered nurse;

138.7 (2) a report on the ~~proposed ward's~~ intellectual capacity and functional abilities, ~~specifying~~  
138.8 of the proposed person subject to public guardianship that specifies the tests and other data  
138.9 used in reaching its conclusions; and is prepared by a psychologist who is qualified in the  
138.10 diagnosis of developmental disability; and

138.11 (3) a report from the case manager that includes:

138.12 (i) the most current assessment of individual service needs as described in rules of the  
138.13 commissioner;

138.14 (ii) the most current individual service plan under section 256B.092, subdivision 1b;  
138.15 and

138.16 (iii) a description of contacts with and responses of near relatives of the proposed ~~ward~~  
138.17 person subject to public guardianship notifying ~~them~~ the near relatives that a nomination  
138.18 for public guardianship has been made and advising ~~them~~ the near relatives that they may  
138.19 seek private guardianship.

138.20 (b) Each report under paragraph (a), clause (3), shall contain recommendations as to the  
138.21 amount of assistance and supervision required by the proposed ~~ward~~ person subject to public  
138.22 guardianship to function as independently as possible in society. To be considered part of  
138.23 the comprehensive evaluation, the reports must be completed no more than one year before  
138.24 filing the petition under section 252A.05.

138.25 Sec. 9. Minnesota Statutes 2020, section 252A.02, is amended by adding a subdivision to  
138.26 read:

138.27 Subd. 16. **Protected person.** "Protected person" means a person for whom a guardian  
138.28 or conservator has been appointed or other protective order has been sought. A protected  
138.29 person may be a minor.

139.1 Sec. 10. Minnesota Statutes 2020, section 252A.02, is amended by adding a subdivision  
139.2 to read:

139.3 Subd. 17. **Respondent.** "Respondent" means an individual for whom the appointment  
139.4 of a guardian or conservator or other protective order is sought.

139.5 Sec. 11. Minnesota Statutes 2020, section 252A.02, is amended by adding a subdivision  
139.6 to read:

139.7 Subd. 18. **Supported decision making.** "Supported decision making" means assistance  
139.8 to understand the nature and consequences of personal and financial decisions from one or  
139.9 more persons of the individual's choosing to enable the individual to make the personal and  
139.10 financial decisions and, when consistent with the individual's wishes, to communicate a  
139.11 decision once made.

139.12 Sec. 12. Minnesota Statutes 2020, section 252A.03, subdivision 3, is amended to read:

139.13 Subd. 3. **Standard for acceptance.** The commissioner shall accept the nomination if:  
139.14 ~~the comprehensive evaluation concludes that:~~

139.15 ~~(1) the person alleged to have developmental disability is, in fact, developmentally~~  
139.16 ~~disabled;~~ (1) the person's assessment confirms that they are a person with a developmental  
139.17 disability under section 252A.02, subdivision 2;

139.18 (2) the person is in need of the supervision and protection of a conservator or guardian;  
139.19 and

139.20 (3) no qualified person is willing to assume guardianship or conservatorship under  
139.21 sections 524.5-101 to 524.5-502.; and

139.22 (4) the person subject to public guardianship was included in the process prior to the  
139.23 submission of the nomination.

139.24 Sec. 13. Minnesota Statutes 2020, section 252A.03, subdivision 4, is amended to read:

139.25 Subd. 4. **Alternatives.** (a) Public guardianship ~~or conservatorship~~ may be imposed only  
139.26 when:

139.27 (1) the person subject to guardianship is impaired to the extent of lacking sufficient  
139.28 understanding or capacity to make personal decisions;

140.1 (2) the person subject to guardianship is unable to meet personal needs for medical care,  
140.2 nutrition, clothing, shelter, or safety, even with appropriate technological and supported  
140.3 decision-making assistance; and

140.4 (3) no acceptable, less restrictive form of guardianship or conservatorship is available.

140.5 (b) The commissioner shall seek parents, near relatives, and other interested persons to  
140.6 assume guardianship for persons with developmental disabilities who are currently under  
140.7 public guardianship. If a person seeks to become a guardian or conservator, costs to the  
140.8 person may be reimbursed under section 524.5-502. The commissioner must provide technical  
140.9 assistance to parents, near relatives, and interested persons seeking to become guardians or  
140.10 conservators.

140.11 Sec. 14. Minnesota Statutes 2020, section 252A.04, subdivision 1, is amended to read:

140.12 Subdivision 1. **Local agency.** Upon receipt of a written nomination, the commissioner  
140.13 shall promptly order the local agency of the county in which the proposed ward person  
140.14 subject to public guardianship resides to coordinate or arrange for a comprehensive evaluation  
140.15 of the proposed ward person subject to public guardianship.

140.16 Sec. 15. Minnesota Statutes 2020, section 252A.04, subdivision 2, is amended to read:

140.17 Subd. 2. **Medication; treatment.** A proposed ward person subject to public guardianship  
140.18 who, at the time the comprehensive evaluation is to be performed, has been under medical  
140.19 care shall not be so under the influence or so suffer the effects of drugs, medication, or other  
140.20 treatment as to be hampered in the testing or evaluation process. When in the opinion of  
140.21 the licensed physician or advanced practice registered nurse attending the proposed ward  
140.22 person subject to public guardianship, the discontinuance of medication or other treatment  
140.23 is not in the proposed ward's best interest of the proposed person subject to public  
140.24 guardianship, the physician or advanced practice registered nurse shall record a list of all  
140.25 drugs, medication, or other treatment which that the proposed ward person subject to public  
140.26 guardianship received 48 hours immediately prior to any examination, test, or interview  
140.27 conducted in preparation for the comprehensive evaluation.

140.28 Sec. 16. Minnesota Statutes 2020, section 252A.04, subdivision 4, is amended to read:

140.29 Subd. 4. **File.** The comprehensive evaluation shall be kept on file at the Department of  
140.30 Human Services and shall be open to the inspection of the proposed ward person subject to  
140.31 public guardianship and such other persons as may be given permission permitted by the  
140.32 commissioner.

141.1 Sec. 17. Minnesota Statutes 2020, section 252A.05, is amended to read:

141.2 **252A.05 COMMISSIONER'S PETITION FOR APPOINTMENT AS PUBLIC**  
141.3 **GUARDIAN ~~OR PUBLIC CONSERVATOR~~.**

141.4 In every case in which the commissioner agrees to accept a nomination, the local agency,  
141.5 within 20 working days of receipt of the commissioner's acceptance, shall petition on behalf  
141.6 of the commissioner in the county or court of the county of residence of the person with a  
141.7 developmental disability for appointment to act as ~~public conservator or~~ public guardian of  
141.8 the person with a developmental disability.

141.9 Sec. 18. Minnesota Statutes 2020, section 252A.06, subdivision 1, is amended to read:

141.10 Subdivision 1. **Who may file.** ~~The commissioner, the local agency, a person with a~~  
141.11 ~~developmental disability or any parent, spouse or relative of a person with a developmental~~  
141.12 ~~disability may file~~ A verified petition alleging that the appointment of a ~~public conservator~~  
141.13 ~~or~~ public guardian is required may be filed by: the commissioner; the local agency; a person  
141.14 with a developmental disability; or a parent, stepparent, spouse, or relative of a person with  
141.15 a developmental disability.

141.16 Sec. 19. Minnesota Statutes 2020, section 252A.06, subdivision 2, is amended to read:

141.17 Subd. 2. **Contents.** The petition shall set forth:

141.18 (1) the name and address of the petitioner; and, in the case of a petition brought by a  
141.19 person other than the commissioner, whether the petitioner is a parent, spouse, or relative  
141.20 ~~of the proposed ward~~ of the proposed person subject to guardianship;

141.21 (2) whether the commissioner has accepted a nomination to act as ~~public conservator~~  
141.22 ~~or~~ public guardian;

141.23 (3) the name, address, and date of birth of the proposed ~~ward~~ person subject to public  
141.24 guardianship;

141.25 (4) the names and addresses of the nearest relatives and spouse, if any, of the proposed  
141.26 ~~ward~~ person subject to public guardianship;

141.27 (5) the probable value and general character of the ~~proposed ward's~~ real and personal  
141.28 property of the proposed person subject to public guardianship and the probable amount of  
141.29 the proposed ward's debts of the proposed person subject to public guardianship; and

141.30 (6) the facts supporting the establishment of public ~~conservatorship or~~ guardianship,  
141.31 including that no family member or other qualified individual is willing to assume

142.1 guardianship or conservatorship responsibilities under sections 524.5-101 to 524.5-502;  
142.2 and.

142.3 ~~(7) if conservatorship is requested, the powers the petitioner believes are necessary to~~  
142.4 ~~protect and supervise the proposed conservatee.~~

142.5 Sec. 20. Minnesota Statutes 2020, section 252A.07, subdivision 1, is amended to read:

142.6 Subdivision 1. **With petition.** When a petition is brought by the commissioner or local  
142.7 agency, a copy of the comprehensive evaluation shall be filed with the petition. If a petition  
142.8 is brought by a person other than the commissioner or local agency and a comprehensive  
142.9 evaluation has been prepared within a year of the filing of the petition, the local agency  
142.10 shall ~~forward~~ send a copy of the comprehensive evaluation to the court upon notice of the  
142.11 filing of the petition. If a comprehensive evaluation has not been prepared within a year of  
142.12 the filing of the petition, the local agency, upon notice of the filing of the petition, shall  
142.13 arrange for a comprehensive evaluation to be prepared and ~~forwarded~~ provided to the court  
142.14 within 90 days.

142.15 Sec. 21. Minnesota Statutes 2020, section 252A.07, subdivision 2, is amended to read:

142.16 Subd. 2. **Copies.** A copy of the comprehensive evaluation shall be made available by  
142.17 the court to the proposed ~~ward~~ person subject to public guardianship, the ~~proposed ward's~~  
142.18 counsel of the proposed person subject to public guardianship, the county attorney, the  
142.19 attorney general, and the petitioner.

142.20 Sec. 22. Minnesota Statutes 2020, section 252A.07, subdivision 3, is amended to read:

142.21 Subd. 3. **Evaluation required; exception.** (a) No action for the appointment of a public  
142.22 guardian may proceed to hearing unless a comprehensive evaluation has been first filed  
142.23 with the court; ~~provided, however, that an action may proceed and a guardian appointed.~~

142.24 (b) Paragraph (a) does not apply if the director of the local agency responsible for  
142.25 conducting the comprehensive evaluation has filed an affidavit that the proposed ~~ward~~  
142.26 person subject to public guardianship refused to participate in the comprehensive evaluation  
142.27 and the court finds on the basis of clear and convincing evidence that the proposed ~~ward~~  
142.28 person subject to public guardianship is developmentally disabled and in need of the  
142.29 supervision and protection of a guardian.

143.1 Sec. 23. Minnesota Statutes 2020, section 252A.081, subdivision 2, is amended to read:

143.2 Subd. 2. **Service of notice.** Service of notice on the ~~ward~~ person subject to public  
143.3 guardianship or proposed ~~ward~~ person subject to public guardianship must be made by a  
143.4 nonuniformed person or nonuniformed visitor. To the extent possible, the ~~process server or~~  
143.5 ~~visitor~~ person or visitor serving the notice shall explain the document's meaning to the  
143.6 proposed ~~ward~~ person subject to public guardianship. In addition to the persons required to  
143.7 be served under sections 524.5-113, 524.5-205, and 524.5-304, the mailed notice of the  
143.8 hearing must be served on the commissioner, the local agency, and the county attorney.

143.9 Sec. 24. Minnesota Statutes 2020, section 252A.081, subdivision 3, is amended to read:

143.10 Subd. 3. **Attorney.** In place of the notice of attorney provisions in sections 524.5-205  
143.11 and 524.5-304, the notice must state that the court will appoint an attorney for the proposed  
143.12 ~~ward~~ person subject to public guardianship unless an attorney is provided by other persons.

143.13 Sec. 25. Minnesota Statutes 2020, section 252A.081, subdivision 5, is amended to read:

143.14 Subd. 5. **Defective notice of service.** A defect in the service of notice or process, other  
143.15 than personal service upon the proposed ~~ward or conservatee~~ person subject to public  
143.16 guardianship or service upon the commissioner and local agency within the time allowed  
143.17 and the form prescribed in this section and sections 524.5-113, 524.5-205, and 524.5-304,  
143.18 does not invalidate any public guardianship ~~or conservatorship~~ proceedings.

143.19 Sec. 26. Minnesota Statutes 2020, section 252A.09, subdivision 1, is amended to read:

143.20 Subdivision 1. **Attorney appointment.** Upon the filing of the petition, the court shall  
143.21 appoint an attorney for the proposed ~~ward~~ person subject to public guardianship, unless  
143.22 such counsel is provided by others.

143.23 Sec. 27. Minnesota Statutes 2020, section 252A.09, subdivision 2, is amended to read:

143.24 Subd. 2. **Representation.** Counsel shall visit with and, to the extent possible, consult  
143.25 with the proposed ~~ward~~ person subject to public guardianship prior to the hearing and shall  
143.26 be given adequate time to prepare ~~therefor~~ for the hearing. Counsel shall be given the full  
143.27 right of subpoena and shall be supplied with a copy of all documents filed with or issued  
143.28 by the court.

144.1 Sec. 28. Minnesota Statutes 2020, section 252A.101, subdivision 2, is amended to read:

144.2 Subd. 2. **Waiver of presence.** The proposed ~~ward~~ person subject to public guardianship  
144.3 may waive the right to be present at the hearing only if the proposed ~~ward~~ person subject  
144.4 to public guardianship has met with counsel and specifically waived the right to appear.

144.5 Sec. 29. Minnesota Statutes 2020, section 252A.101, subdivision 3, is amended to read:

144.6 Subd. 3. **Medical care.** If, at the time of the hearing, the proposed ~~ward~~ person subject  
144.7 to public guardianship has been under medical care, the ~~ward~~ person subject to public  
144.8 guardianship has the same rights regarding limitation on the use of drugs, medication, or  
144.9 other treatment before the hearing that are available under section 252A.04, subdivision 2.

144.10 Sec. 30. Minnesota Statutes 2020, section 252A.101, subdivision 5, is amended to read:

144.11 Subd. 5. **Findings.** (a) In all cases the court shall make specific written findings of fact,  
144.12 conclusions of law, and direct entry of an appropriate judgment or order. The court shall  
144.13 order the appointment of the commissioner as guardian ~~or conservator~~ if it finds that:

144.14 (1) the proposed ~~ward or conservatee~~ person subject to public guardianship is a person  
144.15 with a developmental disability as defined in section 252A.02, subdivision 2;

144.16 (2) the proposed ~~ward or conservatee~~ person subject to public guardianship is incapable  
144.17 of exercising specific legal rights, which must be enumerated in ~~its~~ the court's findings;

144.18 (3) the proposed ~~ward or conservatee~~ person subject to public guardianship is in need  
144.19 of the supervision and protection of a public guardian ~~or conservator~~; and

144.20 (4) no appropriate alternatives to public guardianship ~~or public conservatorship~~ exist  
144.21 that are less restrictive of the person's civil rights and liberties, such as appointing a private  
144.22 guardian, or conservator supported decision maker, or health care agent; or arranging  
144.23 residential or community services under sections 524.5-101 to 524.5-502.

144.24 (b) The court shall grant the specific powers that are necessary for the commissioner to  
144.25 act as public guardian ~~or conservator~~ on behalf of the ~~ward or conservatee~~ person subject  
144.26 to public guardianship.

144.27 Sec. 31. Minnesota Statutes 2020, section 252A.101, subdivision 6, is amended to read:

144.28 Subd. 6. **Notice of order; appeal.** A copy of the order shall be served by mail upon the  
144.29 ~~ward or conservatee~~ person subject to public guardianship and the ~~ward's~~ counsel of the  
144.30 person subject to public guardianship. The order must be accompanied by a notice that



145.1 advises the ~~ward or conservatee~~ person subject to public guardianship of the right to appeal  
145.2 the guardianship ~~or conservatorship~~ appointment within 30 days.

145.3 Sec. 32. Minnesota Statutes 2020, section 252A.101, subdivision 7, is amended to read:

145.4 Subd. 7. **Letters of guardianship.** (a) Letters of guardianship ~~or conservatorship~~ must  
145.5 be issued by the court and contain:

145.6 (1) the name, address, and telephone number of the ~~ward or conservatee~~ person subject  
145.7 to public guardianship; and

145.8 (2) the powers to be exercised on behalf of the ~~ward or conservatee~~ person subject to  
145.9 public guardianship.

145.10 (b) The letters under paragraph (a) must be served by mail upon the ~~ward or conservatee~~  
145.11 person subject to public guardianship, the ~~ward's~~ counsel of the person subject to public  
145.12 guardianship, the commissioner, and the local agency.

145.13 Sec. 33. Minnesota Statutes 2020, section 252A.101, subdivision 8, is amended to read:

145.14 Subd. 8. **Dismissal.** If upon the completion of the hearing and consideration of the record,  
145.15 the court finds that the proposed ~~ward~~ person subject to public guardianship is not  
145.16 developmentally disabled or is developmentally disabled but not in need of the supervision  
145.17 and protection of a ~~conservator or public~~ guardian, ~~it~~ the court shall dismiss the application  
145.18 and shall notify the proposed ~~ward~~ person subject to public guardianship, the ~~ward's~~ counsel  
145.19 of the person subject to public guardianship, and the petitioner of the court's findings.

145.20 Sec. 34. Minnesota Statutes 2020, section 252A.111, subdivision 2, is amended to read:

145.21 Subd. 2. **Additional powers.** In addition to the powers contained in sections 524.5-207  
145.22 and 524.5-313, the powers of a public guardian that the court may grant include:

145.23 (1) the power to permit or withhold permission for the ~~ward~~ person subject to public  
145.24 guardianship to marry;

145.25 (2) the power to begin legal action or defend against legal action in the name of the ~~ward~~  
145.26 person subject to public guardianship; and

145.27 (3) the power to consent to the adoption of the ~~ward~~ person subject to public guardianship  
145.28 as provided in section 259.24.

Sec. 35. Minnesota Statutes 2020, section 252A.111, subdivision 4, is amended to read:

Subd. 4. **Appointment of conservator.** If the ~~ward~~ person subject to public guardianship has a personal estate beyond that which is necessary for the ~~ward's~~ personal and immediate needs of the person subject to public guardianship, the commissioner shall determine whether a conservator should be appointed. The commissioner shall consult with the parents, spouse, or nearest relative of the ~~ward~~ person subject to public guardianship. The commissioner may petition the court for the appointment of a private conservator of the ~~ward~~ person subject to public guardianship. The commissioner cannot act as conservator for public ~~wards~~ persons subject to public guardianship or public protected persons.

Sec. 36. Minnesota Statutes 2020, section 252A.111, subdivision 6, is amended to read:

Subd. 6. **Special duties.** In exercising powers and duties under this chapter, the commissioner shall:

(1) maintain close contact with the ~~ward~~ person subject to public guardianship, visiting at least twice a year;

(2) protect and exercise the legal rights of the ~~ward~~ person subject to public guardianship;

(3) take actions and make decisions on behalf of the ~~ward~~ person subject to public guardianship that encourage and allow the maximum level of independent functioning in a manner least restrictive of the ~~ward's~~ personal freedom of the person subject to public guardianship consistent with the need for supervision and protection; and

(4) permit and encourage maximum self-reliance on the part of the ~~ward~~ person subject to public guardianship and permit and encourage input by the nearest relative of the ~~ward~~ person subject to public guardianship in planning and decision making on behalf of the ~~ward~~ person subject to public guardianship.

Sec. 37. Minnesota Statutes 2020, section 252A.12, is amended to read:

**252A.12 APPOINTMENT OF ~~CONSERVATOR~~ PUBLIC GUARDIAN NOT A FINDING OF INCOMPETENCY.**

An appointment of the commissioner as ~~conservator~~ public guardian shall not constitute a judicial finding that the person with a developmental disability is legally incompetent except for the restrictions ~~which~~ that the ~~conservatorship~~ public guardianship places on the ~~conservatee~~ person subject to public guardianship. The appointment of a ~~conservator~~ public guardian shall not deprive the ~~conservatee~~ person subject to public guardianship of the right to vote.

Sec. 38. Minnesota Statutes 2020, section 252A.16, is amended to read:

**252A.16 ANNUAL REVIEW.**

Subdivision 1. **Review required.** The commissioner shall require an annual review of the physical, mental, and social adjustment and progress of every ~~ward and conservatee~~ person subject to public guardianship. A copy of this review shall be kept on file at the Department of Human Services and may be inspected by the ~~ward or conservatee~~ person subject to public guardianship, the ~~ward's or conservatee's~~ parents, spouse, or relatives of the person subject to public guardianship, and other persons who receive the permission of the commissioner. The review shall contain information required under Minnesota Rules, part 9525.3065, subpart 1.

Subd. 2. **Assessment of need for continued guardianship.** The commissioner shall annually review the legal status of each ~~ward~~ person subject to public guardianship in light of the progress indicated in the annual review. If the commissioner determines the ~~ward~~ person subject to public guardianship is no longer in need of public guardianship ~~or conservatorship~~ or is capable of functioning under a less restrictive ~~conservatorship~~ guardianship, the commissioner or local agency shall petition the court pursuant to section 252A.19 to restore the ~~ward~~ person subject to public guardianship to capacity or for a modification of the court's previous order.

Sec. 39. Minnesota Statutes 2020, section 252A.17, is amended to read:

**252A.17 EFFECT OF SUCCESSION IN OFFICE.**

The appointment by the court of the commissioner ~~of human services~~ as public ~~conservator or~~ guardian shall be by the title of the commissioner's office. The authority of the commissioner as public ~~conservator or~~ guardian shall cease upon the termination of the commissioner's term of office and shall vest in a successor or successors in office without further court proceedings.

Sec. 40. Minnesota Statutes 2020, section 252A.19, subdivision 2, is amended to read:

Subd. 2. **Petition.** The commissioner, ~~ward~~ person subject to public guardianship, or any interested person may petition the appointing court or the court to which venue has been transferred ~~for an order to~~:

(1) for an order to remove the guardianship ~~or to~~;

(2) for an order to limit or expand the powers of the guardianship ~~or to~~;

148.1 (3) for an order to appoint a guardian ~~or conservator~~ under sections 524.5-101 to  
148.2 524.5-502 ~~or to~~;

148.3 (4) for an order to restore the ~~ward~~ person subject to public guardianship or protected  
148.4 person to full legal capacity ~~or to~~;

148.5 (5) to review de novo any decision made by the public guardian ~~or public conservator~~  
148.6 for or on behalf of a ~~ward~~ person subject to public guardianship or protected person; or

148.7 (6) for any other order as the court may deem just and equitable.

148.8 Sec. 41. Minnesota Statutes 2020, section 252A.19, subdivision 4, is amended to read:

148.9 Subd. 4. **Comprehensive evaluation.** The commissioner shall, at the court's request,  
148.10 arrange for the preparation of a comprehensive evaluation of the ~~ward~~ person subject to  
148.11 public guardianship or protected person.

148.12 Sec. 42. Minnesota Statutes 2020, section 252A.19, subdivision 5, is amended to read:

148.13 Subd. 5. **Court order.** Upon proof of the allegations of the petition the court shall enter  
148.14 an order removing the guardianship or limiting or expanding the powers of the guardianship  
148.15 or restoring the ~~ward~~ person subject to public guardianship or protected person to full legal  
148.16 capacity or may enter such other order as the court may deem just and equitable.

148.17 Sec. 43. Minnesota Statutes 2020, section 252A.19, subdivision 7, is amended to read:

148.18 Subd. 7. **Attorney general's role; commissioner's role.** The attorney general may  
148.19 appear and represent the commissioner in such proceedings. The commissioner shall support  
148.20 or oppose the petition if the commissioner deems such action necessary for the protection  
148.21 and supervision of the ~~ward~~ person subject to public guardianship or protected person.

148.22 Sec. 44. Minnesota Statutes 2020, section 252A.19, subdivision 8, is amended to read:

148.23 Subd. 8. ~~Court-appointed~~ **Court-appointed counsel.** In all such proceedings, the  
148.24 protected person or ~~ward~~ person subject to public guardianship shall be afforded an  
148.25 opportunity to be represented by counsel, and if neither the protected person or ~~ward~~ person  
148.26 subject to public guardianship nor others provide counsel the court shall appoint counsel to  
148.27 represent the protected person or ~~ward~~ person subject to public guardianship.

149.1 Sec. 45. Minnesota Statutes 2020, section 252A.20, is amended to read:

149.2 **252A.20 COSTS OF HEARINGS.**

149.3 Subdivision 1. **Witness and attorney fees.** In each proceeding under sections 252A.01  
149.4 to 252A.21, the court shall allow and order paid to each witness subpoenaed the fees and  
149.5 mileage prescribed by law; to each physician, advanced practice registered nurse,  
149.6 psychologist, or social worker who assists in the preparation of the comprehensive evaluation  
149.7 and who is not ~~in the employ of~~ employed by the local agency or the state Department of  
149.8 Human Services, a reasonable sum for services and for travel; and to the ~~ward's~~ counsel of  
149.9 the person subject to public guardianship, when appointed by the court, a reasonable sum  
149.10 for travel and for each day or portion of a day actually employed in court or actually  
149.11 consumed in preparing for the hearing. Upon order the county auditor shall issue a warrant  
149.12 on the county treasurer for payment of the amount allowed.

149.13 Subd. 2. **Expenses.** When the settlement of the ~~ward~~ person subject to public guardianship  
149.14 is found to be in another county, the court shall transmit to the county auditor a statement  
149.15 of the expenses incurred pursuant to subdivision 1. The auditor shall transmit the statement  
149.16 to the auditor of the county of the ~~ward's~~ settlement of the person subject to public  
149.17 guardianship and this claim shall be paid as other claims against that county. If the auditor  
149.18 to whom this claim is transmitted denies the claim, the auditor shall transmit it, together  
149.19 with the objections thereto, to the commissioner, who shall determine the question of  
149.20 settlement and certify findings to each auditor. If the claim is not paid within 30 days after  
149.21 such certification, an action may be maintained thereon in the district court of the claimant  
149.22 county.

149.23 Subd. 3. **Change of venue; cost of proceedings.** Whenever venue of a proceeding has  
149.24 been transferred under sections 252A.01 to 252A.21, the costs of such proceedings shall be  
149.25 reimbursed to the county of the ~~ward's~~ settlement of the person subject to public guardianship  
149.26 by the state.

149.27 Sec. 46. Minnesota Statutes 2020, section 252A.21, subdivision 2, is amended to read:

149.28 Subd. 2. **Rules.** The commissioner shall adopt rules to implement this chapter. The rules  
149.29 must include standards for performance of guardianship ~~or conservatorship~~ duties including;  
149.30 but not limited to: twice a year visits with the ~~ward~~ person subject to public guardianship;  
149.31 a requirement that the duties of guardianship ~~or conservatorship~~ and case management not  
149.32 be performed by the same person; specific standards for action on "do not resuscitate" orders  
149.33 as recommended by a physician, an advanced practice registered nurse, or a physician

150.1 assistant; sterilization requests; and the use of psychotropic medication and aversive  
150.2 procedures.

150.3 Sec. 47. Minnesota Statutes 2020, section 252A.21, subdivision 4, is amended to read:

150.4 Subd. 4. **Private guardianships and conservatorships.** Nothing in sections 252A.01  
150.5 to 252A.21 shall impair the right of individuals to establish private guardianships or  
150.6 conservatorships in accordance with applicable law.

150.7 Sec. 48. Minnesota Statutes 2020, section 254A.03, subdivision 3, is amended to read:

150.8 Subd. 3. **Rules for substance use disorder care.** (a) The commissioner of human  
150.9 services shall establish by rule criteria to be used in determining the appropriate level of  
150.10 ~~chemical dependency~~ substance use disorder care for each recipient of public assistance  
150.11 seeking treatment for substance misuse or substance use disorder. ~~Upon federal approval~~  
150.12 ~~of a comprehensive assessment as a Medicaid benefit, or on July 1, 2018, whichever is later,~~  
150.13 ~~and~~ Notwithstanding the criteria in Minnesota Rules, parts 9530.6600 to 9530.6655, an  
150.14 eligible vendor of comprehensive assessments under section 254B.05 may determine and  
150.15 approve the appropriate level of substance use disorder treatment for a recipient of public  
150.16 assistance. The process for determining an individual's financial eligibility for the  
150.17 ~~consolidated chemical dependency treatment~~ behavioral health fund or determining an  
150.18 individual's enrollment in or eligibility for a publicly subsidized health plan is not affected  
150.19 by the individual's choice to access a comprehensive assessment for placement.

150.20 (b) The commissioner shall develop and implement a utilization review process for  
150.21 publicly funded treatment placements to monitor and review the clinical appropriateness  
150.22 and timeliness of all publicly funded placements in treatment.

150.23 (c) If a screen result is positive for ~~alcohol or~~ substance misuse, a brief screening for  
150.24 ~~alcohol or~~ a substance use disorder that is provided to a recipient of public assistance within  
150.25 a primary care clinic, hospital, or other medical setting or school setting establishes medical  
150.26 necessity and approval for an initial set of substance use disorder services identified in  
150.27 section 254B.05, subdivision 5. The initial set of services approved for a recipient whose  
150.28 screen result is positive may include any combination of up to four hours of individual or  
150.29 group substance use disorder treatment, two hours of substance use disorder treatment  
150.30 coordination, or two hours of substance use disorder peer support services provided by a  
150.31 qualified individual according to chapter 245G. A recipient must obtain an assessment  
150.32 pursuant to paragraph (a) to be approved for additional treatment services. Minnesota Rules,  
150.33 parts 9530.6600 to 9530.6655, and a comprehensive assessment pursuant to section 245G.05

151.1 are not applicable to the initial set of services allowed under this subdivision. A positive  
151.2 screen result establishes eligibility for the initial set of services allowed under this  
151.3 subdivision.

151.4 (d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655, an individual may  
151.5 choose to obtain a comprehensive assessment as provided in section 245G.05. Individuals  
151.6 obtaining a comprehensive assessment may access any enrolled provider that is licensed to  
151.7 provide the level of service authorized pursuant to section 254A.19, subdivision 3, paragraph  
151.8 (d). If the individual is enrolled in a prepaid health plan, the individual must comply with  
151.9 any provider network requirements or limitations. This paragraph expires July 1, 2022.

151.10 Sec. 49. Minnesota Statutes 2020, section 254A.171, is amended to read:

151.11 **254A.171 INTERVENTION AND ADVOCACY PROGRAM.**

151.12 Within the limit of money available, the commissioner shall fund voluntary outreach  
151.13 programs targeted at women who deliver children affected by prenatal alcohol or drug use.  
151.14 The programs shall help women obtain treatment, stay in recovery, and plan any future  
151.15 pregnancies. An advocate shall be assigned to each woman in the program to provide  
151.16 guidance and advice with respect to treatment programs, child safety and parenting, housing,  
151.17 family planning, and any other personal issues that are barriers to remaining free of ~~chemical~~  
151.18 ~~dependency~~ a substance use disorder.

151.19 Sec. 50. Minnesota Statutes 2020, section 254A.19, subdivision 4, is amended to read:

151.20 Subd. 4. **Civil commitments.** A Rule 25 assessment, under Minnesota Rules, part  
151.21 9530.6615, does not need to be completed for an individual being committed as a chemically  
151.22 dependent person, as defined in section 253B.02, and for the duration of a civil commitment  
151.23 under section ~~253B.065~~, 253B.09, or 253B.095 in order for a county to access ~~consolidated~~  
151.24 ~~chemical dependency treatment~~ behavioral health funds under section 254B.04. The county  
151.25 must determine if the individual meets the financial eligibility requirements for the  
151.26 ~~consolidated chemical dependency treatment~~ behavioral health funds under section 254B.04.  
151.27 Nothing in this subdivision prohibits placement in a treatment facility or treatment program  
151.28 governed under this chapter or Minnesota Rules, parts 9530.6600 to 9530.6655.

152.1 Sec. 51. Minnesota Statutes 2020, section 254A.20, is amended to read:

152.2 **254A.20 DUTIES OF COMMISSIONER RELATED TO ~~CHEMICAL HEALTH~~**  
152.3 **SUBSTANCE USE DISORDER.**

152.4 The commissioner shall develop a directory that identifies key characteristics of each  
152.5 licensed ~~chemical dependency~~ substance use disorder treatment program.

152.6 Sec. 52. Minnesota Statutes 2020, section 254B.01, subdivision 6, is amended to read:

152.7 Subd. 6. **Local money.** "Local money" means county levies, federal social services  
152.8 money, or other money that may be spent at county discretion to provide ~~chemical~~  
152.9 ~~dependency~~ substance use disorder services eligible for payment according to ~~Laws 1986,~~  
152.10 ~~chapter 394, sections 8 to 20~~ sections 254B.01 to 254B.09; 256B.02, subdivision 8; and  
152.11 256B.70.

152.12 Sec. 53. Minnesota Statutes 2020, section 254B.01, subdivision 8, is amended to read:

152.13 Subd. 8. **Recovery community organization.** "Recovery community organization"  
152.14 means an independent organization led and governed by representatives of local communities  
152.15 of recovery. A recovery community organization mobilizes resources within and outside  
152.16 of the recovery community to increase the prevalence and quality of long-term recovery  
152.17 ~~from alcohol and other drug addiction~~ a substance use disorder. Recovery community  
152.18 organizations provide peer-based recovery support activities such as training of recovery  
152.19 peers. Recovery community organizations provide mentorship and ongoing support to  
152.20 individuals dealing with a substance use disorder and connect them with the resources that  
152.21 can support each person's recovery. A recovery community organization also promotes a  
152.22 recovery-focused orientation in community education and outreach programming, and  
152.23 organize recovery-focused policy advocacy activities to foster healthy communities and  
152.24 reduce the stigma of substance use disorder.

152.25 Sec. 54. Minnesota Statutes 2020, section 254B.02, subdivision 1, is amended to read:

152.26 Subdivision 1. **~~Chemical dependency~~ Substance use disorder treatment**  
152.27 **allocation.** The ~~chemical dependency~~ substance use disorder treatment appropriation shall  
152.28 be placed in a special revenue account. The money in the special revenue account must be  
152.29 used according to the requirements in this chapter.



153.1 Sec. 55. Minnesota Statutes 2020, section 254B.03, subdivision 1, is amended to read:

153.2 Subdivision 1. **Local agency duties.** (a) Every local agency shall provide ~~chemical~~  
153.3 ~~dependency~~ substance use disorder services to persons residing within its jurisdiction who  
153.4 meet criteria established by the commissioner for placement in a ~~chemical dependency~~  
153.5 substance use disorder residential or nonresidential treatment service. ~~Chemical dependency~~  
153.6 Substance use disorder money must be administered by the local agencies according to law  
153.7 and rules adopted by the commissioner under sections 14.001 to 14.69.

153.8 (b) In order to contain costs, the commissioner of human services shall select eligible  
153.9 vendors of ~~chemical dependency~~ substance use disorder services who can provide economical  
153.10 and appropriate treatment. Unless the local agency is a social services department directly  
153.11 administered by a county or human services board, the local agency shall not be an eligible  
153.12 vendor under section 254B.05. The commissioner may approve proposals from county  
153.13 boards to provide services in an economical manner or to control utilization, with safeguards  
153.14 to ensure that necessary services are provided. If a county implements a demonstration or  
153.15 experimental medical services funding plan, the commissioner shall transfer the money as  
153.16 appropriate.

153.17 (c) A culturally specific vendor that provides assessments under a variance under  
153.18 Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons  
153.19 not covered by the variance.

153.20 (d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655, an individual may  
153.21 choose to obtain a comprehensive assessment as provided in section 245G.05. Individuals  
153.22 obtaining a comprehensive assessment may access any enrolled provider that is licensed to  
153.23 provide the level of service authorized pursuant to section 254A.19, subdivision 3, paragraph  
153.24 (d). If the individual is enrolled in a prepaid health plan, the individual must comply with  
153.25 any provider network requirements or limitations.

153.26 (e) Beginning July 1, 2022, local agencies shall not make placement location  
153.27 determinations.

153.28 Sec. 56. Minnesota Statutes 2020, section 254B.03, subdivision 2, is amended to read:

153.29 Subd. 2. **Chemical dependency fund payment.** (a) Payment from the chemical  
153.30 dependency fund is limited to payments for services other than detoxification licensed under  
153.31 Minnesota Rules, parts 9530.6510 to 9530.6590, ~~that, if located outside of federally~~  
153.32 ~~recognized tribal lands, would be required to be licensed by the commissioner as a chemical~~  
153.33 ~~dependency treatment or rehabilitation program under sections 245A.01 to 245A.16, services~~

154.1 identified in section 254B.05, and services other than detoxification provided in another  
154.2 state that would be required to be licensed as a chemical dependency program if the program  
154.3 were in the state. Out of state vendors must also provide the commissioner with assurances  
154.4 that the program complies substantially with state licensing requirements and possesses all  
154.5 licenses and certifications required by the host state to provide chemical dependency  
154.6 treatment. Vendors receiving payments from the chemical dependency fund must not require  
154.7 co-payment from a recipient of benefits for services provided under this subdivision. The  
154.8 vendor is prohibited from using the client's public benefits to offset the cost of services paid  
154.9 under this section. The vendor shall not require the client to use public benefits for room  
154.10 or board costs. This includes but is not limited to cash assistance benefits under chapters  
154.11 119B, 256D, and 256J, or SNAP benefits. Retention of SNAP benefits is a right of a client  
154.12 receiving services through the consolidated chemical dependency treatment fund or through  
154.13 state contracted managed care entities. Payment from the chemical dependency fund shall  
154.14 be made for necessary room and board costs provided by vendors meeting the criteria under  
154.15 section 254B.05, subdivision 1a, or in a community hospital licensed by the commissioner  
154.16 of health according to sections 144.50 to 144.56 to a client who is:

154.17 (1) determined to meet the criteria for placement in a residential chemical dependency  
154.18 treatment program according to rules adopted under section 254A.03, subdivision 3; and

154.19 (2) concurrently receiving a chemical dependency treatment service in a program licensed  
154.20 by the commissioner and reimbursed by the chemical dependency fund.

154.21 (b) A county may, from its own resources, provide chemical dependency services for  
154.22 which state payments are not made. A county may elect to use the same invoice procedures  
154.23 and obtain the same state payment services as are used for chemical dependency services  
154.24 for which state payments are made under this section if county payments are made to the  
154.25 state in advance of state payments to vendors. When a county uses the state system for  
154.26 payment, the commissioner shall make monthly billings to the county using the most recent  
154.27 available information to determine the anticipated services for which payments will be made  
154.28 in the coming month. Adjustment of any overestimate or underestimate based on actual  
154.29 expenditures shall be made by the state agency by adjusting the estimate for any succeeding  
154.30 month.

154.31 (c) The commissioner shall coordinate chemical dependency services and determine  
154.32 whether there is a need for any proposed expansion of chemical dependency treatment  
154.33 services. The commissioner shall deny vendor certification to any provider that has not  
154.34 received prior approval from the commissioner for the creation of new programs or the  
154.35 expansion of existing program capacity. The commissioner shall consider the provider's

155.1 capacity to obtain clients from outside the state based on plans, agreements, and previous  
155.2 utilization history, when determining the need for new treatment services.

155.3 Sec. 57. Minnesota Statutes 2020, section 254B.03, subdivision 4, is amended to read:

155.4 Subd. 4. **Division of costs.** (a) Except for services provided by a county under section  
155.5 254B.09, subdivision 1, or services provided under section 256B.69, the county shall, out  
155.6 of local money, pay the state for 22.95 percent of the cost of ~~chemical dependency~~ substance  
155.7 use disorder services, except for those services provided to persons enrolled in medical  
155.8 assistance under chapter 256B and room and board services under section 254B.05,  
155.9 subdivision 5, paragraph (b), clause (12). Counties may use the indigent hospitalization  
155.10 levy for treatment and hospital payments made under this section.

155.11 (b) 22.95 percent of any state collections from private or third-party pay, less 15 percent  
155.12 for the cost of payment and collections, must be distributed to the county that paid for a  
155.13 portion of the treatment under this section.

155.14 Sec. 58. Minnesota Statutes 2020, section 254B.04, subdivision 1, is amended to read:

155.15 Subdivision 1. **Eligibility.** (a) Persons eligible for benefits under Code of Federal  
155.16 Regulations, title 25, part 20, who meet the income standards of section 256B.056,  
155.17 subdivision 4, and are not enrolled in medical assistance, are entitled to ~~chemical dependency~~  
155.18 behavioral health fund services. State money appropriated for this paragraph must be placed  
155.19 in a separate account established for this purpose.

155.20 (b) Persons with dependent children who are determined to be in need of ~~chemical~~  
155.21 ~~dependency~~ substance use disorder treatment pursuant to an assessment under section  
155.22 260E.20, subdivision 1, or a case plan under section 260C.201, subdivision 6, or 260C.212,  
155.23 shall be assisted by the local agency to access needed treatment services. Treatment services  
155.24 must be appropriate for the individual or family, which may include long-term care treatment  
155.25 or treatment in a facility that allows the dependent children to stay in the treatment facility.  
155.26 The county shall pay for out-of-home placement costs, if applicable.

155.27 (c) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible  
155.28 for room and board services under section 254B.05, subdivision 5, paragraph (b), clause  
155.29 (12).

156.1 Sec. 59. Minnesota Statutes 2020, section 254B.05, subdivision 1a, is amended to read:

156.2 Subd. 1a. **Room and board provider requirements.** (a) ~~Effective January 1, 2000,~~  
156.3 Vendors of room and board are eligible for ~~chemical dependency~~ behavioral health fund  
156.4 payment if the vendor:

156.5 (1) has rules prohibiting residents bringing ~~chemicals~~ substances into the facility or using  
156.6 ~~chemicals~~ substances while residing in the facility and provide consequences for infractions  
156.7 of those rules;

156.8 (2) is determined to meet applicable health and safety requirements;

156.9 (3) is not a jail or prison;

156.10 (4) is not concurrently receiving funds under chapter 256I for the recipient;

156.11 (5) admits individuals who are 18 years of age or older;

156.12 (6) is registered as a board and lodging or lodging establishment according to section  
156.13 157.17;

156.14 (7) has awake staff on site 24 hours per day;

156.15 (8) has staff who are at least 18 years of age and meet the requirements of section  
156.16 245G.11, subdivision 1, paragraph (b);

156.17 (9) has emergency behavioral procedures that meet the requirements of section 245G.16;

156.18 (10) meets the requirements of section 245G.08, subdivision 5, if administering  
156.19 medications to clients;

156.20 (11) meets the abuse prevention requirements of section 245A.65, including a policy on  
156.21 fraternization and the mandatory reporting requirements of section 626.557;

156.22 (12) documents coordination with the treatment provider to ensure compliance with  
156.23 section 254B.03, subdivision 2;

156.24 (13) protects client funds and ensures freedom from exploitation by meeting the  
156.25 provisions of section 245A.04, subdivision 13;

156.26 (14) has a grievance procedure that meets the requirements of section 245G.15,  
156.27 subdivision 2; and

156.28 (15) has sleeping and bathroom facilities for men and women separated by a door that  
156.29 is locked, has an alarm, or is supervised by awake staff.

157.1 (b) Programs licensed according to Minnesota Rules, chapter 2960, are exempt from  
157.2 paragraph (a), clauses (5) to (15).

157.3 (c) Licensed programs providing intensive residential treatment services or residential  
157.4 crisis stabilization services pursuant to section 256B.0622 or 256B.0624 are eligible vendors  
157.5 of room and board and are exempt from paragraph (a), clauses (6) to (15).

157.6 Sec. 60. Minnesota Statutes 2020, section 254B.05, subdivision 1b, is amended to read:

157.7 Subd. 1b. **Additional vendor requirements.** Vendors must comply with the following  
157.8 duties:

157.9 (1) maintain a provider agreement with the department;

157.10 (2) continually comply with the standards in the agreement;

157.11 (3) participate in the Drug Alcohol Normative Evaluation System;

157.12 (4) submit an annual financial statement which reports functional expenses of ~~chemical~~  
157.13 ~~dependency~~ substance use disorder treatment costs in a form approved by the commissioner;

157.14 (5) report information about the vendor's current capacity in a manner prescribed by the  
157.15 commissioner; and

157.16 (6) maintain adequate and appropriate insurance coverage necessary to provide ~~chemical~~  
157.17 ~~dependency~~ substance use disorder treatment services, and at a minimum:

157.18 (i) employee dishonesty in the amount of \$10,000 if the vendor has or had custody or  
157.19 control of money or property belonging to clients; and

157.20 (ii) bodily injury and property damage in the amount of \$2,000,000 for each occurrence,  
157.21 except that a county or a county joint powers entity who is otherwise an eligible vendor  
157.22 shall be subject to the limits on liability under section 466.04.

157.23 Sec. 61. Minnesota Statutes 2020, section 254B.05, subdivision 4, is amended to read:

157.24 Subd. 4. **Regional treatment centers.** Regional treatment center ~~chemical dependency~~  
157.25 substance use disorder treatment units are eligible vendors. The commissioner may expand  
157.26 the capacity of ~~chemical dependency~~ substance use disorder treatment units beyond the  
157.27 capacity funded by direct legislative appropriation to serve individuals who are referred for  
157.28 treatment by counties and whose treatment will be paid for by funding under this chapter  
157.29 or other funding sources. Notwithstanding the provisions of sections 254B.03 to 254B.041,  
157.30 payment for any person committed at county request to a regional treatment center under  
157.31 chapter 253B for ~~chemical dependency~~ substance use disorder treatment and determined to

158.1 be ineligible under the ~~chemical dependency consolidated treatment~~ behavioral health fund,  
158.2 shall become the responsibility of the county.

158.3 Sec. 62. Minnesota Statutes 2020, section 254B.05, subdivision 5, is amended to read:

158.4 Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for substance  
158.5 use disorder services and service enhancements funded under this chapter.

158.6 (b) Eligible substance use disorder treatment services include:

158.7 (1) outpatient treatment services that are licensed according to sections 245G.01 to  
158.8 245G.17, or applicable tribal license;

158.9 (2) comprehensive assessments provided according to sections 245.4863, paragraph (a),  
158.10 and 245G.05;

158.11 (3) care coordination services provided according to section 245G.07, subdivision 1,  
158.12 paragraph (a), clause (5);

158.13 (4) peer recovery support services provided according to section 245G.07, subdivision  
158.14 2, clause (8);

158.15 (5) ~~on July 1, 2019, or upon federal approval, whichever is later,~~ withdrawal management  
158.16 services provided according to chapter 245F;

158.17 (6) medication-assisted therapy services that are licensed according to sections 245G.01  
158.18 to 245G.17 and 245G.22, or applicable tribal license;

158.19 (7) medication-assisted therapy plus enhanced treatment services that meet the  
158.20 requirements of clause (6) and provide nine hours of clinical services each week;

158.21 (8) high, medium, and low intensity residential treatment services that are licensed  
158.22 according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license which  
158.23 provide, respectively, 30, 15, and five hours of clinical services each week;

158.24 (9) hospital-based treatment services that are licensed according to sections 245G.01 to  
158.25 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to  
158.26 144.56;

158.27 (10) adolescent treatment programs that are licensed as outpatient treatment programs  
158.28 according to sections 245G.01 to 245G.18 or as residential treatment programs according  
158.29 to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or  
158.30 applicable tribal license;

159.1 (11) high-intensity residential treatment services that are licensed according to sections  
159.2 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of  
159.3 clinical services each week provided by a state-operated vendor or to clients who have been  
159.4 civilly committed to the commissioner, present the most complex and difficult care needs,  
159.5 and are a potential threat to the community; and

159.6 (12) room and board facilities that meet the requirements of subdivision 1a.

159.7 (c) The commissioner shall establish higher rates for programs that meet the requirements  
159.8 of paragraph (b) and one of the following additional requirements:

159.9 (1) programs that serve parents with their children if the program:

159.10 (i) provides on-site child care during the hours of treatment activity that:

159.11 (A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter  
159.12 9503; or

159.13 (B) meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph  
159.14 (a), clause (6), and meets the requirements under section 245G.19, subdivision 4; or

159.15 (ii) arranges for off-site child care during hours of treatment activity at a facility that is  
159.16 licensed under chapter 245A as:

159.17 (A) a child care center under Minnesota Rules, chapter 9503; or

159.18 (B) a family child care home under Minnesota Rules, chapter 9502;

159.19 (2) culturally specific programs as defined in section 254B.01, subdivision 4a, or  
159.20 programs or subprograms serving special populations, if the program or subprogram meets  
159.21 the following requirements:

159.22 (i) is designed to address the unique needs of individuals who share a common language,  
159.23 racial, ethnic, or social background;

159.24 (ii) is governed with significant input from individuals of that specific background; and

159.25 (iii) employs individuals to provide individual or group therapy, at least 50 percent of  
159.26 whom are of that specific background, except when the common social background of the  
159.27 individuals served is a traumatic brain injury or cognitive disability and the program employs  
159.28 treatment staff who have the necessary professional training, as approved by the  
159.29 commissioner, to serve clients with the specific disabilities that the program is designed to  
159.30 serve;

(3) programs that offer medical services delivered by appropriately credentialed health care staff in an amount equal to two hours per client per week if the medical needs of the client and the nature and provision of any medical services provided are documented in the client file; and

(4) programs that offer services to individuals with co-occurring mental health and ~~chemical dependency~~ substance use disorder problems if:

(i) the program meets the co-occurring requirements in section 245G.20;

(ii) 25 percent of the counseling staff are licensed mental health professionals, as defined in section 245.462, subdivision 18, clauses (1) to (6), or are students or licensing candidates under the supervision of a licensed alcohol and drug counselor supervisor and licensed mental health professional, except that no more than 50 percent of the mental health staff may be students or licensing candidates with time documented to be directly related to provisions of co-occurring services;

(iii) clients scoring positive on a standardized mental health screen receive a mental health diagnostic assessment within ten days of admission;

(iv) the program has standards for multidisciplinary case review that include a monthly review for each client that, at a minimum, includes a licensed mental health professional and licensed alcohol and drug counselor, and their involvement in the review is documented;

(v) family education is offered that addresses mental health and substance abuse disorders and the interaction between the two; and

(vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder training annually.

(d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program that provides arrangements for off-site child care must maintain current documentation at the ~~chemical dependency~~ substance use disorder facility of the child care provider's current licensure to provide child care services. Programs that provide child care according to paragraph (c), clause (1), must be deemed in compliance with the licensing requirements in section 245G.19.

(e) Adolescent residential programs that meet the requirements of Minnesota Rules, parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements in paragraph (c), clause (4), items (i) to (iv).

(f) Subject to federal approval, ~~chemical dependency~~ substance use disorder services that are otherwise covered as direct face-to-face services may be provided via two-way



interactive video. The use of two-way interactive video must be medically appropriate to the condition and needs of the person being served. Reimbursement shall be at the same rates and under the same conditions that would otherwise apply to direct face-to-face services. The interactive video equipment and connection must comply with Medicare standards in effect at the time the service is provided.

(g) For the purpose of reimbursement under this section, substance use disorder treatment services provided in a group setting without a group participant maximum or maximum client to staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one. At least one of the attending staff must meet the qualifications as established under this chapter for the type of treatment service provided. A recovery peer may not be included as part of the staff ratio.

Sec. 63. Minnesota Statutes 2020, section 254B.051, is amended to read:

**254B.051 SUBSTANCE USE DISORDER TREATMENT EFFECTIVENESS.**

In addition to the substance use disorder treatment program performance outcome measures that the commissioner of human services collects annually from treatment providers, the commissioner shall request additional data from programs that receive appropriations from the ~~consolidated chemical dependency treatment~~ behavioral health fund. This data shall include the number of client readmissions six months after release from inpatient treatment, and the cost of treatment per person for each program receiving ~~consolidated chemical dependency treatment~~ behavioral health funds. The commissioner may post this data on the department website.

Sec. 64. Minnesota Statutes 2020, section 254B.06, subdivision 1, is amended to read:

Subdivision 1. **State collections.** The commissioner is responsible for all collections from persons determined to be partially responsible for the cost of care of an eligible person receiving services under ~~Laws 1986, chapter 394, sections 8 to 20~~ sections 254B.01 to 254B.09; 256B.02, subdivision 8; and 256B.70. The commissioner may initiate, or request the attorney general to initiate, necessary civil action to recover the unpaid cost of care. The commissioner may collect all third-party payments for ~~chemical dependency~~ substance use disorder services provided under ~~Laws 1986, chapter 394, sections 8 to 20~~ sections 254B.01 to 254B.09; 256B.02, subdivision 8; and 256B.70, including private insurance and federal Medicaid and Medicare financial participation. The remaining receipts must be deposited in the ~~chemical dependency~~ behavioral health fund.

Sec. 65. Minnesota Statutes 2020, section 254B.06, subdivision 3, is amended to read:

Subd. 3. **Payment; denial.** The commissioner shall pay eligible vendors for placements made by local agencies under section 254B.03, subdivision 1, and placements by tribal designated agencies according to section 254B.09. The commissioner may reduce or deny payment of the state share when services are not provided according to the placement criteria established by the commissioner. The commissioner may pay for all or a portion of improper county ~~chemical dependency~~ substance use disorder placements and bill the county for the entire payment made when the placement did not comply with criteria established by the commissioner. The commissioner may make payments to vendors and charge the county 100 percent of the payments if documentation of a county approved placement is received more than 30 working days, exclusive of weekends and holidays, after the date services began. The commissioner shall not pay vendors until private insurance company claims have been settled.

Sec. 66. Minnesota Statutes 2020, section 254B.12, is amended to read:

**254B.12 RATE METHODOLOGY.**

Subdivision 1. ~~CCDFF~~ **Behavioral health fund rate methodology established.** The commissioner shall establish a new rate methodology for the ~~consolidated chemical dependency treatment~~ behavioral health fund. The new methodology must replace county-negotiated rates with a uniform statewide methodology that must include a graduated reimbursement scale based on the patients' level of acuity and complexity. At least biennially, the commissioner shall review the financial information provided by vendors to determine the need for rate adjustments.

Subd. 2. **Payment methodology for highly specialized vendors.** Notwithstanding subdivision 1, ~~the commissioner shall seek federal authority to develop the following separate payment methodologies for substance use disorder treatment services provided under the consolidated chemical dependency treatment behavioral health fund exist:~~ (1) by a state-operated vendor; or (2) for persons who have been civilly committed to the commissioner, present the most complex and difficult care needs, and are a potential threat to the community. ~~A payment methodology under this subdivision is effective for services provided on or after October 1, 2015, or on or after the receipt of federal approval, whichever is later.~~

Subd. 3. ~~Chemical dependency~~ **Substance use disorder provider rate increase.** For the ~~chemical dependency~~ substance use disorder services listed in section 254B.05, subdivision 5, and provided on or after July 1, 2017, payment rates shall be increased by

163.1 one percent over the rates in effect on January 1, 2017, for vendors who meet the  
163.2 requirements of section 254B.05.

163.3 Sec. 67. Minnesota Statutes 2020, section 254B.13, subdivision 1, is amended to read:

163.4 Subdivision 1. **Authorization for navigator pilot projects.** The commissioner may  
163.5 approve and implement navigator pilot projects developed under the planning process  
163.6 required under Laws 2009, chapter 79, article 7, section 26, to provide alternatives to and  
163.7 enhance coordination of the delivery of ~~chemical health~~ substance use disorder services  
163.8 required under section 254B.03.

163.9 Sec. 68. Minnesota Statutes 2020, section 254B.13, subdivision 2a, is amended to read:

163.10 Subd. 2a. **Eligibility for navigator pilot program.** (a) To be considered for participation  
163.11 in a navigator pilot program, an individual must:

163.12 (1) be a resident of a county with an approved navigator program;

163.13 (2) be eligible for ~~consolidated chemical dependency treatment~~ behavioral health fund  
163.14 services;

163.15 (3) be a voluntary participant in the navigator program;

163.16 (4) satisfy one of the following items:

163.17 (i) have at least one severity rating of three or above in dimension four, five, or six in a  
163.18 comprehensive assessment under section 245G.05, subdivision 2, paragraph (c), clauses (4)  
163.19 to (6); or

163.20 (ii) have at least one severity rating of two or above in dimension four, five, or six in a  
163.21 comprehensive assessment under section 245G.05, subdivision 2, paragraph (c), clauses (4)  
163.22 to (6), and be currently participating in a Rule 31 treatment program under chapter 245G  
163.23 or be within 60 days following discharge after participation in a Rule 31 treatment program;  
163.24 and

163.25 (5) have had at least two treatment episodes in the past two years, not limited to episodes  
163.26 reimbursed by the ~~consolidated chemical dependency treatment~~ behavioral health funds.

163.27 An admission to an emergency room, a detoxification program, or a hospital may be  
163.28 substituted for one treatment episode if it resulted from the individual's substance use  
163.29 disorder.

163.30 (b) New eligibility criteria may be added as mutually agreed upon by the commissioner  
163.31 and participating navigator programs.

164.1 Sec. 69. Minnesota Statutes 2020, section 254B.13, subdivision 5, is amended to read:

164.2 Subd. 5. **Duties of commissioner.** (a) For purposes of this subdivision, "nontreatment  
164.3 navigator pilot services" includes navigator services, peer support, family engagement and  
164.4 support, housing support, rent subsidies, supported employment, and independent living  
164.5 skills.

164.6 (a) (b) Notwithstanding any other provisions in this chapter, the commissioner may  
164.7 authorize navigator pilot projects to use ~~chemical dependency treatment~~ behavioral health  
164.8 funds to pay for nontreatment navigator pilot services:

164.9 (1) in addition to those authorized under section 254B.03, subdivision 2, paragraph (a);  
164.10 and

164.11 (2) by vendors in addition to those authorized under section 254B.05 when not providing  
164.12 ~~chemical dependency~~ substance use disorder treatment services.

164.13 (b) For purposes of this section, "nontreatment navigator pilot services" include navigator  
164.14 services, peer support, family engagement and support, housing support, rent subsidies,  
164.15 supported employment, and independent living skills.

164.16 (c) State expenditures for ~~chemical dependency~~ substance use disorder services and  
164.17 nontreatment navigator pilot services provided by or through the navigator pilot projects  
164.18 must not be greater than the ~~chemical dependency~~ behavioral health treatment fund expected  
164.19 share of forecasted expenditures in the absence of the navigator pilot projects. The  
164.20 commissioner may restructure the schedule of payments between the state and participating  
164.21 counties under the local agency share and division of cost provisions under section 254B.03,  
164.22 subdivisions 3 and 4, as necessary to facilitate the operation of the navigator pilot projects.

164.23 (d) The commissioner may waive administrative rule requirements that are incompatible  
164.24 with the implementation of the navigator pilot project, except that any ~~chemical dependency~~  
164.25 substance use disorder treatment funded under this section must continue to be provided by  
164.26 a licensed treatment provider.

164.27 (e) The commissioner shall not approve or enter into any agreement related to navigator  
164.28 pilot projects authorized under this section that puts current or future federal funding at risk.

164.29 (f) The commissioner shall provide participating navigator pilot projects with transactional  
164.30 data, reports, provider data, and other data generated by county activity to assess and measure  
164.31 outcomes. This information must be transmitted or made available in an acceptable form  
164.32 to participating navigator pilot projects at least once every six months or within a reasonable

165.1 time following the commissioner's receipt of information from the counties needed to comply  
165.2 with this paragraph.

165.3 Sec. 70. Minnesota Statutes 2020, section 254B.13, subdivision 6, is amended to read:

165.4 Subd. 6. **Duties of county board.** The county board, or other county entity that is  
165.5 approved to administer a navigator pilot project, shall:

165.6 (1) administer the navigator pilot project in a manner consistent with the objectives  
165.7 described in subdivision 2 and the planning process in subdivision 5;

165.8 (2) ensure that no one is denied ~~chemical dependency~~ substance use disorder treatment  
165.9 services for which they would otherwise be eligible under section 254A.03, subdivision 3;  
165.10 and

165.11 (3) provide the commissioner with timely and pertinent information as negotiated in  
165.12 agreements governing operation of the navigator pilot projects.

165.13 Sec. 71. Minnesota Statutes 2020, section 254B.14, subdivision 1, is amended to read:

165.14 Subdivision 1. **Authorization for continuum of care pilot projects.** The commissioner  
165.15 shall establish ~~chemical dependency~~ substance use disorder continuum of care pilot projects  
165.16 to begin implementing the measures developed with stakeholder input and identified in the  
165.17 report completed pursuant to Laws 2012, chapter 247, article 5, section 8. The pilot projects  
165.18 are intended to improve the effectiveness and efficiency of the service continuum for  
165.19 ~~chemically dependent~~ individuals with substance use disorders in Minnesota while reducing  
165.20 duplication of efforts and promoting scientifically supported practices.

165.21 Sec. 72. Minnesota Statutes 2020, section 254B.14, subdivision 5, is amended to read:

165.22 Subd. 5. **Duties of commissioner.** (a) Notwithstanding any other provisions in this  
165.23 chapter, the commissioner may authorize ~~chemical dependency treatment~~ behavioral health  
165.24 funds to pay for nontreatment services arranged by continuum of care pilot projects.  
165.25 Individuals who are currently accessing Rule 31 treatment services are eligible for concurrent  
165.26 participation in the continuum of care pilot projects.

165.27 (b) County expenditures for continuum of care pilot project services shall not be greater  
165.28 than their expected share of forecasted expenditures in the absence of the continuum of care  
165.29 pilot projects.

Sec. 73. Minnesota Statutes 2020, section 256.042, subdivision 2, is amended to read:

Subd. 2. **Membership.** (a) The council shall consist of the following 19 voting members, appointed by the commissioner of human services except as otherwise specified, and three nonvoting members:

(1) two members of the house of representatives, appointed in the following sequence: the first from the majority party appointed by the speaker of the house and the second from the minority party appointed by the minority leader. Of these two members, one member must represent a district outside of the seven-county metropolitan area, and one member must represent a district that includes the seven-county metropolitan area. The appointment by the minority leader must ensure that this requirement for geographic diversity in appointments is met;

(2) two members of the senate, appointed in the following sequence: the first from the majority party appointed by the senate majority leader and the second from the minority party appointed by the senate minority leader. Of these two members, one member must represent a district outside of the seven-county metropolitan area and one member must represent a district that includes the seven-county metropolitan area. The appointment by the minority leader must ensure that this requirement for geographic diversity in appointments is met;

(3) one member appointed by the Board of Pharmacy;

(4) one member who is a physician appointed by the Minnesota Medical Association;

(5) one member representing opioid treatment programs, sober living programs, or substance use disorder programs licensed under chapter 245G;

(6) one member appointed by the Minnesota Society of Addiction Medicine who is an addiction psychiatrist;

(7) one member representing professionals providing alternative pain management therapies, including, but not limited to, acupuncture, chiropractic, or massage therapy;

(8) one member representing nonprofit organizations conducting initiatives to address the opioid epidemic, with the commissioner's initial appointment being a member representing the Steve Rummler Hope Network, and subsequent appointments representing this or other organizations;

(9) one member appointed by the Minnesota Ambulance Association who is serving with an ambulance service as an emergency medical technician, advanced emergency medical technician, or paramedic;

167.1 (10) one member representing the Minnesota courts who is a judge or law enforcement  
167.2 officer;

167.3 (11) one public member who is a Minnesota resident and who is in opioid addiction  
167.4 recovery;

167.5 (12) two members representing Indian tribes, one representing the Ojibwe tribes and  
167.6 one representing the Dakota tribes;

167.7 (13) one public member who is a Minnesota resident and who is suffering from chronic  
167.8 pain, intractable pain, or a rare disease or condition;

167.9 (14) one mental health advocate representing persons with mental illness;

167.10 (15) one member appointed by the Minnesota Hospital Association;

167.11 (16) one member representing a local health department; and

167.12 (17) the commissioners of human services, health, and corrections, or their designees,  
167.13 who shall be ex officio nonvoting members of the council.

167.14 (b) The commissioner of human services shall coordinate the commissioner's  
167.15 appointments to provide geographic, racial, and gender diversity, and shall ensure that at  
167.16 least one-half of council members appointed by the commissioner reside outside of the  
167.17 seven-county metropolitan area. Of the members appointed by the commissioner, to the  
167.18 extent practicable, at least one member must represent a community of color  
167.19 disproportionately affected by the opioid epidemic.

167.20 (c) The council is governed by section 15.059, except that members of the council shall  
167.21 serve three-year terms and shall receive no compensation other than reimbursement for  
167.22 expenses. Notwithstanding section 15.059, subdivision 6, the council shall not expire. The  
167.23 three-year term for members in paragraph (a), clauses (1), (3), (5), (7), (9), (11), (13), (15),  
167.24 and (17), ends on September 30, 2022. The three-year term for members in paragraph (a),  
167.25 clauses (2), (4), (6), (8), (10), (12), (14), and (16), ends on September 30, 2023.

167.26 (d) The chair shall convene the council at least quarterly, and may convene other meetings  
167.27 as necessary. The chair shall convene meetings at different locations in the state to provide  
167.28 geographic access, and shall ensure that at least one-half of the meetings are held at locations  
167.29 outside of the seven-county metropolitan area.

167.30 (e) The commissioner of human services shall provide staff and administrative services  
167.31 for the advisory council.

167.32 (f) The council is subject to chapter 13D.

168.1 Sec. 74. Minnesota Statutes 2020, section 256.042, subdivision 4, is amended to read:

168.2 Subd. 4. **Grants.** (a) The commissioner of human services shall submit a report of the  
168.3 grants proposed by the advisory council to be awarded ~~for the upcoming fiscal year~~ to the  
168.4 chairs and ranking minority members of the legislative committees with jurisdiction over  
168.5 health and human services policy and finance, by ~~March~~ December 1 of each year, beginning  
168.6 ~~March 1, 2020~~ December 1, 2021, or as soon as the information becomes available thereafter.

168.7 (b) The commissioner of human services shall award grants from the opiate epidemic  
168.8 response fund under section 256.043. The grants shall be awarded to proposals selected by  
168.9 the advisory council that address the priorities in subdivision 1, paragraph (a), clauses (1)  
168.10 to (4), unless otherwise appropriated by the legislature. The council shall determine grant  
168.11 awards and funding amounts. The commissioner of human services shall administer grants  
168.12 from the opiate epidemic response fund in compliance with section 16B.97. No more than  
168.13 ~~three~~ ten percent of the grant amount may be used by a grantee for administration.

168.14 Sec. 75. Minnesota Statutes 2020, section 256B.051, subdivision 1, is amended to read:

168.15 Subdivision 1. **Purpose.** ~~Housing support~~ stabilization services are established to provide  
168.16 ~~housing support~~ stabilization services to an individual with a disability that limits the  
168.17 individual's ability to obtain or maintain stable housing. The services support an individual's  
168.18 transition to housing in the community and increase long-term stability in housing, to avoid  
168.19 future periods of being at risk of homelessness or institutionalization.

168.20 Sec. 76. Minnesota Statutes 2020, section 256B.051, subdivision 3, is amended to read:

168.21 Subd. 3. **Eligibility.** An individual with a disability is eligible for housing ~~support~~  
168.22 stabilization services if the individual:

168.23 (1) is 18 years of age or older;

168.24 (2) is enrolled in medical assistance;

168.25 (3) has an assessment of functional need that determines a need for services due to  
168.26 limitations caused by the individual's disability;

168.27 (4) resides in or plans to transition to a community-based setting as defined in Code of  
168.28 Federal Regulations, title 42, section 441.301 (c); and

168.29 (5) has housing instability evidenced by:

168.30 (i) being homeless or at-risk of homelessness;



169.1 (ii) being in the process of transitioning from, or having transitioned in the past six  
169.2 months from, an institution or licensed or registered setting;

169.3 (iii) being eligible for waiver services under chapter 256S or section 256B.092 or  
169.4 256B.49; or

169.5 (iv) having been identified by a long-term care consultation under section 256B.0911  
169.6 as at risk of institutionalization.

169.7 Sec. 77. Minnesota Statutes 2020, section 256B.051, subdivision 5, is amended to read:

169.8 Subd. 5. **Housing support stabilization services.** (a) Housing support stabilization  
169.9 services include housing transition services and housing and tenancy sustaining services.

169.10 (b) Housing transition services are defined as:

169.11 (1) tenant screening and housing assessment;

169.12 (2) assistance with the housing search and application process;

169.13 (3) identifying resources to cover onetime moving expenses;

169.14 (4) ensuring a new living arrangement is safe and ready for move-in;

169.15 (5) assisting in arranging for and supporting details of a move; and

169.16 (6) developing a housing support crisis plan.

169.17 (c) Housing and tenancy sustaining services include:

169.18 (1) prevention and early identification of behaviors that may jeopardize continued stable  
169.19 housing;

169.20 (2) education and training on roles, rights, and responsibilities of the tenant and the  
169.21 property manager;

169.22 (3) coaching to develop and maintain key relationships with property managers and  
169.23 neighbors;

169.24 (4) advocacy and referral to community resources to prevent eviction when housing is  
169.25 at risk;

169.26 (5) assistance with housing recertification process;

169.27 (6) coordination with the tenant to regularly review, update, and modify the housing  
169.28 support and crisis plan; and

170.1 (7) continuing training on being a good tenant, lease compliance, and household  
170.2 management.

170.3 (d) A housing ~~support~~ stabilization service may include person-centered planning for  
170.4 people who are not eligible to receive person-centered planning through any other service,  
170.5 if the person-centered planning is provided by a consultation service provider that is under  
170.6 contract with the department and enrolled as a Minnesota health care program.

170.7 Sec. 78. Minnesota Statutes 2020, section 256B.051, subdivision 6, is amended to read:

170.8 Subd. 6. **Provider qualifications and duties.** A provider eligible for reimbursement  
170.9 under this section shall:

170.10 (1) enroll as a medical assistance Minnesota health care program provider and meet all  
170.11 applicable provider standards and requirements;

170.12 (2) demonstrate compliance with federal and state laws and policies for housing ~~support~~  
170.13 stabilization services as determined by the commissioner;

170.14 (3) comply with background study requirements under chapter 245C and maintain  
170.15 documentation of background study requests and results; ~~and~~

170.16 (4) directly provide housing ~~support~~ stabilization services and not use a subcontractor  
170.17 or reporting agent; and

170.18 (5) complete annual vulnerable adult training.

170.19 Sec. 79. Minnesota Statutes 2020, section 256B.051, subdivision 7, is amended to read:

170.20 Subd. 7. **Housing support supplemental service rates.** Supplemental service rates for  
170.21 individuals in settings according to sections 144D.025, 256I.04, subdivision 3, paragraph  
170.22 (a), clause (3), and 256I.05, subdivision 1g, shall be reduced by one-half over a two-year  
170.23 period. This reduction only applies to supplemental service rates for individuals eligible for  
170.24 housing ~~support~~ stabilization services under this section.

170.25 Sec. 80. Minnesota Statutes 2020, section 256B.051, is amended by adding a subdivision  
170.26 to read:

170.27 Subd. 8. **Home and community-based service documentation requirements.** (a)  
170.28 Documentation may be collected and maintained electronically or in paper form by providers  
170.29 and must be produced upon request by the commissioner.

171.1 (b) Documentation of a delivered service must be in English and must be legible according  
171.2 to the standard of a reasonable person.

171.3 (c) If the service is reimbursed at an hourly or specified minute-based rate, each  
171.4 documentation of the provision of a service, unless otherwise specified, must include:

171.5 (1) the date the documentation occurred;

171.6 (2) the day, month, and year the service was provided;

171.7 (3) the start and stop times with a.m. and p.m. designations, except for person-centered  
171.8 planning services described under subdivision 5, paragraph (d);

171.9 (4) the service name or description of the service provided; and

171.10 (5) the name, signature, and title, if any, of the provider of service. If the service is  
171.11 provided by multiple staff members, the provider may designate a staff member responsible  
171.12 for verifying services and completing the documentation required by this paragraph.

171.13 Sec. 81. Minnesota Statutes 2020, section 256B.0947, subdivision 6, is amended to read:

171.14 Subd. 6. **Service standards.** The standards in this subdivision apply to intensive  
171.15 nonresidential rehabilitative mental health services.

171.16 (a) The treatment team must use team treatment, not an individual treatment model.

171.17 (b) Services must be available at times that meet client needs.

171.18 (c) Services must be age-appropriate and meet the specific needs of the client.

171.19 (d) The initial functional assessment must be completed within ten days of intake and  
171.20 updated at least every six months or prior to discharge from the service, whichever comes  
171.21 first.

171.22 (e) An individual treatment plan must be completed for each client and must:

171.23 (1) be based on the information in the client's diagnostic assessment and baselines;

171.24 (2) identify goals and objectives of treatment, a treatment strategy, a schedule for  
171.25 accomplishing treatment goals and objectives, and the individuals responsible for providing  
171.26 treatment services and supports;

171.27 (3) be developed after completion of the client's diagnostic assessment by a mental health  
171.28 professional or clinical trainee and before the provision of children's therapeutic services  
171.29 and supports;

172.1 (4) be developed through a child-centered, family-driven, culturally appropriate planning  
172.2 process, including allowing parents and guardians to observe or participate in individual  
172.3 and family treatment services, assessments, and treatment planning;

172.4 (5) be reviewed at least once every six months and revised to document treatment progress  
172.5 on each treatment objective and next goals or, if progress is not documented, to document  
172.6 changes in treatment;

172.7 (6) be signed by the clinical supervisor and by the client or by the client's parent or other  
172.8 person authorized by statute to consent to mental health services for the client. A client's  
172.9 parent may approve the client's individual treatment plan by secure electronic signature or  
172.10 by documented oral approval that is later verified by written signature;

172.11 (7) be completed in consultation with the client's current therapist and key providers and  
172.12 provide for ongoing consultation with the client's current therapist to ensure therapeutic  
172.13 continuity and to facilitate the client's return to the community. For clients under the age of  
172.14 18, the treatment team must consult with parents and guardians in developing the treatment  
172.15 plan;

172.16 (8) if a need for substance use disorder treatment is indicated by validated assessment:

172.17 (i) identify goals, objectives, and strategies of substance use disorder treatment; develop  
172.18 a schedule for accomplishing treatment goals and objectives; and identify the individuals  
172.19 responsible for providing treatment services and supports;

172.20 (ii) be reviewed at least once every 90 days and revised, if necessary;

172.21 (9) be signed by the clinical supervisor and by the client and, if the client is a minor, by  
172.22 the client's parent or other person authorized by statute to consent to mental health treatment  
172.23 and substance use disorder treatment for the client; and

172.24 (10) provide for the client's transition out of intensive nonresidential rehabilitative mental  
172.25 health services by defining the team's actions to assist the client and subsequent providers  
172.26 in the transition to less intensive or "stepped down" services.

172.27 (f) The treatment team shall actively and assertively engage the client's family members  
172.28 and significant others by establishing communication and collaboration with the family and  
172.29 significant others and educating the family and significant others about the client's mental  
172.30 illness, symptom management, and the family's role in treatment, unless the team knows or  
172.31 has reason to suspect that the client has suffered or faces a threat of suffering any physical  
172.32 or mental injury, abuse, or neglect from a family member or significant other.

(g) For a client age 18 or older, the treatment team may disclose to a family member, other relative, or a close personal friend of the client, or other person identified by the client, the protected health information directly relevant to such person's involvement with the client's care, as provided in Code of Federal Regulations, title 45, part 164.502(b). If the client is present, the treatment team shall obtain the client's agreement, provide the client with an opportunity to object, or reasonably infer from the circumstances, based on the exercise of professional judgment, that the client does not object. If the client is not present or is unable, by incapacity or emergency circumstances, to agree or object, the treatment team may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the client and, if so, disclose only the protected health information that is directly relevant to the family member's, relative's, friend's, or client-identified person's involvement with the client's health care. The client may orally agree or object to the disclosure and may prohibit or restrict disclosure to specific individuals.

(h) The treatment team shall provide interventions to promote positive interpersonal relationships.

Sec. 82. Minnesota Statutes 2020, section 256B.4912, subdivision 13, is amended to read:

Subd. 13. **Waiver transportation documentation and billing requirements.** (a) A waiver transportation service must be a waiver transportation service that: (1) is not covered by medical transportation under the Medicaid state plan; and (2) is not included as a component of another waiver service.

(b) In addition to the documentation requirements in subdivision 12, a waiver transportation service provider must maintain:

(1) odometer and other records pursuant to section 256B.0625, subdivision 17b, paragraph (b), clause (3), sufficient to distinguish an individual trip with a specific vehicle and driver for a waiver transportation service that is billed directly by the mile. A common carrier as defined by Minnesota Rules, part 9505.0315, subpart 1, item B, or a publicly operated transit system provider are exempt from this clause; and

(2) documentation demonstrating that a vehicle and a driver meet the ~~standards determined by the Department of Human Services on vehicle and driver qualifications in section 256B.0625, subdivision 17, paragraph (c)~~ transportation waiver service provider standards and qualifications according to the federally approved waiver plan.

174.1 Sec. 83. Minnesota Statutes 2020, section 256B.69, subdivision 5a, is amended to read:

174.2 Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and  
174.3 section 256L.12 shall be entered into or renewed on a calendar year basis. The commissioner  
174.4 may issue separate contracts with requirements specific to services to medical assistance  
174.5 recipients age 65 and older.

174.6 (b) A prepaid health plan providing covered health services for eligible persons pursuant  
174.7 to chapters 256B and 256L is responsible for complying with the terms of its contract with  
174.8 the commissioner. Requirements applicable to managed care programs under chapters 256B  
174.9 and 256L established after the effective date of a contract with the commissioner take effect  
174.10 when the contract is next issued or renewed.

174.11 (c) The commissioner shall withhold five percent of managed care plan payments under  
174.12 this section and county-based purchasing plan payments under section 256B.692 for the  
174.13 prepaid medical assistance program pending completion of performance targets. Each  
174.14 performance target must be quantifiable, objective, measurable, and reasonably attainable,  
174.15 except in the case of a performance target based on a federal or state law or rule. Criteria  
174.16 for assessment of each performance target must be outlined in writing prior to the contract  
174.17 effective date. Clinical or utilization performance targets and their related criteria must  
174.18 consider evidence-based research and reasonable interventions when available or applicable  
174.19 to the populations served, and must be developed with input from external clinical experts  
174.20 and stakeholders, including managed care plans, county-based purchasing plans, and  
174.21 providers. The managed care or county-based purchasing plan must demonstrate, to the  
174.22 commissioner's satisfaction, that the data submitted regarding attainment of the performance  
174.23 target is accurate. The commissioner shall periodically change the administrative measures  
174.24 used as performance targets in order to improve plan performance across a broader range  
174.25 of administrative services. The performance targets must include measurement of plan  
174.26 efforts to contain spending on health care services and administrative activities. The  
174.27 commissioner may adopt plan-specific performance targets that take into account factors  
174.28 affecting only one plan, including characteristics of the plan's enrollee population. The  
174.29 withheld funds must be returned no sooner than July of the following year if performance  
174.30 targets in the contract are achieved. The commissioner may exclude special demonstration  
174.31 projects under subdivision 23.

174.32 (d) The commissioner shall require that managed care plans use the assessment and  
174.33 authorization processes, forms, timelines, standards, documentation, and data reporting  
174.34 requirements, protocols, billing processes, and policies consistent with medical assistance  
174.35 fee-for-service or the Department of Human Services contract requirements for all personal

175.1 care assistance services under section 256B.0659 and community first services and supports  
175.2 under section 256B.85.

175.3 (e) Effective for services rendered on or after January 1, 2012, the commissioner shall  
175.4 include as part of the performance targets described in paragraph (c) a reduction in the health  
175.5 plan's emergency department utilization rate for medical assistance and MinnesotaCare  
175.6 enrollees, as determined by the commissioner. For 2012, the reduction shall be based on  
175.7 the health plan's utilization in 2009. To earn the return of the withhold each subsequent  
175.8 year, the managed care plan or county-based purchasing plan must achieve a qualifying  
175.9 reduction of no less than ten percent of the plan's emergency department utilization rate for  
175.10 medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described  
175.11 in subdivisions 23 and 28, compared to the previous measurement year until the final  
175.12 performance target is reached. When measuring performance, the commissioner must  
175.13 consider the difference in health risk in a managed care or county-based purchasing plan's  
175.14 membership in the baseline year compared to the measurement year, and work with the  
175.15 managed care or county-based purchasing plan to account for differences that they agree  
175.16 are significant.

175.17 The withheld funds must be returned no sooner than July 1 and no later than July 31 of  
175.18 the following calendar year if the managed care plan or county-based purchasing plan  
175.19 demonstrates to the satisfaction of the commissioner that a reduction in the utilization rate  
175.20 was achieved. The commissioner shall structure the withhold so that the commissioner  
175.21 returns a portion of the withheld funds in amounts commensurate with achieved reductions  
175.22 in utilization less than the targeted amount.

175.23 The withhold described in this paragraph shall continue for each consecutive contract  
175.24 period until the plan's emergency room utilization rate for state health care program enrollees  
175.25 is reduced by 25 percent of the plan's emergency room utilization rate for medical assistance  
175.26 and MinnesotaCare enrollees for calendar year 2009. Hospitals shall cooperate with the  
175.27 health plans in meeting this performance target and shall accept payment withholds that  
175.28 may be returned to the hospitals if the performance target is achieved.

175.29 (f) Effective for services rendered on or after January 1, 2012, the commissioner shall  
175.30 include as part of the performance targets described in paragraph (c) a reduction in the plan's  
175.31 hospitalization admission rate for medical assistance and MinnesotaCare enrollees, as  
175.32 determined by the commissioner. To earn the return of the withhold each year, the managed  
175.33 care plan or county-based purchasing plan must achieve a qualifying reduction of no less  
175.34 than five percent of the plan's hospital admission rate for medical assistance and  
175.35 MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and

176.1 28, compared to the previous calendar year until the final performance target is reached.  
176.2 When measuring performance, the commissioner must consider the difference in health risk  
176.3 in a managed care or county-based purchasing plan's membership in the baseline year  
176.4 compared to the measurement year, and work with the managed care or county-based  
176.5 purchasing plan to account for differences that they agree are significant.

176.6 The withheld funds must be returned no sooner than July 1 and no later than July 31 of  
176.7 the following calendar year if the managed care plan or county-based purchasing plan  
176.8 demonstrates to the satisfaction of the commissioner that this reduction in the hospitalization  
176.9 rate was achieved. The commissioner shall structure the withhold so that the commissioner  
176.10 returns a portion of the withheld funds in amounts commensurate with achieved reductions  
176.11 in utilization less than the targeted amount.

176.12 The withhold described in this paragraph shall continue until there is a 25 percent  
176.13 reduction in the hospital admission rate compared to the hospital admission rates in calendar  
176.14 year 2011, as determined by the commissioner. The hospital admissions in this performance  
176.15 target do not include the admissions applicable to the subsequent hospital admission  
176.16 performance target under paragraph (g). Hospitals shall cooperate with the plans in meeting  
176.17 this performance target and shall accept payment withholds that may be returned to the  
176.18 hospitals if the performance target is achieved.

176.19 (g) Effective for services rendered on or after January 1, 2012, the commissioner shall  
176.20 include as part of the performance targets described in paragraph (c) a reduction in the plan's  
176.21 hospitalization admission rates for subsequent hospitalizations within 30 days of a previous  
176.22 hospitalization of a patient regardless of the reason, for medical assistance and MinnesotaCare  
176.23 enrollees, as determined by the commissioner. To earn the return of the withhold each year,  
176.24 the managed care plan or county-based purchasing plan must achieve a qualifying reduction  
176.25 of the subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees,  
176.26 excluding enrollees in programs described in subdivisions 23 and 28, of no less than five  
176.27 percent compared to the previous calendar year until the final performance target is reached.

176.28 The withheld funds must be returned no sooner than July 1 and no later than July 31 of  
176.29 the following calendar year if the managed care plan or county-based purchasing plan  
176.30 demonstrates to the satisfaction of the commissioner that a qualifying reduction in the  
176.31 subsequent hospitalization rate was achieved. The commissioner shall structure the withhold  
176.32 so that the commissioner returns a portion of the withheld funds in amounts commensurate  
176.33 with achieved reductions in utilization less than the targeted amount.



177.1 The withhold described in this paragraph must continue for each consecutive contract  
177.2 period until the plan's subsequent hospitalization rate for medical assistance and  
177.3 MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and  
177.4 28, is reduced by 25 percent of the plan's subsequent hospitalization rate for calendar year  
177.5 2011. Hospitals shall cooperate with the plans in meeting this performance target and shall  
177.6 accept payment withholds that must be returned to the hospitals if the performance target  
177.7 is achieved.

177.8 (h) Effective for services rendered on or after January 1, 2013, through December 31,  
177.9 2013, the commissioner shall withhold 4.5 percent of managed care plan payments under  
177.10 this section and county-based purchasing plan payments under section 256B.692 for the  
177.11 prepaid medical assistance program. The withheld funds must be returned no sooner than  
177.12 July 1 and no later than July 31 of the following year. The commissioner may exclude  
177.13 special demonstration projects under subdivision 23.

177.14 (i) Effective for services rendered on or after January 1, 2014, the commissioner shall  
177.15 withhold three percent of managed care plan payments under this section and county-based  
177.16 purchasing plan payments under section 256B.692 for the prepaid medical assistance  
177.17 program. The withheld funds must be returned no sooner than July 1 and no later than July  
177.18 31 of the following year. The commissioner may exclude special demonstration projects  
177.19 under subdivision 23.

177.20 (j) A managed care plan or a county-based purchasing plan under section 256B.692 may  
177.21 include as admitted assets under section 62D.044 any amount withheld under this section  
177.22 that is reasonably expected to be returned.

177.23 (k) Contracts between the commissioner and a prepaid health plan are exempt from the  
177.24 set-aside and preference provisions of section 16C.16, subdivisions 6, paragraph (a), and  
177.25 7.

177.26 (l) The return of the withhold under paragraphs (h) and (i) is not subject to the  
177.27 requirements of paragraph (c).

177.28 (m) Managed care plans and county-based purchasing plans shall maintain current and  
177.29 fully executed agreements for all subcontractors, including bargaining groups, for  
177.30 administrative services that are expensed to the state's public health care programs.  
177.31 Subcontractor agreements determined to be material, as defined by the commissioner after  
177.32 taking into account state contracting and relevant statutory requirements, must be in the  
177.33 form of a written instrument or electronic document containing the elements of offer,  
177.34 acceptance, consideration, payment terms, scope, duration of the contract, and how the

178.1 subcontractor services relate to state public health care programs. Upon request, the  
178.2 commissioner shall have access to all subcontractor documentation under this paragraph.  
178.3 Nothing in this paragraph shall allow release of information that is nonpublic data pursuant  
178.4 to section 13.02.

178.5 Sec. 84. Minnesota Statutes 2020, section 256B.85, subdivision 1, is amended to read:

178.6 Subdivision 1. **Basis and scope.** (a) Upon federal approval, the commissioner shall  
178.7 establish a state plan option for the provision of home and community-based personal  
178.8 assistance service and supports called "community first services and supports (CFSS)."

178.9 (b) CFSS is a participant-controlled method of selecting and providing services and  
178.10 supports that allows the participant maximum control of the services and supports.  
178.11 Participants may choose the degree to which they direct and manage their supports by  
178.12 choosing to have a significant and meaningful role in the management of services and  
178.13 supports including by directly employing support workers with the necessary supports to  
178.14 perform that function.

178.15 (c) CFSS is available statewide to eligible people to assist with accomplishing activities  
178.16 of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related  
178.17 procedures and tasks through hands-on assistance to accomplish the task or constant  
178.18 supervision and cueing to accomplish the task; and to assist with acquiring, maintaining,  
178.19 and enhancing the skills necessary to accomplish ADLs, IADLs, and health-related  
178.20 procedures and tasks. CFSS allows payment for the participant for certain supports and  
178.21 goods such as environmental modifications and technology that are intended to replace or  
178.22 decrease the need for human assistance.

178.23 (d) Upon federal approval, CFSS will replace the personal care assistance program under  
178.24 sections 256.476, 256B.0625, subdivisions 19a and 19c, and 256B.0659.

178.25 (e) For the purposes of this section, notwithstanding the provisions of section 144A.43,  
178.26 subdivision 3, supports purchased under CFSS are not considered home care services.

178.27 Sec. 85. Minnesota Statutes 2020, section 256B.85, subdivision 2, is amended to read:

178.28 Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this  
178.29 subdivision have the meanings given.

178.30 (b) "Activities of daily living" or "ADLs" means ~~eating, toileting, grooming, dressing,~~  
178.31 ~~bathing, mobility, positioning, and transferring.;~~

179.1 (1) dressing, including assistance with choosing, applying, and changing clothing and  
179.2 applying special appliances, wraps, or clothing;

179.3 (2) grooming, including assistance with basic hair care, oral care, shaving, applying  
179.4 cosmetics and deodorant, and care of eyeglasses and hearing aids. Grooming includes nail  
179.5 care, except for recipients who are diabetic or have poor circulation;

179.6 (3) bathing, including assistance with basic personal hygiene and skin care;

179.7 (4) eating, including assistance with hand washing and applying orthotics required for  
179.8 eating, transfers, or feeding;

179.9 (5) transfers, including assistance with transferring the participant from one seating or  
179.10 reclining area to another;

179.11 (6) mobility, including assistance with ambulation and use of a wheelchair. Mobility  
179.12 does not include providing transportation for a participant;

179.13 (7) positioning, including assistance with positioning or turning a participant for necessary  
179.14 care and comfort; and

179.15 (8) toileting, including assistance with bowel or bladder elimination and care, transfers,  
179.16 mobility, positioning, feminine hygiene, use of toileting equipment or supplies, cleansing  
179.17 the perineal area, inspection of the skin, and adjusting clothing.

179.18 (c) "Agency-provider model" means a method of CFSS under which a qualified agency  
179.19 provides services and supports through the agency's own employees and policies. The agency  
179.20 must allow the participant to have a significant role in the selection and dismissal of support  
179.21 workers of their choice for the delivery of their specific services and supports.

179.22 (d) "Behavior" means a description of a need for services and supports used to determine  
179.23 the home care rating and additional service units. The presence of Level I behavior is used  
179.24 to determine the home care rating.

179.25 (e) "Budget model" means a service delivery method of CFSS that allows the use of a  
179.26 service budget and assistance from a financial management services (FMS) provider for a  
179.27 participant to directly employ support workers and purchase supports and goods.

179.28 (f) "Complex health-related needs" means an intervention listed in clauses (1) to (8) that  
179.29 has been ordered by a physician, advanced practice registered nurse, or physician's assistant  
179.30 and is specified in a community support plan, including:

179.31 (1) tube feedings requiring:

179.32 (i) a gastrojejunostomy tube; or

- 180.1 (ii) continuous tube feeding lasting longer than 12 hours per day;
- 180.2 (2) wounds described as:
- 180.3 (i) stage III or stage IV;
- 180.4 (ii) multiple wounds;
- 180.5 (iii) requiring sterile or clean dressing changes or a wound vac; or
- 180.6 (iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized
- 180.7 care;
- 180.8 (3) parenteral therapy described as:
- 180.9 (i) IV therapy more than two times per week lasting longer than four hours for each
- 180.10 treatment; or
- 180.11 (ii) total parenteral nutrition (TPN) daily;
- 180.12 (4) respiratory interventions, including:
- 180.13 (i) oxygen required more than eight hours per day;
- 180.14 (ii) respiratory vest more than one time per day;
- 180.15 (iii) bronchial drainage treatments more than two times per day;
- 180.16 (iv) sterile or clean suctioning more than six times per day;
- 180.17 (v) dependence on another to apply respiratory ventilation augmentation devices such
- 180.18 as BiPAP and CPAP; and
- 180.19 (vi) ventilator dependence under section 256B.0651;
- 180.20 (5) insertion and maintenance of catheter, including:
- 180.21 (i) sterile catheter changes more than one time per month;
- 180.22 (ii) clean intermittent catheterization, and including self-catheterization more than six
- 180.23 times per day; or
- 180.24 (iii) bladder irrigations;
- 180.25 (6) bowel program more than two times per week requiring more than 30 minutes to
- 180.26 perform each time;
- 180.27 (7) neurological intervention, including:
- 180.28 (i) seizures more than two times per week and requiring significant physical assistance
- 180.29 to maintain safety; or

181.1 (ii) swallowing disorders diagnosed by a physician, advanced practice registered nurse,  
181.2 or physician's assistant and requiring specialized assistance from another on a daily basis;  
181.3 and

181.4 (8) other congenital or acquired diseases creating a need for significantly increased direct  
181.5 hands-on assistance and interventions in six to eight activities of daily living.

181.6 (g) "Community first services and supports" or "CFSS" means the assistance and supports  
181.7 program under this section needed for accomplishing activities of daily living, instrumental  
181.8 activities of daily living, and health-related tasks through hands-on assistance to accomplish  
181.9 the task or constant supervision and cueing to accomplish the task, or the purchase of goods  
181.10 as defined in subdivision 7, clause (3), that replace the need for human assistance.

181.11 (h) "Community first services and supports service delivery plan" or "CFSS service  
181.12 delivery plan" means a written document detailing the services and supports chosen by the  
181.13 participant to meet assessed needs that are within the approved CFSS service authorization,  
181.14 as determined in subdivision 8. Services and supports are based on the coordinated service  
181.15 and support plan identified in ~~section~~ sections 256B.092, subdivision 1b, and 256S.10.

181.16 (i) "Consultation services" means a Minnesota health care program enrolled provider  
181.17 organization that provides assistance to the participant in making informed choices about  
181.18 CFSS services in general and self-directed tasks in particular, and in developing a  
181.19 person-centered CFSS service delivery plan to achieve quality service outcomes.

181.20 (j) "Critical activities of daily living" means transferring, mobility, eating, and toileting.

181.21 (k) "Dependency" in activities of daily living means a person requires hands-on assistance  
181.22 or constant supervision and cueing to accomplish one or more of the activities of daily living  
181.23 every day or on the days during the week that the activity is performed; however, a child  
181.24 ~~may~~ must not be found to be dependent in an activity of daily living if, because of the child's  
181.25 age, an adult would either perform the activity for the child or assist the child with the  
181.26 activity and the assistance needed is the assistance appropriate for a typical child of the  
181.27 same age.

181.28 (l) "Extended CFSS" means CFSS services and supports provided under CFSS that are  
181.29 included in the CFSS service delivery plan through one of the home and community-based  
181.30 services waivers and as approved and authorized under chapter 256S and sections 256B.092,  
181.31 subdivision 5, and 256B.49, which exceed the amount, duration, and frequency of the state  
181.32 plan CFSS services for participants. Extended CFSS excludes the purchase of goods.

182.1 (m) "Financial management services provider" or "FMS provider" means a qualified  
182.2 organization required for participants using the budget model under subdivision 13 that is  
182.3 an enrolled provider with the department to provide vendor fiscal/employer agent financial  
182.4 management services (FMS).

182.5 (n) "Health-related procedures and tasks" means procedures and tasks related to the  
182.6 specific assessed health needs of a participant that can be taught or assigned by a  
182.7 state-licensed health care or mental health professional and performed by a support worker.

182.8 (o) "Instrumental activities of daily living" means activities related to living independently  
182.9 in the community, including but not limited to: meal planning, preparation, and cooking;  
182.10 shopping for food, clothing, or other essential items; laundry; housecleaning; assistance  
182.11 with medications; managing finances; communicating needs and preferences during activities;  
182.12 arranging supports; and assistance with traveling around and participating in the community.

182.13 (p) "Lead agency" has the meaning given in section 256B.0911, subdivision 1a, paragraph  
182.14 (e).

182.15 (q) "Legal representative" means parent of a minor, a court-appointed guardian, or  
182.16 another representative with legal authority to make decisions about services and supports  
182.17 for the participant. Other representatives with legal authority to make decisions include but  
182.18 are not limited to a health care agent or an attorney-in-fact authorized through a health care  
182.19 directive or power of attorney.

182.20 (r) "Level I behavior" means physical aggression ~~towards~~ toward self or others or  
182.21 destruction of property that requires the immediate response of another person.

182.22 (s) "Medication assistance" means providing verbal or visual reminders to take regularly  
182.23 scheduled medication, and includes any of the following supports listed in clauses (1) to  
182.24 (3) and other types of assistance, except that a support worker ~~may~~ must not determine  
182.25 medication dose or time for medication or inject medications into veins, muscles, or skin:

182.26 (1) under the direction of the participant or the participant's representative, bringing  
182.27 medications to the participant including medications given through a nebulizer, opening a  
182.28 container of previously set-up medications, emptying the container into the participant's  
182.29 hand, opening and giving the medication in the original container to the participant, or  
182.30 bringing to the participant liquids or food to accompany the medication;

182.31 (2) organizing medications as directed by the participant or the participant's representative;  
182.32 and

182.33 (3) providing verbal or visual reminders to perform regularly scheduled medications.

183.1 (t) "Participant" means a person who is eligible for CFSS.

183.2 (u) "Participant's representative" means a parent, family member, advocate, or other  
183.3 adult authorized by the participant or participant's legal representative, if any, to serve as a  
183.4 representative in connection with the provision of CFSS. ~~This authorization must be in~~  
183.5 ~~writing or by another method that clearly indicates the participant's free choice and may be~~  
183.6 ~~withdrawn at any time. The participant's representative must have no financial interest in~~  
183.7 ~~the provision of any services included in the participant's CFSS service delivery plan and~~  
183.8 ~~must be capable of providing the support necessary to assist the participant in the use of~~  
183.9 ~~CFSS. If through the assessment process described in subdivision 5 a participant is~~  
183.10 ~~determined to be in need of a participant's representative, one must be selected. If the~~  
183.11 ~~participant is unable to assist in the selection of a participant's representative, the legal~~  
183.12 ~~representative shall appoint one. Two persons may be designated as a participant's~~  
183.13 ~~representative for reasons such as divided households and court-ordered custodies. Duties~~  
183.14 ~~of a participant's representatives may include:~~

183.15 ~~(1) being available while services are provided in a method agreed upon by the participant~~  
183.16 ~~or the participant's legal representative and documented in the participant's CFSS service~~  
183.17 ~~delivery plan;~~

183.18 ~~(2) monitoring CFSS services to ensure the participant's CFSS service delivery plan is~~  
183.19 ~~being followed; and~~

183.20 ~~(3) reviewing and signing CFSS time sheets after services are provided to provide~~  
183.21 ~~verification of the CFSS services.~~

183.22 (v) "Person-centered planning process" means a process that is directed by the participant  
183.23 to plan for CFSS services and supports.

183.24 (w) "Service budget" means the authorized dollar amount used for the budget model or  
183.25 for the purchase of goods.

183.26 (x) "Shared services" means the provision of CFSS services by the same CFSS support  
183.27 worker to two or three participants who voluntarily enter into an a written agreement to  
183.28 receive services at the same time ~~and~~, in the same setting by, and through the same ~~employer~~  
183.29 agency-provider or FMS provider.

183.30 (y) "Support worker" means a qualified and trained employee of the agency-provider  
183.31 as required by subdivision 11b or of the participant employer under the budget model as  
183.32 required by subdivision 14 who has direct contact with the participant and provides services  
183.33 as specified within the participant's CFSS service delivery plan.

184.1 (z) "Unit" means the increment of service based on hours or minutes identified in the  
184.2 service agreement.

184.3 (aa) "Vendor fiscal employer agent" means an agency that provides financial management  
184.4 services.

184.5 (bb) "Wages and benefits" means the hourly wages and salaries, the employer's share  
184.6 of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation,  
184.7 mileage reimbursement, health and dental insurance, life insurance, disability insurance,  
184.8 long-term care insurance, uniform allowance, contributions to employee retirement accounts,  
184.9 or other forms of employee compensation and benefits.

184.10 (cc) "Worker training and development" means services provided according to subdivision  
184.11 18a for developing workers' skills as required by the participant's individual CFSS service  
184.12 delivery plan that are arranged for or provided by the agency-provider or purchased by the  
184.13 participant employer. These services include training, education, direct observation and  
184.14 supervision, and evaluation and coaching of job skills and tasks, including supervision of  
184.15 health-related tasks or behavioral supports.

184.16 Sec. 86. Minnesota Statutes 2020, section 256B.85, subdivision 3, is amended to read:

184.17 Subd. 3. **Eligibility.** (a) CFSS is available to a person who ~~meets one of the following:~~

184.18 ~~(1) is an enrollee of medical assistance as determined under section 256B.055, 256B.056,~~  
184.19 ~~or 256B.057, subdivisions 5 and 9;~~

184.20 (1) is determined eligible for medical assistance under this chapter, excluding those  
184.21 under section 256B.057, subdivisions 3, 3a, 3b, and 4;

184.22 (2) is a participant in the alternative care program under section 256B.0913;

184.23 (3) is a waiver participant as defined under chapter 256S or section 256B.092, 256B.093,  
184.24 or 256B.49; or

184.25 (4) has medical services identified in a person's individualized education program and  
184.26 is eligible for services as determined in section 256B.0625, subdivision 26.

184.27 (b) In addition to meeting the eligibility criteria in paragraph (a), a person must also  
184.28 meet all of the following:

184.29 (1) require assistance and be determined dependent in one activity of daily living or  
184.30 Level I behavior based on assessment under section 256B.0911; and

184.31 (2) is not a participant under a family support grant under section 252.32.



(c) A pregnant woman eligible for medical assistance under section 256B.055, subdivision 6, is eligible for CFSS without federal financial participation if the woman: (1) is eligible for CFSS under paragraphs (a) and (b); and (2) does not meet institutional level of care, as determined under section 256B.0911.

Sec. 87. Minnesota Statutes 2020, section 256B.85, subdivision 4, is amended to read:

Subd. 4. **Eligibility for other services.** Selection of CFSS by a participant must not restrict access to other medically necessary care and services furnished under the state plan benefit or other services available through the alternative care program.

Sec. 88. Minnesota Statutes 2020, section 256B.85, subdivision 5, is amended to read:

Subd. 5. **Assessment requirements.** (a) The assessment of functional need must:

(1) be conducted by a certified assessor according to the criteria established in section 256B.0911, subdivision 3a;

(2) be conducted face-to-face, initially and at least annually thereafter, or when there is a significant change in the participant's condition or a change in the need for services and supports, or at the request of the participant when the participant experiences a change in condition or needs a change in the services or supports; and

(3) be completed using the format established by the commissioner.

(b) The results of the assessment and any recommendations and authorizations for CFSS must be determined and communicated in writing by the lead agency's ~~certified~~ assessor as defined in section 256B.0911 to the participant ~~and the agency-provider or FMS provider chosen by the participant~~ or the participant's representative and chosen CFSS providers within ~~40 calendar~~ ten business days and must include the participant's right to appeal the assessment under section 256.045, subdivision 3.

(c) The lead agency assessor may authorize a temporary authorization for CFSS services to be provided under the agency-provider model. The lead agency assessor may authorize a temporary authorization for CFSS services to be provided under the agency-provider model without using the assessment process described in this subdivision. Authorization for a temporary level of CFSS services under the agency-provider model is limited to the time specified by the commissioner, but shall not exceed 45 days. The level of services authorized under this paragraph shall have no bearing on a future authorization. ~~Participants approved for a temporary authorization shall access the consultation service~~ For CFSS services needed beyond the 45-day temporary authorization, the lead agency must conduct

186.1 an assessment as described in this subdivision and participants must use consultation services  
186.2 to complete their orientation and selection of a service model.

186.3 Sec. 89. Minnesota Statutes 2020, section 256B.85, subdivision 6, is amended to read:

186.4 Subd. 6. **Community first services and supports service delivery plan.** (a) The CFSS  
186.5 service delivery plan must be developed and evaluated through a person-centered planning  
186.6 process by the participant, or the participant's representative or legal representative who  
186.7 may be assisted by a consultation services provider. The CFSS service delivery plan must  
186.8 reflect the services and supports that are important to the participant and for the participant  
186.9 to meet the needs assessed by the certified assessor and identified in the coordinated service  
186.10 and support plan identified in ~~section~~ sections 256B.092, subdivision 1b, and 256S.10. The  
186.11 CFSS service delivery plan must be reviewed by the participant, the consultation services  
186.12 provider, and the agency-provider or FMS provider prior to starting services and at least  
186.13 annually upon reassessment, or when there is a significant change in the participant's  
186.14 condition, or a change in the need for services and supports.

186.15 (b) The commissioner shall establish the format and criteria for the CFSS service delivery  
186.16 plan.

186.17 (c) The CFSS service delivery plan must be person-centered and:

186.18 (1) specify the consultation services provider, agency-provider, or FMS provider selected  
186.19 by the participant;

186.20 (2) reflect the setting in which the participant resides that is chosen by the participant;

186.21 (3) reflect the participant's strengths and preferences;

186.22 (4) include the methods and supports used to address the needs as identified through an  
186.23 assessment of functional needs;

186.24 (5) include the participant's identified goals and desired outcomes;

186.25 (6) reflect the services and supports, paid and unpaid, that will assist the participant to  
186.26 achieve identified goals, including the costs of the services and supports, and the providers  
186.27 of those services and supports, including natural supports;

186.28 (7) identify the amount and frequency of face-to-face supports and amount and frequency  
186.29 of remote supports and technology that will be used;

186.30 (8) identify risk factors and measures in place to minimize them, including individualized  
186.31 backup plans;

- 187.1 (9) be understandable to the participant and the individuals providing support;
- 187.2 (10) identify the individual or entity responsible for monitoring the plan;
- 187.3 (11) be finalized and agreed to in writing by the participant and signed by ~~all~~ individuals
- 187.4 and providers responsible for its implementation;
- 187.5 (12) be distributed to the participant and other people involved in the plan;
- 187.6 (13) prevent the provision of unnecessary or inappropriate care;
- 187.7 (14) include a detailed budget for expenditures for budget model participants or
- 187.8 participants under the agency-provider model if purchasing goods; and
- 187.9 (15) include a plan for worker training and development provided according to
- 187.10 subdivision 18a detailing what service components will be used, when the service components
- 187.11 will be used, how they will be provided, and how these service components relate to the
- 187.12 participant's individual needs and CFSS support worker services.
- 187.13 (d) The CFSS service delivery plan must describe the units or dollar amount available
- 187.14 to the participant. The total units of agency-provider services or the service budget amount
- 187.15 for the budget model include both annual totals and a monthly average amount that cover
- 187.16 the number of months of the service agreement. The amount used each month may vary,
- 187.17 but additional funds must not be provided above the annual service authorization amount,
- 187.18 determined according to subdivision 8, unless a change in condition is assessed and
- 187.19 authorized by the certified assessor and documented in the coordinated service and support
- 187.20 plan and CFSS service delivery plan.
- 187.21 (e) In assisting with the development or modification of the CFSS service delivery plan
- 187.22 during the authorization time period, the consultation services provider shall:
- 187.23 (1) consult with the FMS provider on the spending budget when applicable; and
- 187.24 (2) consult with the participant or participant's representative, agency-provider, and case
- 187.25 manager ~~or~~ care coordinator.
- 187.26 (f) The CFSS service delivery plan must be approved by the consultation services provider
- 187.27 for participants without a case manager or care coordinator who is responsible for authorizing
- 187.28 services. A case manager or care coordinator must approve the plan for a waiver or alternative
- 187.29 care program participant.

188.1 Sec. 90. Minnesota Statutes 2020, section 256B.85, subdivision 7, is amended to read:

188.2 Subd. 7. **Community first services and supports; covered services.** Services and  
188.3 supports covered under CFSS include:

188.4 (1) assistance to accomplish activities of daily living (ADLs), instrumental activities of  
188.5 daily living (IADLs), and health-related procedures and tasks through hands-on assistance  
188.6 to accomplish the task or constant supervision and cueing to accomplish the task;

188.7 (2) assistance to acquire, maintain, or enhance the skills necessary for the participant to  
188.8 accomplish activities of daily living, instrumental activities of daily living, or health-related  
188.9 tasks;

188.10 (3) expenditures for items, services, supports, environmental modifications, or goods,  
188.11 including assistive technology. These expenditures must:

188.12 (i) relate to a need identified in a participant's CFSS service delivery plan; and

188.13 (ii) increase independence or substitute for human assistance<sub>2</sub> to the extent that  
188.14 expenditures would otherwise be made for human assistance for the participant's assessed  
188.15 needs;

188.16 (4) observation and redirection for behavior or symptoms where there is a need for  
188.17 assistance;

188.18 (5) back-up systems or mechanisms, such as the use of pagers or other electronic devices,  
188.19 to ensure continuity of the participant's services and supports;

188.20 (6) services provided by a consultation services provider as defined under subdivision  
188.21 17, that is under contract with the department and enrolled as a Minnesota health care  
188.22 program provider;

188.23 (7) services provided by an FMS provider as defined under subdivision 13a, that is an  
188.24 enrolled provider with the department;

188.25 (8) CFSS services provided by a support worker who is a parent, stepparent, or legal  
188.26 guardian of a participant under age 18, or who is the participant's spouse. These support  
188.27 workers shall not:

188.28 (i) provide any medical assistance home and community-based services in excess of 40  
188.29 hours per seven-day period regardless of the number of parents providing services,  
188.30 combination of parents and spouses providing services, or number of children who receive  
188.31 medical assistance services; and

189.1 (ii) have a wage that exceeds the current rate for a CFSS support worker including the  
189.2 wage, benefits, and payroll taxes; and

189.3 (9) worker training and development services as described in subdivision 18a.

189.4 Sec. 91. Minnesota Statutes 2020, section 256B.85, subdivision 8, is amended to read:

189.5 Subd. 8. **Determination of CFSS service authorization amount.** (a) All community  
189.6 first services and supports must be authorized by the commissioner or the commissioner's  
189.7 designee before services begin. The authorization for CFSS must be completed as soon as  
189.8 possible following an assessment but no later than 40 calendar days from the date of the  
189.9 assessment.

189.10 (b) The amount of CFSS authorized must be based on the participant's home care rating  
189.11 described in paragraphs (d) and (e) and any additional service units for which the participant  
189.12 qualifies as described in paragraph (f).

189.13 (c) The home care rating shall be determined by the commissioner or the commissioner's  
189.14 designee based on information submitted to the commissioner identifying the following for  
189.15 a participant:

189.16 (1) the total number of dependencies of activities of daily living;

189.17 (2) the presence of complex health-related needs; and

189.18 (3) the presence of Level I behavior.

189.19 (d) The methodology to determine the total service units for CFSS for each home care  
189.20 rating is based on the median paid units per day for each home care rating from fiscal year  
189.21 2007 data for the PCA program.

189.22 (e) Each home care rating is designated by the letters P through Z and EN and has the  
189.23 following base number of service units assigned:

189.24 (1) P home care rating requires Level I behavior or one to three dependencies in ADLs  
189.25 and qualifies the person for five service units;

189.26 (2) Q home care rating requires Level I behavior and one to three dependencies in ADLs  
189.27 and qualifies the person for six service units;

189.28 (3) R home care rating requires a complex health-related need and one to three  
189.29 dependencies in ADLs and qualifies the person for seven service units;

189.30 (4) S home care rating requires four to six dependencies in ADLs and qualifies the person  
189.31 for ten service units;

190.1 (5) T home care rating requires four to six dependencies in ADLs and Level I behavior  
190.2 and qualifies the person for 11 service units;

190.3 (6) U home care rating requires four to six dependencies in ADLs and a complex  
190.4 health-related need and qualifies the person for 14 service units;

190.5 (7) V home care rating requires seven to eight dependencies in ADLs and qualifies the  
190.6 person for 17 service units;

190.7 (8) W home care rating requires seven to eight dependencies in ADLs and Level I  
190.8 behavior and qualifies the person for 20 service units;

190.9 (9) Z home care rating requires seven to eight dependencies in ADLs and a complex  
190.10 health-related need and qualifies the person for 30 service units; and

190.11 (10) EN home care rating includes ventilator dependency as defined in section 256B.0651,  
190.12 subdivision 1, paragraph (g). A person who meets the definition of ventilator-dependent  
190.13 and the EN home care rating and utilize a combination of CFSS and home care nursing  
190.14 services is limited to a total of 96 service units per day for those services in combination.  
190.15 Additional units may be authorized when a person's assessment indicates a need for two  
190.16 staff to perform activities. Additional time is limited to 16 service units per day.

190.17 (f) Additional service units are provided through the assessment and identification of  
190.18 the following:

190.19 (1) 30 additional minutes per day for a dependency in each critical activity of daily  
190.20 living;

190.21 (2) 30 additional minutes per day for each complex health-related need; and

190.22 (3) 30 additional minutes per day ~~when the~~ for each behavior under this clause that  
190.23 requires assistance at least four times per week ~~for one or more of the following behaviors:~~

190.24 (i) level I behavior that requires the immediate response of another person;

190.25 (ii) increased vulnerability due to cognitive deficits or socially inappropriate behavior;  
190.26 or

190.27 (iii) increased need for assistance for participants who are verbally aggressive or resistive  
190.28 to care so that the time needed to perform activities of daily living is increased.

190.29 (g) The service budget for budget model participants shall be based on:

190.30 (1) assessed units as determined by the home care rating; and

190.31 (2) an adjustment needed for administrative expenses.

191.1 Sec. 92. Minnesota Statutes 2020, section 256B.85, is amended by adding a subdivision  
191.2 to read:

191.3 Subd. 8a. **Authorization; exceptions.** All CFSS services must be authorized by the  
191.4 commissioner or the commissioner's designee as described in subdivision 8 except when:

191.5 (1) the lead agency temporarily authorizes services in the agency-provider model as  
191.6 described in subdivision 5, paragraph (c);

191.7 (2) CFSS services in the agency-provider model were required to treat an emergency  
191.8 medical condition that if not immediately treated could cause a participant serious physical  
191.9 or mental disability, continuation of severe pain, or death. The CFSS agency provider must  
191.10 request retroactive authorization from the lead agency no later than five working days after  
191.11 providing the initial emergency service. The CFSS agency provider must be able to  
191.12 substantiate the emergency through documentation such as reports, notes, and admission  
191.13 or discharge histories. A lead agency must follow the authorization process in subdivision  
191.14 5 after the lead agency receives the request for authorization from the agency provider;

191.15 (3) the lead agency authorizes a temporary increase to the amount of services authorized  
191.16 in the agency or budget model to accommodate the participant's temporary higher need for  
191.17 services. Authorization for a temporary level of CFSS services is limited to the time specified  
191.18 by the commissioner, but shall not exceed 45 days. The level of services authorized under  
191.19 this clause shall have no bearing on a future authorization;

191.20 (4) a participant's medical assistance eligibility has lapsed, is then retroactively reinstated,  
191.21 and an authorization for CFSS services is completed based on the date of a current  
191.22 assessment, eligibility, and request for authorization;

191.23 (5) a third-party payer for CFSS services has denied or adjusted a payment. Authorization  
191.24 requests must be submitted by the provider within 20 working days of the notice of denial  
191.25 or adjustment. A copy of the notice must be included with the request;

191.26 (6) the commissioner has determined that a lead agency or state human services agency  
191.27 has made an error; or

191.28 (7) a participant enrolled in managed care experiences a temporary disenrollment from  
191.29 a health plan, in which case the commissioner shall accept the current health plan  
191.30 authorization for CFSS services for up to 60 days. The request must be received within the  
191.31 first 30 days of the disenrollment. If the recipient's reenrollment in managed care is after  
191.32 the 60 days and before 90 days, the provider shall request an additional 30-day extension

192.1 of the current health plan authorization, for a total limit of 90 days from the time of  
192.2 disenrollment.

192.3 Sec. 93. Minnesota Statutes 2020, section 256B.85, subdivision 9, is amended to read:

192.4 Subd. 9. **Noncovered services.** (a) Services or supports that are not eligible for payment  
192.5 under this section include those that:

192.6 (1) are not authorized by the certified assessor or included in the CFSS service delivery  
192.7 plan;

192.8 (2) are provided prior to the authorization of services and the approval of the CFSS  
192.9 service delivery plan;

192.10 (3) are duplicative of other paid services in the CFSS service delivery plan;

192.11 (4) supplant natural unpaid supports that appropriately meet a need in the CFSS service  
192.12 delivery plan, are provided voluntarily to the participant, and are selected by the participant  
192.13 in lieu of other services and supports;

192.14 (5) are not effective means to meet the participant's needs; and

192.15 (6) are available through other funding sources, including, but not limited to, funding  
192.16 through title IV-E of the Social Security Act.

192.17 (b) Additional services, goods, or supports that are not covered include:

192.18 (1) those that are not for the direct benefit of the participant, except that services for  
192.19 caregivers such as training to improve the ability to provide CFSS are considered to directly  
192.20 benefit the participant if chosen by the participant and approved in the support plan;

192.21 (2) any fees incurred by the participant, such as Minnesota health care programs fees  
192.22 and co-pays, legal fees, or costs related to advocate agencies;

192.23 (3) insurance, except for insurance costs related to employee coverage;

192.24 (4) room and board costs for the participant;

192.25 (5) services, supports, or goods that are not related to the assessed needs;

192.26 (6) special education and related services provided under the Individuals with Disabilities  
192.27 Education Act and vocational rehabilitation services provided under the Rehabilitation Act  
192.28 of 1973;



- 193.1 (7) assistive technology devices and assistive technology services other than those for  
193.2 back-up systems or mechanisms to ensure continuity of service and supports listed in  
193.3 subdivision 7;
- 193.4 (8) medical supplies and equipment covered under medical assistance;
- 193.5 (9) environmental modifications, except as specified in subdivision 7;
- 193.6 (10) expenses for travel, lodging, or meals related to training the participant or the  
193.7 participant's representative or legal representative;
- 193.8 (11) experimental treatments;
- 193.9 (12) any service or good covered by other state plan services, including prescription and  
193.10 over-the-counter medications, compounds, and solutions and related fees, including premiums  
193.11 and co-payments;
- 193.12 (13) membership dues or costs, except when the service is necessary and appropriate to  
193.13 treat a health condition or to improve or maintain the adult participant's health condition.  
193.14 The condition must be identified in the participant's CFSS service delivery plan and  
193.15 monitored by a Minnesota health care program enrolled physician, advanced practice  
193.16 registered nurse, or physician's assistant;
- 193.17 (14) vacation expenses other than the cost of direct services;
- 193.18 (15) vehicle maintenance or modifications not related to the disability, health condition,  
193.19 or physical need;
- 193.20 (16) tickets and related costs to attend sporting or other recreational or entertainment  
193.21 events;
- 193.22 (17) services provided and billed by a provider who is not an enrolled CFSS provider;
- 193.23 (18) CFSS provided by a participant's representative or paid legal guardian;
- 193.24 (19) services that are used solely as a child care or babysitting service;
- 193.25 (20) services that are the responsibility or in the daily rate of a residential or program  
193.26 license holder under the terms of a service agreement and administrative rules;
- 193.27 (21) sterile procedures;
- 193.28 (22) giving of injections into veins, muscles, or skin;
- 193.29 (23) homemaker services that are not an integral part of the assessed CFSS service;
- 193.30 (24) home maintenance or chore services;

- 194.1 (25) home care services, including hospice services if elected by the participant, covered  
194.2 by Medicare or any other insurance held by the participant;
- 194.3 (26) services to other members of the participant's household;
- 194.4 (27) services not specified as covered under medical assistance as CFSS;
- 194.5 (28) application of restraints or implementation of deprivation procedures;
- 194.6 (29) assessments by CFSS provider organizations or by independently enrolled registered  
194.7 nurses;
- 194.8 (30) services provided in lieu of legally required staffing in a residential or child care  
194.9 setting; ~~and~~
- 194.10 (31) services provided by ~~the residential or program~~ a foster care license holder ~~in a~~  
194.11 ~~residence for more than four participants.~~ except when the home of the person receiving  
194.12 services is the licensed foster care provider's primary residence;
- 194.13 (32) services that are the responsibility of the foster care provider under the terms of the  
194.14 foster care placement agreement, assessment under sections 256N.24 and 260C.4411, and  
194.15 administrative rules under sections 256N.24 and 260C.4411;
- 194.16 (33) services in a setting that has a licensed capacity greater than six, unless all conditions  
194.17 for a variance under section 245A.04, subdivision 9a, are satisfied for a sibling, as defined  
194.18 in section 260C.007, subdivision 32;
- 194.19 (34) services from a provider who owns or otherwise controls the living arrangement,  
194.20 except when the provider of services is related by blood, marriage, or adoption or when the  
194.21 provider is a licensed foster care provider who is not prohibited from providing services  
194.22 under clauses (31) to (33);
- 194.23 (35) instrumental activities of daily living for children younger than 18 years of age,  
194.24 except when immediate attention is needed for health or hygiene reasons integral to an  
194.25 assessed need for assistance with activities of daily living, health-related procedures, and  
194.26 tasks or behaviors; or
- 194.27 (36) services provided to a resident of a nursing facility, hospital, intermediate care  
194.28 facility, or health care facility licensed by the commissioner of health.

195.1 Sec. 94. Minnesota Statutes 2020, section 256B.85, subdivision 10, is amended to read:

195.2 Subd. 10. **Agency-provider and FMS provider qualifications and duties.** (a)

195.3 Agency-providers identified in subdivision 11 and FMS providers identified in subdivision  
195.4 13a shall:

195.5 (1) enroll as a medical assistance Minnesota health care programs provider and meet all  
195.6 applicable provider standards and requirements including completion of required provider  
195.7 training as determined by the commissioner;

195.8 (2) demonstrate compliance with federal and state laws and policies for CFSS as  
195.9 determined by the commissioner;

195.10 (3) comply with background study requirements under chapter 245C and maintain  
195.11 documentation of background study requests and results;

195.12 (4) verify and maintain records of all services and expenditures by the participant,  
195.13 including hours worked by support workers;

195.14 (5) not engage in any agency-initiated direct contact or marketing in person, by telephone,  
195.15 or other electronic means to potential participants, guardians, family members, or participants'  
195.16 representatives;

195.17 (6) directly provide services and not use a subcontractor or reporting agent;

195.18 (7) meet the financial requirements established by the commissioner for financial  
195.19 solvency;

195.20 (8) have never had a lead agency contract or provider agreement discontinued due to  
195.21 fraud, or have never had an owner, board member, or manager fail a state or FBI-based  
195.22 criminal background check while enrolled or seeking enrollment as a Minnesota health care  
195.23 programs provider; and

195.24 (9) have an office located in Minnesota.

195.25 (b) In conducting general duties, agency-providers and FMS providers shall:

195.26 (1) pay support workers based upon actual hours of services provided;

195.27 (2) pay for worker training and development services based upon actual hours of services  
195.28 provided or the unit cost of the training session purchased;

195.29 (3) withhold and pay all applicable federal and state payroll taxes;

195.30 (4) make arrangements and pay unemployment insurance, taxes, workers' compensation,  
195.31 liability insurance, and other benefits, if any;

196.1 (5) enter into a written agreement with the participant, participant's representative, or  
196.2 legal representative that assigns roles and responsibilities to be performed before services,  
196.3 supports, or goods are provided and that meets the requirements of subdivisions 20a, 20b,  
196.4 and 20c for agency-providers;

196.5 (6) report maltreatment as required under section 626.557 and chapter 260E;

196.6 (7) comply with the labor market reporting requirements described in section 256B.4912,  
196.7 subdivision 1a;

196.8 (8) comply with any data requests from the department consistent with the Minnesota  
196.9 Government Data Practices Act under chapter 13; ~~and~~

196.10 (9) maintain documentation for the requirements under subdivision 16, paragraph (e),  
196.11 clause (2), to qualify for an enhanced rate under this section; and

196.12 (10) request reassessments 60 days before the end of the current authorization for CFSS  
196.13 on forms provided by the commissioner.

196.14 Sec. 95. Minnesota Statutes 2020, section 256B.85, subdivision 11, is amended to read:

196.15 Subd. 11. **Agency-provider model.** (a) The agency-provider model includes services  
196.16 provided by support workers and staff providing worker training and development services  
196.17 who are employed by an agency-provider that meets the criteria established by the  
196.18 commissioner, including required training.

196.19 (b) The agency-provider shall allow the participant to have a significant role in the  
196.20 selection and dismissal of the support workers for the delivery of the services and supports  
196.21 specified in the participant's CFSS service delivery plan. The agency must make a reasonable  
196.22 effort to fulfill the participant's request for the participant's preferred worker.

196.23 (c) A participant may use authorized units of CFSS services as needed within a service  
196.24 agreement that is not greater than 12 months. Using authorized units in a flexible manner  
196.25 in either the agency-provider model or the budget model does not increase the total amount  
196.26 of services and supports authorized for a participant or included in the participant's CFSS  
196.27 service delivery plan.

196.28 (d) A participant may share CFSS services. Two or three CFSS participants may share  
196.29 services at the same time provided by the same support worker.

196.30 (e) The agency-provider must use a minimum of 72.5 percent of the revenue generated  
196.31 by the medical assistance payment for CFSS for support worker wages and benefits, except  
196.32 all of the revenue generated by a medical assistance rate increase due to a collective

197.1 bargaining agreement under section 179A.54 must be used for support worker wages and  
197.2 benefits. The agency-provider must document how this requirement is being met. The  
197.3 revenue generated by the worker training and development services and the reasonable costs  
197.4 associated with the worker training and development services must not be used in making  
197.5 this calculation.

197.6 (f) The agency-provider model must be used by ~~individuals~~ participants who are restricted  
197.7 by the Minnesota restricted recipient program under Minnesota Rules, parts 9505.2160 to  
197.8 9505.2245.

197.9 (g) Participants purchasing goods under this model, along with support worker services,  
197.10 must:

197.11 (1) specify the goods in the CFSS service delivery plan and detailed budget for  
197.12 expenditures that must be approved by the consultation services provider, case manager, or  
197.13 care coordinator; and

197.14 (2) use the FMS provider for the billing and payment of such goods.

197.15 Sec. 96. Minnesota Statutes 2020, section 256B.85, subdivision 11b, is amended to read:

197.16 Subd. 11b. **Agency-provider model; support worker competency.** (a) The  
197.17 agency-provider must ensure that support workers are competent to meet the participant's  
197.18 assessed needs, goals, and additional requirements as written in the CFSS service delivery  
197.19 plan. ~~Within 30 days of any support worker beginning to provide services for a participant,~~  
197.20 The agency-provider must evaluate the competency of the worker through direct observation  
197.21 of the support worker's performance of the job functions in a setting where the participant  
197.22 is using CFSS: within 30 days of:

197.23 (1) any support worker beginning to provide services for a participant; or

197.24 (2) any support worker beginning to provide shared services.

197.25 (b) The agency-provider must verify and maintain evidence of support worker  
197.26 competency, including documentation of the support worker's:

197.27 (1) education and experience relevant to the job responsibilities assigned to the support  
197.28 worker and the needs of the participant;

197.29 (2) relevant training received from sources other than the agency-provider;

197.30 (3) orientation and instruction to implement services and supports to participant needs  
197.31 and preferences as identified in the CFSS service delivery plan; ~~and~~

198.1 (4) orientation and instruction delivered by an individual competent to perform, teach,  
198.2 or assign the health-related tasks for tracheostomy suctioning and services to participants  
198.3 on ventilator support, including equipment operation and maintenance; and

198.4 ~~(4)~~ (5) periodic performance reviews completed by the agency-provider at least annually,  
198.5 including any evaluations required under subdivision 11a, paragraph (a). If a support worker  
198.6 is a minor, all evaluations of worker competency must be completed in person and in a  
198.7 setting where the participant is using CFSS.

198.8 (c) The agency-provider must develop a worker training and development plan with the  
198.9 participant to ensure support worker competency. The worker training and development  
198.10 plan must be updated when:

198.11 (1) the support worker begins providing services;

198.12 (2) the support worker begins providing shared services;

198.13 ~~(2)~~ (3) there is any change in condition or a modification to the CFSS service delivery  
198.14 plan; or

198.15 ~~(3)~~ (4) a performance review indicates that additional training is needed.

198.16 Sec. 97. Minnesota Statutes 2020, section 256B.85, subdivision 12, is amended to read:

198.17 Subd. 12. **Requirements for enrollment of CFSS agency-providers.** (a) All CFSS  
198.18 agency-providers must provide, at the time of enrollment, reenrollment, and revalidation  
198.19 as a CFSS agency-provider in a format determined by the commissioner, information and  
198.20 documentation that includes, but is not limited to, the following:

198.21 (1) the CFSS agency-provider's current contact information including address, telephone  
198.22 number, and e-mail address;

198.23 (2) proof of surety bond coverage. Upon new enrollment, or if the agency-provider's  
198.24 Medicaid revenue in the previous calendar year is less than or equal to \$300,000, the  
198.25 agency-provider must purchase a surety bond of \$50,000. If the agency-provider's Medicaid  
198.26 revenue in the previous calendar year is greater than \$300,000, the agency-provider must  
198.27 purchase a surety bond of \$100,000. The surety bond must be in a form approved by the  
198.28 commissioner, must be renewed annually, and must allow for recovery of costs and fees in  
198.29 pursuing a claim on the bond;

198.30 (3) proof of fidelity bond coverage in the amount of \$20,000 per provider location;

198.31 (4) proof of workers' compensation insurance coverage;

199.1 (5) proof of liability insurance;

199.2 (6) a ~~description~~ copy of the CFSS agency-provider's ~~organization~~ organizational chart  
199.3 identifying the names and roles of all owners, managing employees, staff, board of directors,  
199.4 and ~~the~~ additional documentation reporting any affiliations of the directors and owners to  
199.5 other service providers;

199.6 (7) ~~a copy of~~ proof that the CFSS ~~agency-provider's~~ agency-provider has written policies  
199.7 and procedures including: hiring of employees; training requirements; service delivery; and  
199.8 employee and consumer safety, including the process for notification and resolution of  
199.9 participant grievances, incident response, identification and prevention of communicable  
199.10 diseases, and employee misconduct;

199.11 (8) ~~copies of all other forms~~ proof that the CFSS agency-provider ~~uses in the course of~~  
199.12 ~~daily business including, but not limited to~~ has all of the following forms and documents:

199.13 (i) a copy of the CFSS agency-provider's time sheet; and

199.14 (ii) a copy of the participant's individual CFSS service delivery plan;

199.15 (9) a list of all training and classes that the CFSS agency-provider requires of its staff  
199.16 providing CFSS services;

199.17 (10) documentation that the CFSS agency-provider and staff have successfully completed  
199.18 all the training required by this section;

199.19 (11) documentation of the agency-provider's marketing practices;

199.20 (12) disclosure of ownership, leasing, or management of all residential properties that  
199.21 are used or could be used for providing home care services;

199.22 (13) documentation that the agency-provider will use at least the following percentages  
199.23 of revenue generated from the medical assistance rate paid for CFSS services for CFSS  
199.24 support worker wages and benefits: 72.5 percent of revenue from CFSS providers, except  
199.25 100 percent of the revenue generated by a medical assistance rate increase due to a collective  
199.26 bargaining agreement under section 179A.54 must be used for support worker wages and  
199.27 benefits. The revenue generated by the worker training and development services and the  
199.28 reasonable costs associated with the worker training and development services shall not be  
199.29 used in making this calculation; and

199.30 (14) documentation that the agency-provider does not burden participants' free exercise  
199.31 of their right to choose service providers by requiring CFSS support workers to sign an  
199.32 agreement not to work with any particular CFSS participant or for another CFSS

200.1 agency-provider after leaving the agency and that the agency is not taking action on any  
200.2 such agreements or requirements regardless of the date signed.

200.3 (b) CFSS agency-providers shall provide to the commissioner the information specified  
200.4 in paragraph (a).

200.5 (c) All CFSS agency-providers shall require all employees in management and  
200.6 supervisory positions and owners of the agency who are active in the day-to-day management  
200.7 and operations of the agency to complete mandatory training as determined by the  
200.8 commissioner. Employees in management and supervisory positions and owners who are  
200.9 active in the day-to-day operations of an agency who have completed the required training  
200.10 as an employee with a CFSS agency-provider do not need to repeat the required training if  
200.11 they are hired by another agency, ~~if~~ and they have completed the training within the past  
200.12 three years. CFSS agency-provider billing staff shall complete training about CFSS program  
200.13 financial management. Any new owners or employees in management and supervisory  
200.14 positions involved in the day-to-day operations are required to complete mandatory training  
200.15 as a requisite of working for the agency.

200.16 ~~(d) The commissioner shall send annual review notifications to agency providers 30~~  
200.17 ~~days prior to renewal. The notification must:~~

200.18 ~~(1) list the materials and information the agency provider is required to submit;~~

200.19 ~~(2) provide instructions on submitting information to the commissioner; and~~

200.20 ~~(3) provide a due date by which the commissioner must receive the requested information.~~

200.21 ~~Agency providers shall submit all required documentation for annual review within 30 days~~  
200.22 ~~of notification from the commissioner. If an agency provider fails to submit all the required~~  
200.23 ~~documentation, the commissioner may take action under subdivision 23a.~~

200.24 (d) Agency-providers shall submit all required documentation in this section within 30  
200.25 days of notification from the commissioner. If an agency-provider fails to submit all the  
200.26 required documentation, the commissioner may take action under subdivision 23a.

200.27 Sec. 98. Minnesota Statutes 2020, section 256B.85, subdivision 12b, is amended to read:

200.28 Subd. 12b. **CFSS agency-provider requirements; notice regarding termination of**  
200.29 **services.** (a) An agency-provider must provide written notice when it intends to terminate  
200.30 services with a participant at least ~~ten~~ 30 calendar days before the proposed service  
200.31 termination is to become effective, except in cases where:



201.1 (1) the participant engages in conduct that significantly alters the terms of the CFSS  
201.2 service delivery plan with the agency-provider;

201.3 (2) the participant or other persons at the setting where services are being provided  
201.4 engage in conduct that creates an imminent risk of harm to the support worker or other  
201.5 agency-provider staff; or

201.6 (3) an emergency or a significant change in the participant's condition occurs within a  
201.7 24-hour period that results in the participant's service needs exceeding the participant's  
201.8 identified needs in the current CFSS service delivery plan so that the agency-provider cannot  
201.9 safely meet the participant's needs.

201.10 (b) When a participant initiates a request to terminate CFSS services with the  
201.11 agency-provider, the agency-provider must give the participant a written ~~acknowledgement~~  
201.12 acknowledgment of the participant's service termination request that includes the date the  
201.13 request was received by the agency-provider and the requested date of termination.

201.14 (c) The agency-provider must participate in a coordinated transfer of the participant to  
201.15 a new agency-provider to ensure continuity of care.

201.16 Sec. 99. Minnesota Statutes 2020, section 256B.85, subdivision 13, is amended to read:

201.17 Subd. 13. **Budget model.** (a) Under the budget model participants exercise responsibility  
201.18 and control over the services and supports described and budgeted within the CFSS service  
201.19 delivery plan. Participants must use services specified in subdivision 13a provided by an  
201.20 FMS provider. Under this model, participants may use their approved service budget  
201.21 allocation to:

201.22 (1) directly employ support workers, and pay wages, federal and state payroll taxes, and  
201.23 premiums for workers' compensation, liability, and health insurance coverage; and

201.24 (2) obtain supports and goods as defined in subdivision 7.

201.25 (b) Participants who are unable to fulfill any of the functions listed in paragraph (a) may  
201.26 authorize a legal representative or participant's representative to do so on their behalf.

201.27 (c) If two or more participants using the budget model live in the same household and  
201.28 have the same worker, the participants must use the same FMS provider.

201.29 (d) If the FMS provider advises that there is a joint employer in the budget model, all  
201.30 participants associated with that joint employer must use the same FMS provider.

202.1       ~~(e)~~ (e) The commissioner shall disenroll or exclude participants from the budget model  
202.2 and transfer them to the agency-provider model under, but not limited to, the following  
202.3 circumstances:

202.4       (1) when a participant has been restricted by the Minnesota restricted recipient program,  
202.5 in which case the participant may be excluded for a specified time period under Minnesota  
202.6 Rules, parts 9505.2160 to 9505.2245;

202.7       (2) when a participant exits the budget model during the participant's service plan year.  
202.8 Upon transfer, the participant shall not access the budget model for the remainder of that  
202.9 service plan year; or

202.10       (3) when the department determines that the participant or participant's representative  
202.11 or legal representative is unable to fulfill the responsibilities under the budget model, as  
202.12 specified in subdivision 14.

202.13       ~~(d)~~ (f) A participant may appeal in writing to the department under section 256.045,  
202.14 subdivision 3, to contest the department's decision under paragraph ~~(e)~~ (e), clause (3), to  
202.15 disenroll or exclude the participant from the budget model.

202.16       Sec. 100. Minnesota Statutes 2020, section 256B.85, subdivision 13a, is amended to read:

202.17       Subd. 13a. **Financial management services.** (a) Services provided by an FMS provider  
202.18 include but are not limited to: filing and payment of federal and state payroll taxes on behalf  
202.19 of the participant; initiating and complying with background study requirements under  
202.20 chapter 245C and maintaining documentation of background study requests and results;  
202.21 billing for approved CFSS services with authorized funds; monitoring expenditures;  
202.22 accounting for and disbursing CFSS funds; providing assistance in obtaining and filing for  
202.23 liability, workers' compensation, and unemployment coverage; and providing participant  
202.24 instruction and technical assistance to the participant in fulfilling employer-related  
202.25 requirements in accordance with section 3504 of the Internal Revenue Code and related  
202.26 regulations and interpretations, including Code of Federal Regulations, title 26, section  
202.27 31.3504-1.

202.28       (b) Agency-provider services shall not be provided by the FMS provider.

202.29       (c) The FMS provider shall provide service functions as determined by the commissioner  
202.30 for budget model participants that include but are not limited to:

202.31       (1) assistance with the development of the detailed budget for expenditures portion of  
202.32 the CFSS service delivery plan as requested by the consultation services provider or  
202.33 participant;

- 203.1 (2) data recording and reporting of participant spending;
- 203.2 (3) other duties established by the department, including with respect to providing  
203.3 assistance to the participant, participant's representative, or legal representative in performing  
203.4 employer responsibilities regarding support workers. The support worker shall not be  
203.5 considered the employee of the FMS provider; and
- 203.6 (4) billing, payment, and accounting of approved expenditures for goods.
- 203.7 (d) The FMS provider shall obtain an assurance statement from the participant employer  
203.8 agreeing to follow state and federal regulations and CFSS policies regarding employment  
203.9 of support workers.
- 203.10 (e) The FMS provider shall:
- 203.11 (1) not limit or restrict the participant's choice of service or support providers or service  
203.12 delivery models consistent with any applicable state and federal requirements;
- 203.13 (2) provide the participant, consultation services provider, and case manager or care  
203.14 coordinator, if applicable, with a monthly written summary of the spending for services and  
203.15 supports that were billed against the spending budget;
- 203.16 (3) be knowledgeable of state and federal employment regulations, including those under  
203.17 the Fair Labor Standards Act of 1938, and comply with the requirements under section 3504  
203.18 of the Internal Revenue Code and related regulations and interpretations, including Code  
203.19 of Federal Regulations, title 26, section 31.3504-1, regarding agency employer tax liability  
203.20 for vendor fiscal/employer agent, and any requirements necessary to process employer and  
203.21 employee deductions, provide appropriate and timely submission of employer tax liabilities,  
203.22 and maintain documentation to support medical assistance claims;
- 203.23 (4) have current and adequate liability insurance and bonding and sufficient cash flow  
203.24 as determined by the commissioner and have on staff or under contract a certified public  
203.25 accountant or an individual with a baccalaureate degree in accounting;
- 203.26 (5) assume fiscal accountability for state funds designated for the program and be held  
203.27 liable for any overpayments or violations of applicable statutes or rules, including but not  
203.28 limited to the Minnesota False Claims Act, chapter 15C; ~~and~~
- 203.29 (6) maintain documentation of receipts, invoices, and bills to track all services and  
203.30 supports expenditures for any goods purchased and maintain time records of support workers.  
203.31 The documentation and time records must be maintained for a minimum of five years from  
203.32 the claim date and be available for audit or review upon request by the commissioner. Claims  
203.33 submitted by the FMS provider to the commissioner for payment must correspond with

204.1 services, amounts, and time periods as authorized in the participant's service budget and  
204.2 service plan and must contain specific identifying information as determined by the  
204.3 commissioner; and

204.4 (7) provide written notice to the participant or the participant's representative at least 30  
204.5 calendar days before a proposed service termination becomes effective.

204.6 (f) The commissioner of ~~human services~~ shall:

204.7 (1) establish rates and payment methodology for the FMS provider;

204.8 (2) identify a process to ensure quality and performance standards for the FMS provider  
204.9 and ensure statewide access to FMS providers; and

204.10 (3) establish a uniform protocol for delivering and administering CFSS services to be  
204.11 used by eligible FMS providers.

204.12 Sec. 101. Minnesota Statutes 2020, section 256B.85, is amended by adding a subdivision  
204.13 to read:

204.14 Subd. 14a. **Participant's representative responsibilities.** (a) If a participant is unable  
204.15 to direct the participant's own care, the participant must use a participant's representative  
204.16 to receive CFSS services. A participant's representative is required if:

204.17 (1) the person is under 18 years of age;

204.18 (2) the person has a court-appointed guardian; or

204.19 (3) an assessment according to section 256B.0659, subdivision 3a, determines that the  
204.20 participant is in need of a participant's representative.

204.21 (b) A participant's representative must:

204.22 (1) be at least 18 years of age;

204.23 (2) actively participate in planning and directing CFSS services;

204.24 (3) have sufficient knowledge of the participant's circumstances to use CFSS services  
204.25 consistent with the participant's health and safety needs identified in the participant's service  
204.26 delivery plan;

204.27 (4) not have a financial interest in the provision of any services included in the  
204.28 participant's CFSS service delivery plan; and

204.29 (5) be capable of providing the support necessary to assist the participant in the use of  
204.30 CFSS services.

- 205.1 (c) A participant's representative must not be the:
- 205.2 (1) support worker;
- 205.3 (2) worker training and development service provider;
- 205.4 (3) agency-provider staff, unless related to the participant by blood, marriage, or adoption;
- 205.5 (4) consultation service provider, unless related to the participant by blood, marriage,
- 205.6 or adoption;
- 205.7 (5) FMS staff, unless related to the participant by blood, marriage, or adoption;
- 205.8 (6) FMS owner or manager; or
- 205.9 (7) lead agency staff acting as part of employment.
- 205.10 (d) A licensed family foster parent who lives with the participant may be the participant's
- 205.11 representative if the family foster parent meets the other participant's representative
- 205.12 requirements.
- 205.13 (e) There may be two persons designated as the participant's representative, including
- 205.14 instances of divided households and court-ordered custodies. Each person named as the
- 205.15 participant's representative must meet the program criteria and responsibilities.
- 205.16 (f) The participant or the participant's legal representative shall appoint a participant's
- 205.17 representative. The participant's representative must be identified at the time of assessment
- 205.18 and listed on the participant's service agreement and CFSS service delivery plan.
- 205.19 (g) A participant's representative must enter into a written agreement with an
- 205.20 agency-provider or FMS on a form determined by the commissioner and maintained in the
- 205.21 participant's file, to:
- 205.22 (1) be available while care is provided using a method agreed upon by the participant
- 205.23 or the participant's legal representative and documented in the participant's service delivery
- 205.24 plan;
- 205.25 (2) monitor CFSS services to ensure the participant's service delivery plan is followed;
- 205.26 (3) review and sign support worker time sheets after services are provided to verify the
- 205.27 provision of services;
- 205.28 (4) review and sign vendor paperwork to verify receipt of goods; and
- 205.29 (5) in the budget model, review and sign documentation to verify worker training and
- 205.30 development expenditures.

206.1 (h) A participant's representative may delegate responsibility to another adult who is not  
206.2 the support worker during a temporary absence of at least 24 hours but not more than six  
206.3 months. To delegate responsibility, the participant's representative must:

206.4 (1) ensure that the delegate serving as the participant's representative satisfies the  
206.5 requirements of the participant's representative;

206.6 (2) ensure that the delegate performs the functions of the participant's representative;

206.7 (3) communicate to the CFSS agency-provider or FMS provider about the need for a  
206.8 delegate by updating the written agreement to include the name of the delegate and the  
206.9 delegate's contact information; and

206.10 (4) ensure that the delegate protects the participant's privacy according to federal and  
206.11 state data privacy laws.

206.12 (i) The designation of a participant's representative remains in place until:

206.13 (1) the participant revokes the designation;

206.14 (2) the participant's representative withdraws the designation or becomes unable to fulfill  
206.15 the duties;

206.16 (3) the legal authority to act as a participant's representative changes; or

206.17 (4) the participant's representative is disqualified.

206.18 (j) A lead agency may disqualify a participant's representative who engages in conduct  
206.19 that creates an imminent risk of harm to the participant, the support workers, or other staff.  
206.20 A participant's representative who fails to provide support required by the participant must  
206.21 be referred to the common entry point.

206.22 Sec. 102. Minnesota Statutes 2020, section 256B.85, subdivision 15, is amended to read:

206.23 Subd. 15. **Documentation of support services provided; time sheets.** (a) CFSS services  
206.24 provided to a participant by a support worker employed by either an agency-provider or the  
206.25 participant employer must be documented daily by each support worker, on a time sheet.  
206.26 Time sheets may be created, submitted, and maintained electronically. Time sheets must  
206.27 be submitted by the support worker at least once per month to the:

206.28 (1) agency-provider when the participant is using the agency-provider model. The  
206.29 agency-provider must maintain a record of the time sheet and provide a copy of the time  
206.30 sheet to the participant; or

207.1 (2) participant and the participant's FMS provider when the participant is using the  
207.2 budget model. The participant and the FMS provider must maintain a record of the time  
207.3 sheet.

207.4 (b) The documentation on the time sheet must correspond to the participant's assessed  
207.5 needs within the scope of CFSS covered services. The accuracy of the time sheets must be  
207.6 verified by the:

207.7 (1) agency-provider when the participant is using the agency-provider model; or

207.8 (2) participant employer and the participant's FMS provider when the participant is using  
207.9 the budget model.

207.10 (c) The time sheet must document the time the support worker provides services to the  
207.11 participant. The following elements must be included in the time sheet:

207.12 (1) the support worker's full name and individual provider number;

207.13 (2) the agency-provider's name and telephone numbers, when responsible for the CFSS  
207.14 service delivery plan;

207.15 (3) the participant's full name;

207.16 (4) the dates within the pay period established by the agency-provider or FMS provider,  
207.17 including month, day, and year, and arrival and departure times with a.m. or p.m. notations  
207.18 for days worked within the established pay period;

207.19 (5) the covered services provided to the participant on each date of service;

207.20 (6) ~~a the signature line for~~ of the participant or the participant's representative and a  
207.21 statement that the participant's or participant's representative's signature is verification of  
207.22 the time sheet's accuracy;

207.23 (7) the ~~personal~~ signature of the support worker;

207.24 (8) any shared care provided, if applicable;

207.25 (9) a statement that it is a federal crime to provide false information on CFSS billings  
207.26 for medical assistance payments; and

207.27 (10) dates and location of participant stays in a hospital, care facility, or incarceration  
207.28 occurring within the established pay period.

208.1 Sec. 103. Minnesota Statutes 2020, section 256B.85, subdivision 17a, is amended to read:

208.2 Subd. 17a. **Consultation services provider qualifications and**

208.3 **requirements.** Consultation services providers must meet the following qualifications and  
208.4 requirements:

208.5 (1) meet the requirements under subdivision 10, paragraph (a), excluding clauses (4)  
208.6 and (5);

208.7 (2) are under contract with the department;

208.8 (3) are not the FMS provider, the lead agency, or the CFSS or home and community-based  
208.9 services waiver vendor or agency-provider to the participant;

208.10 (4) meet the service standards as established by the commissioner;

208.11 (5) have proof of surety bond coverage. Upon new enrollment, or if the consultation  
208.12 service provider's Medicaid revenue in the previous calendar year is less than or equal to  
208.13 \$300,000, the consultation service provider must purchase a surety bond of \$50,000. If the  
208.14 agency-provider's Medicaid revenue in the previous calendar year is greater than \$300,000,  
208.15 the consultation service provider must purchase a surety bond of \$100,000. The surety bond  
208.16 must be in a form approved by the commissioner, must be renewed annually, and must  
208.17 allow for recovery of costs and fees in pursuing a claim on the bond;

208.18 ~~(5)~~ (6) employ lead professional staff with a minimum of three years of experience in  
208.19 providing services such as support planning, support broker, case management or care  
208.20 coordination, or consultation services and consumer education to participants using a  
208.21 self-directed program using FMS under medical assistance;

208.22 (7) report maltreatment as required under chapter 260E and section 626.557;

208.23 ~~(6)~~ (8) comply with medical assistance provider requirements;

208.24 ~~(7)~~ (9) understand the CFSS program and its policies;

208.25 ~~(8)~~ (10) are knowledgeable about self-directed principles and the application of the  
208.26 person-centered planning process;

208.27 ~~(9)~~ (11) have general knowledge of the FMS provider duties and the vendor  
208.28 fiscal/employer agent model, including all applicable federal, state, and local laws and  
208.29 regulations regarding tax, labor, employment, and liability and workers' compensation  
208.30 coverage for household workers; and

208.31 ~~(10)~~ (12) have all employees, including lead professional staff, staff in management and  
208.32 supervisory positions, and owners of the agency who are active in the day-to-day management



209.1 and operations of the agency, complete training as specified in the contract with the  
209.2 department.

209.3 Sec. 104. Minnesota Statutes 2020, section 256B.85, subdivision 18a, is amended to read:

209.4 Subd. 18a. **Worker training and development services.** (a) The commissioner shall  
209.5 develop the scope of tasks and functions, service standards, and service limits for worker  
209.6 training and development services.

209.7 (b) Worker training and development costs are in addition to the participant's assessed  
209.8 service units or service budget. Services provided according to this subdivision must:

209.9 (1) help support workers obtain and expand the skills and knowledge necessary to ensure  
209.10 competency in providing quality services as needed and defined in the participant's CFSS  
209.11 service delivery plan and as required under subdivisions 11b and 14;

209.12 (2) be provided or arranged for by the agency-provider under subdivision 11, or purchased  
209.13 by the participant employer under the budget model as identified in subdivision 13; ~~and~~

209.14 (3) be delivered by an individual competent to perform, teach, or assign the tasks,  
209.15 including health-related tasks, identified in the plan through education, training, and work  
209.16 experience relevant to the person's assessed needs; and

209.17 ~~(3)~~ (4) be described in the participant's CFSS service delivery plan and documented in  
209.18 the participant's file.

209.19 (c) Services covered under worker training and development shall include:

209.20 (1) support worker training on the participant's individual assessed needs and condition,  
209.21 provided individually or in a group setting by a skilled and knowledgeable trainer beyond  
209.22 any training the participant or participant's representative provides;

209.23 (2) tuition for professional classes and workshops for the participant's support workers  
209.24 that relate to the participant's assessed needs and condition;

209.25 (3) direct observation, monitoring, coaching, and documentation of support worker job  
209.26 skills and tasks, beyond any training the participant or participant's representative provides,  
209.27 including supervision of health-related tasks or behavioral supports that is conducted by an  
209.28 appropriate professional based on the participant's assessed needs. These services must be  
209.29 provided at the start of services or the start of a new support worker except as provided in  
209.30 paragraph (d) and must be specified in the participant's CFSS service delivery plan; and

209.31 (4) the activities to evaluate CFSS services and ensure support worker competency  
209.32 described in subdivisions 11a and 11b.

210.1 (d) The services in paragraph (c), clause (3), are not required to be provided for a new  
210.2 support worker providing services for a participant due to staffing failures, unless the support  
210.3 worker is expected to provide ongoing backup staffing coverage.

210.4 (e) Worker training and development services shall not include:

210.5 (1) general agency training, worker orientation, or training on CFSS self-directed models;

210.6 (2) payment for preparation or development time for the trainer or presenter;

210.7 (3) payment of the support worker's salary or compensation during the training;

210.8 (4) training or supervision provided by the participant, the participant's support worker,  
210.9 or the participant's informal supports, including the participant's representative; or

210.10 (5) services in excess of ~~96 units~~ the rate set by the commissioner per annual service  
210.11 agreement, unless approved by the department.

210.12 Sec. 105. Minnesota Statutes 2020, section 256B.85, subdivision 20b, is amended to read:

210.13 Subd. 20b. **Service-related rights under an agency-provider.** A participant receiving  
210.14 CFSS from an agency-provider has service-related rights to:

210.15 (1) participate in and approve the initial development and ongoing modification and  
210.16 evaluation of CFSS services provided to the participant;

210.17 (2) refuse or terminate services and be informed of the consequences of refusing or  
210.18 terminating services;

210.19 (3) before services are initiated, be told the limits to the services available from the  
210.20 agency-provider, including the agency-provider's knowledge, skill, and ability to meet the  
210.21 participant's needs identified in the CFSS service delivery plan;

210.22 (4) a coordinated transfer of services when there will be a change in the agency-provider;

210.23 (5) before services are initiated, be told what the agency-provider charges for the services;

210.24 (6) before services are initiated, be told to what extent payment may be expected from  
210.25 health insurance, public programs, or other sources, if known; and what charges the  
210.26 participant may be responsible for paying;

210.27 (7) receive services from an individual who is competent and trained, who has  
210.28 professional certification or licensure, as required, and who meets additional qualifications  
210.29 identified in the participant's CFSS service delivery plan;

211.1 (8) have the participant's preferences for support workers identified and documented,  
211.2 and have those preferences met when possible; and

211.3 (9) before services are initiated, be told the choices that are available from the  
211.4 agency-provider for meeting the participant's assessed needs identified in the CFSS service  
211.5 delivery plan, including but not limited to which support worker staff will be providing  
211.6 services ~~and~~, the proposed frequency and schedule of visits, and any agreements for shared  
211.7 services.

211.8 Sec. 106. Minnesota Statutes 2020, section 256B.85, subdivision 23, is amended to read:

211.9 Subd. 23. **Commissioner's access.** (a) When the commissioner is investigating a possible  
211.10 overpayment of Medicaid funds, the commissioner must be given immediate access without  
211.11 prior notice to the agency-provider, consultation services provider, or FMS provider's office  
211.12 during regular business hours and to documentation and records related to services provided  
211.13 and submission of claims for services provided. ~~Denying the commissioner access to records~~  
211.14 ~~is cause for immediate suspension of payment and terminating~~ If the agency-provider's  
211.15 enrollment or agency-provider, FMS provider's enrollment provider, or consultation services  
211.16 provider denies the commissioner access to records, the provider's payment may be  
211.17 immediately suspended or the provider's enrollment may be terminated according to section  
211.18 256B.064 ~~or terminating the consultation services provider contract.~~

211.19 (b) The commissioner has the authority to request proof of compliance with laws, rules,  
211.20 and policies from agency-providers, consultation services providers, FMS providers, and  
211.21 participants.

211.22 (c) When relevant to an investigation conducted by the commissioner, the commissioner  
211.23 must be given access to the business office, documents, and records of the agency-provider,  
211.24 consultation services provider, or FMS provider, including records maintained in electronic  
211.25 format; participants served by the program; and staff during regular business hours. The  
211.26 commissioner must be given access without prior notice and as often as the commissioner  
211.27 considers necessary if the commissioner is investigating an alleged violation of applicable  
211.28 laws or rules. The commissioner may request and shall receive assistance from lead agencies  
211.29 and other state, county, and municipal agencies and departments. The commissioner's access  
211.30 includes being allowed to photocopy, photograph, and make audio and video recordings at  
211.31 the commissioner's expense.

212.1 Sec. 107. Minnesota Statutes 2020, section 256B.85, subdivision 23a, is amended to read:

212.2 Subd. 23a. **Sanctions; information for participants upon termination of services.** (a)

212.3 The commissioner may withhold payment from the provider or suspend or terminate the  
212.4 provider enrollment number if the provider fails to comply fully with applicable laws or  
212.5 rules. The provider has the right to appeal the decision of the commissioner under section  
212.6 256B.064.

212.7 (b) Notwithstanding subdivision 13, paragraph (c), if a participant employer fails to  
212.8 comply fully with applicable laws or rules, the commissioner may disenroll the participant  
212.9 from the budget model. A participant may appeal in writing to the department under section  
212.10 256.045, subdivision 3, to contest the department's decision to disenroll the participant from  
212.11 the budget model.

212.12 (c) Agency-providers of CFSS services or FMS providers must provide each participant  
212.13 with a copy of participant protections in subdivision 20c at least 30 days prior to terminating  
212.14 services to a participant, if the termination results from sanctions under this subdivision or  
212.15 section 256B.064, such as a payment withhold or a suspension or termination of the provider  
212.16 enrollment number. If a CFSS agency-provider ~~or~~ FMS provider, or consultation services  
212.17 provider determines it is unable to continue providing services to a participant because of  
212.18 an action under this subdivision or section 256B.064, the agency-provider ~~or~~ FMS provider,  
212.19 or consultation services provider must notify the participant, the participant's representative,  
212.20 and the commissioner 30 days prior to terminating services to the participant, and must  
212.21 assist the commissioner and lead agency in supporting the participant in transitioning to  
212.22 another CFSS agency-provider ~~or~~ FMS provider, or consultation services provider of the  
212.23 participant's choice.

212.24 (d) In the event the commissioner withholds payment from a CFSS agency-provider ~~or~~,  
212.25 FMS provider, or consultation services provider, or suspends or terminates a provider  
212.26 enrollment number of a CFSS agency-provider ~~or~~ FMS provider, or consultation services  
212.27 provider under this subdivision or section 256B.064, the commissioner may inform the  
212.28 Office of Ombudsman for Long-Term Care and the lead agencies for all participants with  
212.29 active service agreements with the agency-provider ~~or~~ FMS provider, or consultation  
212.30 services provider. At the commissioner's request, the lead agencies must contact participants  
212.31 to ensure that the participants are continuing to receive needed care, and that the participants  
212.32 have been given free choice of agency-provider ~~or~~ FMS provider, or consultation services  
212.33 provider if they transfer to another CFSS agency-provider ~~or~~ FMS provider, or consultation  
212.34 services provider. In addition, the commissioner or the commissioner's delegate may directly  
212.35 notify participants who receive care from the agency-provider ~~or~~ FMS provider, or

213.1 consultation services provider that payments have been or will be withheld or that the  
213.2 provider's participation in medical assistance has been or will be suspended or terminated,  
213.3 if the commissioner determines that the notification is necessary to protect the welfare of  
213.4 the participants.

213.5 Sec. 108. **REVISOR INSTRUCTION.**

213.6 In Minnesota Statutes, sections 245A.191, paragraph (a); 245G.02, subdivision 3; 246.18,  
213.7 subdivision 2; 246.23, subdivision 2; 246.64, subdivision 3; 254A.03, subdivision 3; 254A.19,  
213.8 subdivision 4; 254B.03, subdivision 2; 254B.04, subdivision 1; 254B.05, subdivisions 1a  
213.9 and 4; 254B.051; 254B.06, subdivision 1; 254B.12, subdivisions 1 and 2; 254B.13,  
213.10 subdivisions 2a and 5; 254B.14, subdivision 5; 256L.03, subdivision 2; and 295.53,  
213.11 subdivision 1, the revisor of statutes must change the term "consolidated chemical  
213.12 dependency treatment fund" or similar terms to "behavioral health fund." The revisor may  
213.13 make grammatical changes related to the term change.

213.14 Sec. 109. **REPEALER.**

213.15 (a) Minnesota Statutes 2020, section 252.28, subdivisions 1 and 5, are repealed.

213.16 (b) Minnesota Statutes 2020, sections 252A.02, subdivisions 8 and 10; and 252A.21,  
213.17 subdivision 3, are repealed.

213.18 **EFFECTIVE DATE.** Paragraph (a) is effective the day following final enactment.

213.19 **ARTICLE 4**

213.20 **HEALTH CARE**

213.21 Section 1. **[62A.002] APPLICABILITY OF CHAPTER.**

213.22 Any benefit or coverage mandate included in this chapter does not apply to managed  
213.23 care plans or county-based purchasing plans when the plan is providing coverage to state  
213.24 public health care program enrollees under chapter 256B or 256L.

213.25 Sec. 2. Minnesota Statutes 2020, section 62C.01, is amended by adding a subdivision to  
213.26 read:

213.27 Subd. 4. **Applicability.** Any benefit or coverage mandate included in this chapter does  
213.28 not apply to managed care plans or county-based purchasing plans when the plan is providing  
213.29 coverage to state public health care program enrollees under chapter 256B or 256L.

214.1 Sec. 3. Minnesota Statutes 2020, section 62D.01, is amended by adding a subdivision to  
214.2 read:

214.3 Subd. 3. **Applicability.** Any benefit or coverage mandate included in this chapter does  
214.4 not apply to managed care plans or county-based purchasing plans when the plan is providing  
214.5 coverage to state public health care program enrollees under chapter 256B or 256L.

214.6 Sec. 4. **[62J.011] APPLICABILITY OF CHAPTER.**

214.7 Any benefit or coverage mandate included in this chapter does not apply to managed  
214.8 care plans or county-based purchasing plans when the plan is providing coverage to state  
214.9 public health care program enrollees under chapter 256B or 256L.

214.10 Sec. 5. Minnesota Statutes 2020, section 62Q.02, is amended to read:

214.11 **62Q.02 APPLICABILITY OF CHAPTER.**

214.12 (a) This chapter applies only to health plans, as defined in section 62Q.01, and not to  
214.13 other types of insurance issued or renewed by health plan companies, unless otherwise  
214.14 specified.

214.15 (b) This chapter applies to a health plan company only with respect to health plans, as  
214.16 defined in section 62Q.01, issued or renewed by the health plan company, unless otherwise  
214.17 specified.

214.18 (c) If a health plan company issues or renews health plans in other states, this chapter  
214.19 applies only to health plans issued or renewed in this state for Minnesota residents, or to  
214.20 cover a resident of the state, unless otherwise specified.

214.21 (d) Any benefit or coverage mandate included in this chapter does not apply to managed  
214.22 care plans or county-based purchasing plans when the plan is providing coverage to state  
214.23 public health care program enrollees under chapter 256B or 256L.

214.24 Sec. 6. Minnesota Statutes 2020, section 256B.0625, subdivision 3c, is amended to read:

214.25 Subd. 3c. **Health Services ~~Policy Committee~~ Advisory Council.** (a) The commissioner,  
214.26 after receiving recommendations from professional physician associations, professional  
214.27 associations representing licensed nonphysician health care professionals, and consumer  
214.28 groups, shall establish a ~~13-member~~ 14-member Health Services ~~Policy Committee~~ Advisory  
214.29 Council, which consists of ~~12~~ 13 voting members and one nonvoting member. The Health  
214.30 Services ~~Policy Committee~~ Advisory Council shall advise the commissioner regarding (1)  
214.31 health services pertaining to the administration of health care benefits covered under the

215.1 ~~medical assistance and MinnesotaCare programs~~ Minnesota health care programs (MHCP);  
215.2 ~~and (2) evidence-based decision-making and health care benefit and coverage policies for~~  
215.3 ~~MHCP. The Health Services Advisory Council shall consider available evidence regarding~~  
215.4 ~~quality, safety, and cost-effectiveness when advising the commissioner. The Health Services~~  
215.5 ~~Policy Committee~~ Advisory Council shall meet at least quarterly. The Health Services ~~Policy~~  
215.6 ~~Committee~~ Advisory Council shall annually ~~elect~~ select a ~~physician~~ chair from among its  
215.7 members; who shall work directly with the commissioner's medical director; to establish  
215.8 the agenda for each meeting. The Health Services ~~Policy Committee shall also~~ Advisory  
215.9 Council may recommend criteria for verifying centers of excellence for specific aspects of  
215.10 medical care where a specific set of combined services, a volume of patients necessary to  
215.11 maintain a high level of competency, or a specific level of technical capacity is associated  
215.12 with improved health outcomes.

215.13 (b) The commissioner shall establish a dental ~~subcommittee~~ subcouncil to operate under  
215.14 the Health Services ~~Policy Committee~~ Advisory Council. The dental ~~subcommittee~~  
215.15 subcouncil consists of general dentists, dental specialists, safety net providers, dental  
215.16 hygienists, health plan company and county and public health representatives, health  
215.17 researchers, consumers, and a designee of the commissioner of health. The dental  
215.18 ~~subcommittee~~ subcouncil shall advise the commissioner regarding:

215.19 (1) the critical access dental program under section 256B.76, subdivision 4, including  
215.20 but not limited to criteria for designating and terminating critical access dental providers;

215.21 (2) any changes to the critical access dental provider program necessary to comply with  
215.22 program expenditure limits;

215.23 (3) dental coverage policy based on evidence, quality, continuity of care, and best  
215.24 practices;

215.25 (4) the development of dental delivery models; and

215.26 (5) dental services to be added or eliminated from subdivision 9, paragraph (b).

215.27 ~~(c) The Health Services Policy Committee shall study approaches to making provider~~  
215.28 ~~reimbursement under the medical assistance and MinnesotaCare programs contingent on~~  
215.29 ~~patient participation in a patient-centered decision-making process, and shall evaluate the~~  
215.30 ~~impact of these approaches on health care quality, patient satisfaction, and health care costs.~~  
215.31 ~~The committee shall present findings and recommendations to the commissioner and the~~  
215.32 ~~legislative committees with jurisdiction over health care by January 15, 2010.~~

~~(d)~~ (c) The Health Services ~~Policy Committee~~ shall Advisory Council may monitor and track the practice patterns of ~~physicians providing services to medical assistance and MinnesotaCare enrollees~~ health care providers who serve MHCP recipients under fee-for-service, managed care, and county-based purchasing. The ~~committee~~ monitoring and tracking shall focus on services or specialties for which there is a high variation in utilization or quality across physicians providers, or which are associated with high medical costs. The commissioner, based upon the findings of the ~~committee~~ Health Services Advisory Council, shall ~~regularly~~ may notify ~~physicians providers~~ whose practice patterns indicate below average quality or higher than average utilization or costs. Managed care and county-based purchasing plans shall provide the commissioner with utilization and cost data necessary to implement this paragraph, and the commissioner shall make ~~this~~ these data available to the ~~committee~~ Health Services Advisory Council.

~~(e) The Health Services Policy Committee shall review caesarean section rates for the fee-for-service medical assistance population. The committee may develop best practices policies related to the minimization of caesarean sections, including but not limited to standards and guidelines for health care providers and health care facilities.~~

Sec. 7. Minnesota Statutes 2020, section 256B.0625, subdivision 3d, is amended to read:

Subd. 3d. **Health Services ~~Policy Committee~~ Advisory Council members.** (a) The Health Services ~~Policy Committee~~ Advisory Council consists of:

(1) ~~seven~~ six voting members who are licensed physicians actively engaged in the practice of medicine in Minnesota, ~~one of whom must be actively engaged in the treatment of persons with mental illness, and~~ three of whom must represent health plans currently under contract to serve ~~medical assistance~~ MHCP recipients;

(2) two voting members who are licensed physician specialists actively practicing their specialty in Minnesota;

(3) two voting members who are nonphysician health care professionals licensed or registered in their profession and actively engaged in their practice of their profession in Minnesota;

(4) one voting member who is a health care or mental health professional licensed or registered in the member's profession, actively engaged in the practice of the member's profession in Minnesota, and actively engaged in the treatment of persons with mental illness;

~~(4) one consumer~~ (5) two consumers who shall serve as a voting ~~member~~ members; and



217.1 ~~(5)~~ (6) the commissioner's medical director who shall serve as a nonvoting member.

217.2 (b) Members of the Health Services ~~Policy Committee~~ Advisory Council shall not be  
217.3 employed by the ~~Department of Human Services~~ state of Minnesota, except for the medical  
217.4 director. A quorum shall comprise a simple majority of the voting members. Vacant seats  
217.5 shall not count toward a quorum.

217.6 Sec. 8. Minnesota Statutes 2020, section 256B.0625, subdivision 3e, is amended to read:

217.7 Subd. 3e. **Health Services ~~Policy Committee~~ Advisory Council terms and**  
217.8 **compensation.** ~~Committee~~ Members shall serve staggered three-year terms, with one-third  
217.9 of the voting members' terms expiring annually. Members may be reappointed by the  
217.10 commissioner. The commissioner may require more frequent Health Services ~~Policy~~  
217.11 ~~Committee~~ Advisory Council meetings as needed. An honorarium of \$200 per meeting and  
217.12 reimbursement for mileage and parking shall be paid to each ~~committee~~ council member  
217.13 in attendance except the medical director. The Health Services ~~Policy Committee~~ Advisory  
217.14 Council does not expire as provided in section 15.059, subdivision 6.

217.15 Sec. 9. Minnesota Statutes 2020, section 256B.0625, subdivision 13c, is amended to read:

217.16 Subd. 13c. **Formulary Committee.** The commissioner, after receiving recommendations  
217.17 from professional medical associations and professional pharmacy associations, and consumer  
217.18 groups shall designate a Formulary Committee to carry out duties as described in subdivisions  
217.19 13 to 13g. The Formulary Committee shall be comprised of four licensed physicians actively  
217.20 engaged in the practice of medicine in Minnesota, one of whom must be actively engaged  
217.21 in the treatment of persons with mental illness; at least three licensed pharmacists actively  
217.22 engaged in the practice of pharmacy in Minnesota; and one consumer representative; the  
217.23 remainder to be made up of health care professionals who are licensed in their field and  
217.24 have recognized knowledge in the clinically appropriate prescribing, dispensing, and  
217.25 monitoring of covered outpatient drugs. Members of the Formulary Committee shall not  
217.26 be employed by the Department of Human Services, but the committee shall be staffed by  
217.27 an employee of the department who shall serve as an ex officio, nonvoting member of the  
217.28 committee. The department's medical director shall also serve as an ex officio, nonvoting  
217.29 member for the committee. Committee members shall serve three-year terms and may be  
217.30 reappointed by the commissioner. The Formulary Committee shall meet at least twice per  
217.31 year. The commissioner may require more frequent Formulary Committee meetings as  
217.32 needed. An honorarium of \$100 per meeting and reimbursement for mileage shall be paid  
217.33 to each committee member in attendance. ~~The Formulary Committee expires June 30, 2022.~~

218.1 Sec. 10. Minnesota Statutes 2020, section 256B.0625, subdivision 58, is amended to read:

218.2 Subd. 58. **Early and periodic screening, diagnosis, and treatment services.** (a) Medical  
218.3 assistance covers early and periodic screening, diagnosis, and treatment services (EPSDT).

218.4 In administering the EPSDT program, the commissioner shall, at a minimum:

218.5 (1) provide information to children and families, using the most effective mode identified,  
218.6 regarding:

218.7 (i) the benefits of preventative health care visits;

218.8 (ii) the services available as part of the EPSDT program; and

218.9 (iii) assistance finding a provider, transportation, or interpreter services;

218.10 (2) maintain an up-to-date periodicity schedule published in the department policy  
218.11 manual, taking into consideration the most up-to-date community standard of care; and

218.12 (3) maintain up-to-date policies for providers on the delivery of EPSDT services that  
218.13 are in the provider manual on the department website.

218.14 (b) The commissioner may contract for the administration of the outreach services as  
218.15 required within the EPSDT program.

218.16 (c) The payment amount for a complete EPSDT screening shall not include charges for  
218.17 health care services and products that are available at no cost to the provider and shall not  
218.18 exceed the rate established per Minnesota Rules, part 9505.0445, item M, effective October  
218.19 1, 2010.

218.20 Sec. 11. Minnesota Statutes 2020, section 256B.0638, subdivision 3, is amended to read:

218.21 Subd. 3. **Opioid prescribing work group.** (a) The commissioner of human services, in  
218.22 consultation with the commissioner of health, shall appoint the following voting members  
218.23 to an opioid prescribing work group:

218.24 (1) two consumer members who have been impacted by an opioid abuse disorder or  
218.25 opioid dependence disorder, either personally or with family members;

218.26 (2) one member who is a licensed physician actively practicing in Minnesota and  
218.27 registered as a practitioner with the DEA;

218.28 (3) one member who is a licensed pharmacist actively practicing in Minnesota and  
218.29 registered as a practitioner with the DEA;

218.30 (4) one member who is a licensed nurse practitioner actively practicing in Minnesota  
218.31 and registered as a practitioner with the DEA;

219.1 (5) one member who is a licensed dentist actively practicing in Minnesota and registered  
219.2 as a practitioner with the DEA;

219.3 (6) two members who are nonphysician licensed health care professionals actively  
219.4 engaged in the practice of their profession in Minnesota, and their practice includes treating  
219.5 pain;

219.6 (7) one member who is a mental health professional who is licensed or registered in a  
219.7 mental health profession, who is actively engaged in the practice of that profession in  
219.8 Minnesota, and whose practice includes treating patients with chemical dependency or  
219.9 substance abuse;

219.10 (8) one member who is a medical examiner for a Minnesota county;

219.11 (9) one member of the Health Services Policy Committee established under section  
219.12 256B.0625, subdivisions 3c to 3e;

219.13 (10) one member who is a medical director of a health plan company doing business in  
219.14 Minnesota;

219.15 (11) one member who is a pharmacy director of a health plan company doing business  
219.16 in Minnesota; ~~and~~

219.17 (12) one member representing Minnesota law enforcement; and

219.18 (13) two consumer members who are Minnesota residents and who have used or are  
219.19 using opioids to manage chronic pain.

219.20 (b) In addition, the work group shall include the following nonvoting members:

219.21 (1) the medical director for the medical assistance program;

219.22 (2) a member representing the Department of Human Services pharmacy unit; and

219.23 (3) the medical director for the Department of Labor and Industry.

219.24 (c) An honorarium of \$200 per meeting and reimbursement for mileage and parking  
219.25 shall be paid to each voting member in attendance.

219.26 Sec. 12. Minnesota Statutes 2020, section 256B.0638, subdivision 5, is amended to read:

219.27 Subd. 5. **Program implementation.** (a) The commissioner shall implement the programs  
219.28 within the Minnesota health care program to improve the health of and quality of care  
219.29 provided to Minnesota health care program enrollees. The commissioner shall annually  
219.30 collect and report to provider groups the sentinel measures of data showing individual opioid  
219.31 ~~prescribers data showing the sentinel measures of their~~ prescribers' opioid prescribing

220.1 patterns compared to their anonymized peers. Provider groups shall distribute data to their  
220.2 affiliated, contracted, or employed opioid prescribers.

220.3 (b) The commissioner shall notify an opioid prescriber and all provider groups with  
220.4 which the opioid prescriber is employed or affiliated when the opioid prescriber's prescribing  
220.5 pattern exceeds the opioid quality improvement standard thresholds. An opioid prescriber  
220.6 and any provider group that receives a notice under this paragraph shall submit to the  
220.7 commissioner a quality improvement plan for review and approval by the commissioner  
220.8 with the goal of bringing the opioid prescriber's prescribing practices into alignment with  
220.9 community standards. A quality improvement plan must include:

220.10 (1) components of the program described in subdivision 4, paragraph (a);

220.11 (2) internal practice-based measures to review the prescribing practice of the opioid  
220.12 prescriber and, where appropriate, any other opioid prescribers employed by or affiliated  
220.13 with any of the provider groups with which the opioid prescriber is employed or affiliated;  
220.14 and

220.15 (3) appropriate use of the prescription monitoring program under section 152.126.

220.16 (c) If, after a year from the commissioner's notice under paragraph (b), the opioid  
220.17 prescriber's prescribing practices do not improve so that they are consistent with community  
220.18 standards, the commissioner shall take one or more of the following steps:

220.19 (1) monitor prescribing practices more frequently than annually;

220.20 (2) monitor more aspects of the opioid prescriber's prescribing practices than the sentinel  
220.21 measures; or

220.22 (3) require the opioid prescriber to participate in additional quality improvement efforts,  
220.23 including but not limited to mandatory use of the prescription monitoring program established  
220.24 under section 152.126.

220.25 (d) The commissioner shall terminate from Minnesota health care programs all opioid  
220.26 prescribers and provider groups whose prescribing practices fall within the applicable opioid  
220.27 disenrollment standards.

220.28 Sec. 13. Minnesota Statutes 2020, section 256B.0638, subdivision 6, is amended to read:

220.29 Subd. 6. **Data practices.** (a) Reports and data identifying an opioid prescriber are private  
220.30 data on individuals as defined under section 13.02, subdivision 12, until an opioid prescriber  
220.31 is subject to termination as a medical assistance provider under this section. Notwithstanding  
220.32 this data classification, the commissioner shall share with all of the provider groups with

221.1 which an opioid prescriber is employed, contracted, or affiliated, ~~a report identifying an~~  
221.2 ~~opioid prescriber who is subject to quality improvement activities~~ the data under subdivision  
221.3 5, paragraph (a), (b), or (c).

221.4 (b) Reports and data identifying a provider group are nonpublic data as defined under  
221.5 section 13.02, subdivision 9, until the provider group is subject to termination as a medical  
221.6 assistance provider under this section.

221.7 (c) Upon termination under this section, reports and data identifying an opioid prescriber  
221.8 or provider group are public, except that any identifying information of Minnesota health  
221.9 care program enrollees must be redacted by the commissioner.

221.10 Sec. 14. Minnesota Statutes 2020, section 256B.0659, subdivision 13, is amended to read:

221.11 Subd. 13. **Qualified professional; qualifications.** (a) The qualified professional must  
221.12 work for a personal care assistance provider agency, meet the definition of qualified  
221.13 professional under section 256B.0625, subdivision 19c, ~~and enroll with the department as~~  
221.14 ~~a qualified professional after clearing~~ clear a background study, and meet provider training  
221.15 requirements. Before a qualified professional provides services, the personal care assistance  
221.16 provider agency must initiate a background study on the qualified professional under chapter  
221.17 245C, and the personal care assistance provider agency must have received a notice from  
221.18 the commissioner that the qualified professional:

221.19 (1) is not disqualified under section 245C.14; or

221.20 (2) is disqualified, but the qualified professional has received a set aside of the  
221.21 disqualification under section 245C.22.

221.22 (b) The qualified professional shall perform the duties of training, supervision, and  
221.23 evaluation of the personal care assistance staff and evaluation of the effectiveness of personal  
221.24 care assistance services. The qualified professional shall:

221.25 (1) develop and monitor with the recipient a personal care assistance care plan based on  
221.26 the service plan and individualized needs of the recipient;

221.27 (2) develop and monitor with the recipient a monthly plan for the use of personal care  
221.28 assistance services;

221.29 (3) review documentation of personal care assistance services provided;

221.30 (4) provide training and ensure competency for the personal care assistant in the individual  
221.31 needs of the recipient; and

(5) document all training, communication, evaluations, and needed actions to improve performance of the personal care assistants.

~~(c) Effective July 1, 2011,~~ The qualified professional shall complete the provider training with basic information about the personal care assistance program approved by the commissioner. Newly hired qualified professionals must complete the training within six months of the date hired by a personal care assistance provider agency. Qualified professionals who have completed the required training as a worker from a personal care assistance provider agency do not need to repeat the required training if they are hired by another agency, if they have completed the training within the last three years. The required training must be available with meaningful access according to title VI of the Civil Rights Act and federal regulations adopted under that law or any guidance from the United States Health and Human Services Department. The required training must be available online or by electronic remote connection. The required training must provide for competency testing to demonstrate an understanding of the content without attending in-person training. A qualified professional is allowed to be employed and is not subject to the training requirement until the training is offered online or through remote electronic connection. A qualified professional employed by a personal care assistance provider agency certified for participation in Medicare as a home health agency is exempt from the training required in this subdivision. When available, the qualified professional working for a Medicare-certified home health agency must successfully complete the competency test. The commissioner shall ensure there is a mechanism in place to verify the identity of persons completing the competency testing electronically.

Sec. 15. **REVISOR INSTRUCTION.**

The revisor of statutes must change the term "Health Services Policy Committee" to "Health Services Advisory Council" wherever the term appears in Minnesota Statutes and may make any necessary changes to grammar or sentence structure to preserve the meaning of the text.

Sec. 16. **REPEALER.**

Minnesota Rules, parts 9505.0275; 9505.1693; 9505.1696, subparts 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22; 9505.1699; 9505.1701; 9505.1703; 9505.1706; 9505.1712; 9505.1715; 9505.1718; 9505.1724; 9505.1727; 9505.1730; 9505.1733; 9505.1736; 9505.1739; 9505.1742; 9505.1745; and 9505.1748, are repealed.

**ARTICLE 5****LICENSING AND BACKGROUND STUDIES**

Section 1. Minnesota Statutes 2020, section 245A.02, subdivision 5a, is amended to read:

Subd. 5a. **Controlling individual.** (a) "Controlling individual" means an owner of a program or service provider licensed under this chapter and the following individuals, if applicable:

(1) each officer of the organization, including the chief executive officer and chief financial officer;

(2) the individual designated as the authorized agent under section 245A.04, subdivision 1, paragraph (b);

(3) the individual designated as the compliance officer under section 256B.04, subdivision 21, paragraph (g); ~~and~~

(4) each managerial official whose responsibilities include the direction of the management or policies of a program; and

(5) the president and treasurer of the board of directors of a nonprofit corporation.

(b) Controlling individual does not include:

(1) a bank, savings bank, trust company, savings association, credit union, industrial loan and thrift company, investment banking firm, or insurance company unless the entity operates a program directly or through a subsidiary;

(2) an individual who is a state or federal official, or state or federal employee, or a member or employee of the governing body of a political subdivision of the state or federal government that operates one or more programs, unless the individual is also an officer, owner, or managerial official of the program, receives remuneration from the program, or owns any of the beneficial interests not excluded in this subdivision;

(3) an individual who owns less than five percent of the outstanding common shares of a corporation:

(i) whose securities are exempt under section 80A.45, clause (6); or

(ii) whose transactions are exempt under section 80A.46, clause (2);

(4) an individual who is a member of an organization exempt from taxation under section 290.05, unless the individual is also an officer, owner, or managerial official of the program or owns any of the beneficial interests not excluded in this subdivision. This clause does

224.1 not exclude from the definition of controlling individual an organization that is exempt from  
224.2 taxation; or

224.3 (5) an employee stock ownership plan trust, or a participant or board member of an  
224.4 employee stock ownership plan, unless the participant or board member is a controlling  
224.5 individual according to paragraph (a).

224.6 (c) For purposes of this subdivision, "managerial official" means an individual who has  
224.7 the decision-making authority related to the operation of the program, and the responsibility  
224.8 for the ongoing management of or direction of the policies, services, or employees of the  
224.9 program. A site director who has no ownership interest in the program is not considered to  
224.10 be a managerial official for purposes of this definition.

224.11 Sec. 2. Minnesota Statutes 2020, section 245A.02, subdivision 10b, is amended to read:

224.12 Subd. 10b. **Owner.** "Owner" means an individual or organization that has a direct or  
224.13 indirect ownership interest of five percent or more in a program licensed under this chapter.  
224.14 For purposes of this subdivision, "direct ownership interest" means the possession of equity  
224.15 in capital, stock, or profits of an organization, and "indirect ownership interest" means a  
224.16 direct ownership interest in an entity that has a direct or indirect ownership interest in a  
224.17 licensed program. For purposes of this chapter, "owner of a ~~nonprofit corporation~~" means  
224.18 ~~the president and treasurer of the board of directors or, for an entity owned by an employee~~  
224.19 ~~stock ownership plan,~~" means the president and treasurer of the entity. A government entity  
224.20 or nonprofit corporation that is issued a license under this chapter shall be designated the  
224.21 owner.

224.22 Sec. 3. Minnesota Statutes 2020, section 245A.04, subdivision 1, is amended to read:

224.23 Subdivision 1. **Application for licensure.** (a) An individual, organization, or government  
224.24 entity that is subject to licensure under section 245A.03 must apply for a license. The  
224.25 application must be made on the forms and in the manner prescribed by the commissioner.  
224.26 The commissioner shall provide the applicant with instruction in completing the application  
224.27 and provide information about the rules and requirements of other state agencies that affect  
224.28 the applicant. An applicant seeking licensure in Minnesota with headquarters outside of  
224.29 Minnesota must have a program office located within 30 miles of the Minnesota border.  
224.30 An applicant who intends to buy or otherwise acquire a program or services licensed under  
224.31 this chapter that is owned by another license holder must apply for a license under this  
224.32 chapter and comply with the application procedures in this section and section ~~245A.03~~  
224.33 245A.043.



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

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

225.15 (b) An application for licensure must identify all controlling individuals as defined in  
225.16 section 245A.02, subdivision 5a, and must designate one individual to be the authorized  
225.17 agent. The application must be signed by the authorized agent and must include the authorized  
225.18 agent's first, middle, and last name; mailing address; and e-mail address. By submitting an  
225.19 application for licensure, the authorized agent consents to electronic communication with  
225.20 the commissioner throughout the application process. The authorized agent must be  
225.21 authorized to accept service on behalf of all of the controlling individuals. A government  
225.22 entity that holds multiple licenses under this chapter may designate one authorized agent  
225.23 for all licenses issued under this chapter or may designate a different authorized agent for  
225.24 each license. Service on the authorized agent is service on all of the controlling individuals.  
225.25 It is not a defense to any action arising under this chapter that service was not made on each  
225.26 controlling individual. The designation of a controlling individual as the authorized agent  
225.27 under this paragraph does not affect the legal responsibility of any other controlling individual  
225.28 under this chapter.

225.29 (c) An applicant or license holder must have a policy that prohibits license holders,  
225.30 employees, subcontractors, and volunteers, when directly responsible for persons served  
225.31 by the program, from abusing prescription medication or being in any manner under the  
225.32 influence of a chemical that impairs the individual's ability to provide services or care. The  
225.33 license holder must train employees, subcontractors, and volunteers about the program's  
225.34 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 commissioner may limit communication during the application process to the authorized agent or the controlling individuals identified on the license application and for whom a background study was initiated under chapter 245C. The commissioner may require the applicant, except for child foster care, to demonstrate competence in the applicable licensing requirements by successfully completing a written examination. The commissioner may develop a prescribed written examination format.

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

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

(2) at the request of the commissioner, a copy of the most recent filing with the secretary of state that includes the complete business name, if any;

(3) if doing business under a different name, the doing business as (DBA) name, as registered with the secretary of state;

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

(5) at the request of the commissioner, the notarized signature of the applicant or authorized agent.

(g) When an applicant is an organization, the applicant must provide:

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

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

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

(4) if applicable, the applicant's NPI number and UMPI number;

227.1 (5) the documents that created the organization and that determine the organization's  
227.2 internal governance and the relations among the persons that own the organization, have  
227.3 an interest in the organization, or are members of the organization, in each case as provided  
227.4 or authorized by the organization's governing statute, which may include a partnership  
227.5 agreement, bylaws, articles of organization, organizational chart, and operating agreement,  
227.6 or comparable documents as provided in the organization's governing statute; and

227.7 (6) the notarized signature of the applicant or authorized agent.

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

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

227.11 (2) the applicant's taxpayer identification numbers including the Minnesota tax  
227.12 identification number and federal employer identification number;

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

227.15 (4) if applicable, the applicant's NPI number and UMPI number.

227.16 (i) At the time of application for licensure or renewal of a license under this chapter, the  
227.17 applicant or license holder must acknowledge on the form provided by the commissioner  
227.18 if the applicant or license holder elects to receive any public funding reimbursement from  
227.19 the commissioner for services provided under the license that:

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

227.23 (2) noncompliance with the provider enrollment agreement or registration requirements  
227.24 for receipt of public funding that is identified through a licensing investigation or licensing  
227.25 inspection, or noncompliance with a licensing requirement that is a basis of enrollment for  
227.26 reimbursement for a service, may result in:

227.27 (i) a correction order or a conditional license under section 245A.06, or sanctions under  
227.28 section 245A.07;

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

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

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

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

228.2 Sec. 4. Minnesota Statutes 2020, section 245A.04, subdivision 7, is amended to read:

228.3 Subd. 7. **Grant of license; license extension.** (a) If the commissioner determines that  
228.4 the program complies with all applicable rules and laws, the commissioner shall issue a  
228.5 license consistent with this section or, if applicable, a temporary change of ownership license  
228.6 under section 245A.043. At minimum, the license shall state:

228.7 (1) the name of the license holder;

228.8 (2) the address of the program;

228.9 (3) the effective date and expiration date of the license;

228.10 (4) the type of license;

228.11 (5) the maximum number and ages of persons that may receive services from the program;

228.12 and

228.13 (6) any special conditions of licensure.

228.14 (b) The commissioner may issue a license for a period not to exceed two years if:

228.15 (1) the commissioner is unable to conduct the ~~evaluation or~~ observation required by  
228.16 subdivision 4, paragraph (a), clause ~~(4)~~ (3), because the program is not yet operational;

228.17 (2) certain records and documents are not available because persons are not yet receiving  
228.18 services from the program; and

228.19 (3) the applicant complies with applicable laws and rules in all other respects.

228.20 (c) A decision by the commissioner to issue a license does not guarantee that any person  
228.21 or persons will be placed or cared for in the licensed program.

228.22 (d) Except as provided in paragraphs (f) and (g), the commissioner shall not issue or  
228.23 reissue a license if the applicant, license holder, or controlling individual has:

228.24 (1) been disqualified and the disqualification was not set aside and no variance has been  
228.25 granted;

228.26 (2) been denied a license under this chapter, within the past two years;

228.27 (3) had a license issued under this chapter revoked within the past five years;

228.28 (4) an outstanding debt related to a license fee, licensing fine, or settlement agreement  
228.29 for which payment is delinquent; or

(5) failed to submit the information required of an applicant under subdivision 1, paragraph (f) ~~or~~ (g), or (h), after being requested by the commissioner.

When a license issued under this chapter is revoked under clause (1) or (3), the license holder and controlling individual may not hold any license under chapter 245A for five years following the revocation, and other licenses held by the applicant, license holder, or controlling individual shall also be revoked.

(e) The commissioner shall not issue or reissue a license under this chapter if an individual living in the household where the services will be provided as specified under section 245C.03, subdivision 1, has been disqualified and the disqualification has not been set aside and no variance has been granted.

(f) Pursuant to section 245A.07, subdivision 1, paragraph (b), when a license issued under this chapter has been suspended or revoked and the suspension or revocation is under appeal, the program may continue to operate pending a final order from the commissioner. If the license under suspension or revocation will expire before a final order is issued, a temporary provisional license may be issued provided any applicable license fee is paid before the temporary provisional license is issued.

(g) Notwithstanding paragraph (f), when a revocation is based on the disqualification of a controlling individual or license holder, and the controlling individual or license holder is ordered under section 245C.17 to be immediately removed from direct contact with persons receiving services or is ordered to be under continuous, direct supervision when providing direct contact services, the program may continue to operate only if the program complies with the order and submits documentation demonstrating compliance with the order. If the disqualified individual fails to submit a timely request for reconsideration, or if the disqualification is not set aside and no variance is granted, the order to immediately remove the individual from direct contact or to be under continuous, direct supervision remains in effect pending the outcome of a hearing and final order from the commissioner.

(h) For purposes of reimbursement for meals only, under the Child and Adult Care Food Program, Code of Federal Regulations, title 7, subtitle B, chapter II, subchapter A, part 226, relocation within the same county by a licensed family day care provider, shall be considered an extension of the license for a period of no more than 30 calendar days or until the new license is issued, whichever occurs first, provided the county agency has determined the family day care provider meets licensure requirements at the new location.

(i) Unless otherwise specified by statute, all licenses issued under this chapter expire at 12:01 a.m. on the day after the expiration date stated on the license. A license holder must

230.1 apply for and be granted a new license to operate the program or the program must not be  
230.2 operated after the expiration date.

230.3 (j) The commissioner shall not issue or reissue a license under this chapter if it has been  
230.4 determined that a tribal licensing authority has established jurisdiction to license the program  
230.5 or service.

230.6 Sec. 5. Minnesota Statutes 2020, section 245A.041, is amended by adding a subdivision  
230.7 to read:

230.8 Subd. 5. **First date of direct contact; documentation requirements.** Except for family  
230.9 child care, family foster care for children or adults, and family adult day services that the  
230.10 license holder provides in the license holder's residence, license holders must document the  
230.11 first date that a background study subject has direct contact, as defined in section 245C.02,  
230.12 subdivision 11, with a person served by the license holder's program. Unless this chapter  
230.13 otherwise requires, if the license holder does not maintain documentation in the license  
230.14 holder's personnel files of the first date that a background study subject has direct contact  
230.15 with a person served by the license holder's program, the license holder must provide  
230.16 documentation to the commissioner that contains the first date that each background study  
230.17 subject has direct contact with a person served by the license holder's program upon the  
230.18 commissioner's request.

230.19 **EFFECTIVE DATE.** This section is effective January 1, 2022.

230.20 Sec. 6. Minnesota Statutes 2020, section 245A.11, subdivision 7, is amended to read:

230.21 Subd. 7. **Adult foster care; variance for alternate overnight supervision.** (a) The  
230.22 commissioner may grant a variance under section 245A.04, subdivision 9, to rule parts  
230.23 requiring a caregiver to be present in an adult foster care home or a community residential  
230.24 setting during normal sleeping hours to allow for alternative methods of overnight  
230.25 supervision. The commissioner may grant the variance if the local county licensing agency  
230.26 recommends the variance and the county recommendation includes documentation verifying  
230.27 that:

230.28 (1) the county has approved the license holder's plan for alternative methods of providing  
230.29 overnight supervision and determined the plan protects the residents' health, safety, and  
230.30 rights;

(2) the license holder has obtained written and signed informed consent from each resident or each resident's legal representative documenting the resident's or legal representative's agreement with the alternative method of overnight supervision; and

(3) the alternative method of providing overnight supervision, which may include the use of technology, is specified for each resident in the resident's: (i) individualized plan of care; (ii) individual service plan under section 256B.092, subdivision 1b, if required; or (iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required.

(b) To be eligible for a variance under paragraph (a), the adult foster care or community residential setting license holder must not have had a conditional license issued under section 245A.06, or any other licensing sanction issued under section 245A.07 during the prior 24 months based on failure to provide adequate supervision, health care services, or resident safety in the adult foster care home or community residential setting.

(c) A license holder requesting a variance under this subdivision to utilize technology as a component of a plan for alternative overnight supervision may request the commissioner's review in the absence of a county recommendation. Upon receipt of such a request from a license holder, the commissioner shall review the variance request with the county.

~~(d) A variance granted by the commissioner according to this subdivision before January 1, 2014, to a license holder for an adult foster care home must transfer with the license when the license converts to a community residential setting license under chapter 245D. The terms and conditions of the variance remain in effect as approved at the time the variance was granted.~~

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

Sec. 7. Minnesota Statutes 2020, section 245A.11, is amended by adding a subdivision to read:

**Subd. 12. License holder qualifications for child foster care.** (a) Child foster care license holders and household members must maintain the ability to care for a foster child. License holders must immediately notify the licensing agency of:

(1) any changes to the license holder or household member's physical or behavioral health that may affect the license holder's ability to care for a foster child or pose a risk to a foster child's health; or

(2) the removal of a child for whom the license holder is responsible from the license holder's home.

232.1 (b) The licensing agency may request a license holder or household member to undergo  
232.2 an evaluation by a specialist in such areas as health, mental health, or substance use disorders  
232.3 to evaluate the license holder's ability to provide a safe environment for a foster child.

232.4 **EFFECTIVE DATE.** This section is effective January 1, 2022.

232.5 Sec. 8. Minnesota Statutes 2020, section 245A.14, subdivision 4, is amended to read:

232.6 Subd. 4. **Special family day care homes.** Nonresidential child care programs serving  
232.7 14 or fewer children that are conducted at a location other than the license holder's own  
232.8 residence shall be licensed under this section and the rules governing family day care or  
232.9 group family day care if:

232.10 (a) the license holder is the primary provider of care and the nonresidential child care  
232.11 program is conducted in a dwelling that is located on a residential lot;

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

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

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

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

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

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

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

232.31 (4) the facility has square footage required per child under Minnesota Rules, part  
232.32 9502.0425;



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

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

233.3 (i) if the program serves more than five children older than 2-1/2 years of age, but no  
233.4 more than five children 2-1/2 years of age or less, the applicable fire code is educational  
233.5 occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code ~~2015~~  
233.6 2020, Section 202; or

233.7 (ii) if the program serves more than five children 2-1/2 years of age or less, the applicable  
233.8 fire code is Group I-4 ~~Occupancies~~ Occupancy, as provided in the Minnesota State Fire  
233.9 Code ~~2015~~ 2020, Section 202, unless the rooms in which the children 2-1/2 years of age or  
233.10 younger are cared for are located on a level of exit discharge and each of these child care  
233.11 rooms has an exit door directly to the exterior, then the applicable fire code is Group E  
233.12 ~~occupancies~~ Occupancy, as provided in the Minnesota State Fire Code ~~2015~~ 2020, Section  
233.13 202; and

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

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

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

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

233.20 (i) if the program serves more than five children older than 2-1/2 years of age, but no  
233.21 more than five children 2-1/2 years of age or less, the applicable fire code is educational  
233.22 occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code ~~2015~~  
233.23 2020, Section 202; or

233.24 (ii) if the program serves more than five children 2-1/2 years of age or less, the applicable  
233.25 fire code is Group I-4 ~~Occupancies~~ Occupancy, as provided under the Minnesota State Fire  
233.26 Code ~~2015~~ 2020, Section 202, unless the rooms in which the children 2-1/2 years of age or  
233.27 younger are cared for are located on a level of exit discharge and each of these child care  
233.28 rooms has an exit door directly to the exterior, then the applicable fire code is Group E  
233.29 Occupancy, as provided in the Minnesota State Fire Code 2020, Section 202;

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

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

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

(h) The commissioner may grant variances to this section to allow a primary provider of care, a not-for-profit organization, a church or religious organization, an employer, or a community collaborative to be licensed to provide child care under paragraphs (e) and (f) if the license holder meets the other requirements of the statute.

**EFFECTIVE DATE.** This section is effective January 1, 2022.

Sec. 9. Minnesota Statutes 2020, section 245A.1435, is amended to read:

**245A.1435 REDUCTION OF RISK OF SUDDEN UNEXPECTED INFANT DEATH  
IN LICENSED PROGRAMS.**

(a) When a license holder is placing an infant to sleep, the license holder must place the infant on the infant's back, unless the license holder has documentation from the infant's physician or advanced practice registered nurse directing an alternative sleeping position for the infant. The physician or advanced practice registered nurse directive must be on a form ~~approved~~ developed by the commissioner and must remain on file at the licensed location.

An infant who independently rolls onto its stomach after being placed to sleep on its back may be allowed to remain sleeping on its stomach if the infant is at least six months of age or the license holder has a signed statement from the parent indicating that the infant regularly rolls over at home.

(b) The license holder must place the infant in a crib directly on a firm mattress with a fitted sheet that is appropriate to the mattress size, that fits tightly on the mattress, and overlaps the underside of the mattress so it cannot be dislodged by pulling on the corner of the sheet with reasonable effort. The license holder must not place anything in the crib with the infant except for the infant's pacifier, as defined in Code of Federal Regulations, title 16, part 1511. The pacifier must be free from any sort of attachment. The requirements of this section apply to license holders serving infants younger than one year of age. Licensed

235.1 child care providers must meet the crib requirements under section 245A.146. A correction  
235.2 order shall not be issued under this paragraph unless there is evidence that a violation  
235.3 occurred when an infant was present in the license holder's care.

235.4 (c) If an infant falls asleep before being placed in a crib, the license holder must move  
235.5 the infant to a crib as soon as practicable, and must keep the infant within sight of the license  
235.6 holder until the infant is placed in a crib. When an infant falls asleep while being held, the  
235.7 license holder must consider the supervision needs of other children in care when determining  
235.8 how long to hold the infant before placing the infant in a crib to sleep. The sleeping infant  
235.9 must not be in a position where the airway may be blocked or with anything covering the  
235.10 infant's face.

235.11 (d) When a license holder places an infant under one year of age down to sleep, the  
235.12 infant's clothing or sleepwear must not have weighted materials, a hood, or a bib.

235.13 (e) A license holder may place an infant under one year of age down to sleep wearing  
235.14 a helmet if the license holder has signed documentation by a physician, advanced practice  
235.15 registered nurse, licensed occupational therapist, or a licensed physical therapist on a form  
235.16 developed by the commissioner.

235.17 ~~(d)~~ (f) Placing a swaddled infant down to sleep in a licensed setting is not recommended  
235.18 for an infant of any age and is prohibited for any infant who has begun to roll over  
235.19 independently. However, with the written consent of a parent or guardian according to this  
235.20 paragraph, a license holder may place the infant who has not yet begun to roll over on its  
235.21 own down to sleep in a ~~one-piece sleeper equipped with an attached system that fastens~~  
235.22 ~~securely only across the upper torso, with no constriction of the hips or legs, to create a~~  
235.23 swaddle. A swaddle is defined as one-piece sleepwear that wraps over the infant's arms,  
235.24 fastens securely only across the infant's upper torso, and does not constrict the infant's hips  
235.25 or legs. If a swaddle is used by a license holder, the license holder must ensure that it meets  
235.26 the requirements of paragraph (d) and is not so tight that it restricts the infant's ability to  
235.27 breathe or so loose that the fabric could cover the infant's nose and mouth. Prior to any use  
235.28 of swaddling for sleep by a provider licensed under this chapter, the license holder must  
235.29 obtain informed written consent for the use of swaddling from the parent or guardian of the  
235.30 infant on a form ~~provided~~ developed by the commissioner ~~and prepared in partnership with~~  
235.31 ~~the Minnesota Sudden Infant Death Center.~~

235.32 **EFFECTIVE DATE.** This section is effective January 1, 2022.

Sec. 10. Minnesota Statutes 2020, section 245A.1443, is amended to read:

**245A.1443 CHEMICAL DEPENDENCY SUBSTANCE USE DISORDER  
TREATMENT LICENSED PROGRAMS THAT SERVE PARENTS WITH THEIR  
CHILDREN.**

Subdivision 1. **Application.** This section applies to ~~chemical dependency~~ residential substance use disorder treatment facilities that are licensed under this chapter and ~~Minnesota Rules, chapter 9530,~~ 245G and that provide services in accordance with section 245G.19.

Subd. 2. **Requirements for providing education.** (a) On or before the date of a child's initial physical presence at the facility, the license holder must provide education to the child's parent related to safe bathing and reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. The license holder must use the educational material developed by the commissioner to comply with this requirement. At a minimum, the education must address:

(1) instruction that a child or infant should never be left unattended around water, a tub should be filled with only two to four inches of water for infants, and an infant should never be put into a tub when the water is running; and

(2) the risk factors related to sudden unexpected infant death and abusive head trauma from shaking infants and young children, and means of reducing the risks, including the safety precautions identified in section 245A.1435 and the ~~dangers~~ risks of co-sleeping.

(b) The license holder must document the parent's receipt of the education and keep the documentation in the parent's file. The documentation must indicate whether the parent agrees to comply with the safeguards. If the parent refuses to comply, program staff must provide additional education to the parent ~~at appropriate intervals, at least weekly as described in the parental supervision plan.~~ at appropriate intervals, at least weekly as described in the parental supervision plan. The parental supervision plan must include the intervention, frequency, and staff responsible for the duration of the parent's participation in the program or until the parent agrees to comply with the safeguards.

Subd. 3. **Parental supervision of children.** (a) On or before the date of a child's initial physical presence at the facility, the license holder must ~~complete and document an assessment of the parent's capacity to meet the health and safety needs of the child while on the facility premises, including identifying circumstances when the parent may be unable to adequately care for their child due to~~ considering the following factors:

(1) the parent's physical ~~or~~ and mental health;

(2) the parent being under the influence of drugs, alcohol, medications, or other chemicals;

237.1 ~~(3) the parent being unable to provide appropriate supervision for the child; or~~

237.2 (3) the child's physical and mental health; and

237.3 (4) any other information available to the license holder that indicates the parent may  
237.4 not be able to adequately care for the child.

237.5 (b) The license holder must have written procedures specifying the actions to be taken  
237.6 by staff if a parent is or becomes unable to adequately care for the parent's child.

237.7 (c) If the parent refuses to comply with the safeguards described in subdivision 2 or is  
237.8 unable to adequately care for the child, the license holder must develop a parental supervision  
237.9 plan in conjunction with the client. The plan must account for any factors in paragraph (a)  
237.10 that contribute to the parent's inability to adequately care for the child. The plan must be  
237.11 dated and signed by the staff person who completed the plan.

237.12 Subd. 4. **Alternative supervision arrangements.** The license holder must have written  
237.13 procedures addressing whether the program permits a parent to arrange for supervision of  
237.14 the parent's child by another client in the program. If permitted, the facility must have a  
237.15 procedure that requires staff approval of the supervision arrangement before the supervision  
237.16 by the nonparental client occurs. The procedure for approval must include an assessment  
237.17 of the nonparental client's capacity to assume the supervisory responsibilities using the  
237.18 criteria in subdivision 3. The license holder must document the license holder's approval of  
237.19 the supervisory arrangement and the assessment of the nonparental client's capacity to  
237.20 supervise the child, and must keep this documentation in the file of the parent of the child  
237.21 being supervised.

237.22 **EFFECTIVE DATE.** This section is effective January 1, 2022.

237.23 Sec. 11. Minnesota Statutes 2020, section 245A.146, subdivision 3, is amended to read:

237.24 Subd. 3. **License holder documentation of cribs.** (a) Annually, from the date printed  
237.25 on the license, all license holders shall check all their cribs' brand names and model numbers  
237.26 against the United States Consumer Product Safety Commission website listing of unsafe  
237.27 cribs.

237.28 (b) The license holder shall maintain written documentation to be reviewed on site for  
237.29 each crib showing that the review required in paragraph (a) has been completed, and which  
237.30 of the following conditions applies:

237.31 (1) the crib was not identified as unsafe on the United States Consumer Product Safety  
237.32 Commission website;

(2) the crib was identified as unsafe on the United States Consumer Product Safety Commission website, but the license holder has taken the action directed by the United States Consumer Product Safety Commission to make the crib safe; or

(3) the crib was identified as unsafe on the United States Consumer Product Safety Commission website, and the license holder has removed the crib so that it is no longer used by or accessible to children in care.

(c) Documentation of the review completed under this subdivision shall be maintained by the license holder on site and made available to parents or guardians of children in care and the commissioner.

(d) Notwithstanding Minnesota Rules, part 9502.0425, a family child care provider that complies with this section may use a mesh-sided or fabric-sided play yard, pack and play, or playpen or crib that has not been identified as unsafe on the United States Consumer Product Safety Commission website for the care or sleeping of infants.

(e) On at least a monthly basis, the family child care license holder shall perform safety inspections of every mesh-sided or fabric-sided play yard, pack and play, or playpen used by or that is accessible to any child in care, and must document the following:

(1) there are no tears, holes, or loose or unraveling threads in mesh or fabric sides of crib;

(2) the weave of the mesh on the crib is no larger than one-fourth of an inch;

(3) no mesh fabric is unsecure or unattached to top rail and floor plate of crib;

(4) no tears or holes to top rail of crib;

(5) the mattress floor board is not soft and does not exceed one inch thick;

(6) the mattress floor board has no rips or tears in covering;

(7) the mattress floor board in use is ~~a waterproof~~ an original mattress or replacement mattress provided by the manufacturer of the crib;

(8) there are no protruding or loose rivets, metal nuts, or bolts on the crib;

(9) there are no knobs or wing nuts on outside crib legs;

(10) there are no missing, loose, or exposed staples; and

(11) the latches on top and side rails used to collapse crib are secure, they lock properly, and are not loose.

**EFFECTIVE DATE.** This section is effective January 1, 2022.

239.1 Sec. 12. Minnesota Statutes 2020, section 245A.16, subdivision 1, is amended to read:

239.2 Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private  
239.3 agencies that have been designated or licensed by the commissioner to perform licensing  
239.4 functions and activities under section 245A.04 and background studies for family child care  
239.5 under chapter 245C; to recommend denial of applicants under section 245A.05; to issue  
239.6 correction orders, to issue variances, and recommend a conditional license under section  
239.7 245A.06; or to recommend suspending or revoking a license or issuing a fine under section  
239.8 245A.07, shall comply with rules and directives of the commissioner governing those  
239.9 functions and with this section. The following variances are excluded from the delegation  
239.10 of variance authority and may be issued only by the commissioner:

239.11 (1) dual licensure of family child care and child foster care, dual licensure of child foster  
239.12 care and adult foster care or a community residential setting, and dual licensure of adult  
239.13 foster care and family child care;

239.14 (2) adult foster care maximum capacity;

239.15 (3) adult foster care minimum age requirement;

239.16 (4) child foster care maximum age requirement;

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

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

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

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

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

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

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

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

240.7 (c) Before the implementation of NETStudy 2.0, county agencies must report information  
240.8 about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision  
240.9 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the  
240.10 commissioner at least monthly in a format prescribed by the commissioner.

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

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

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

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

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

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

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

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

240.24 (h) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or  
240.25 successor provisions; and section 245D.061 or successor provisions, for family child foster  
240.26 care programs providing out-of-home respite, as identified in section 245D.03, subdivision  
240.27 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and  
240.28 private agencies.

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



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

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

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

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

241.8 Sec. 13. Minnesota Statutes 2020, section 245A.18, subdivision 2, is amended to read:

241.9 Subd. 2. **Child passenger restraint systems; training requirement.** (a) Programs  
241.10 licensed by the Department of Human Services under this chapter to follow standards in  
241.11 Minnesota Rules, chapter 2960, that and this chapter to serve a child or children under eight  
241.12 years of age must document training that fulfills the requirements in this subdivision. Section  
241.13 245A.70, subdivision 4, and 245A.75, subdivision 4, describe training requirements for  
241.14 family foster care and foster residence settings.

241.15 (b) Before a license holder, staff person, or caregiver transports a child or children under  
241.16 age eight in a motor vehicle, the person transporting the child must satisfactorily complete  
241.17 training on the proper use and installation of child restraint systems in motor vehicles.  
241.18 ~~Training completed under this section may be used to meet initial or ongoing training under~~  
241.19 ~~Minnesota Rules, part 2960.3070, subparts 1 and 2.~~

241.20 (c) Training required under this section must be completed at orientation or initial training  
241.21 and repeated at least once every five years. At a minimum, the training must address the  
241.22 proper use of child restraint systems based on the child's size, weight, and age, and the  
241.23 proper installation of a car seat or booster seat in the motor vehicle used by the license  
241.24 holder to transport the child or children.

241.25 (d) Training under paragraph (c) must be provided by individuals who are certified and  
241.26 approved by the Department of Public Safety, Office of Traffic Safety. License holders may  
241.27 obtain a list of certified and approved trainers through the Department of Public Safety  
241.28 website or by contacting the agency.

241.29 ~~(e) Notwithstanding paragraph (a), for an emergency relative placement under section~~  
241.30 ~~245A.035, the commissioner may grant a variance to the training required by this subdivision~~  
241.31 ~~for a relative who completes a child seat safety check up. The child seat safety check up~~  
241.32 ~~trainer must be approved by the Department of Public Safety, Office of Traffic Safety, and~~  
241.33 ~~must provide one-on-one instruction on placing a child of a specific age in the exact child~~

242.1 ~~passenger restraint in the motor vehicle in which the child will be transported. Once granted~~  
242.2 ~~a variance, and if all other licensing requirements are met, the relative applicant may receive~~  
242.3 ~~a license and may transport a relative foster child younger than eight years of age. A child~~  
242.4 ~~seat safety check-up must be completed each time a child requires a different size car seat~~  
242.5 ~~according to car seat and vehicle manufacturer guidelines. A relative license holder must~~  
242.6 ~~complete training that meets the other requirements of this subdivision prior to placement~~  
242.7 ~~of another foster child younger than eight years of age in the home or prior to the renewal~~  
242.8 ~~of the child foster care license.~~

242.9 **EFFECTIVE DATE.** This section is effective January 1, 2022.

242.10 Sec. 14. Minnesota Statutes 2020, section 245A.22, is amended by adding a subdivision  
242.11 to read:

242.12 Subd. 8. **Maltreatment of minors training requirements.** The license holder must  
242.13 train each mandatory reporter as described in section 260E.06, subdivision 1, on the  
242.14 maltreatment of minors reporting requirements and definitions in chapter 260E before the  
242.15 mandatory reporter has direct contact, as defined in section 245C.02, subdivision 11, with  
242.16 a person served by the program and the license holder must train each mandatory reporter  
242.17 annually thereafter.

242.18 **EFFECTIVE DATE.** This section is effective January 1, 2022.

242.19 Sec. 15. Minnesota Statutes 2020, section 245A.52, subdivision 1, is amended to read:

242.20 Subdivision 1. **Means of escape.** (a)(1) At least one emergency escape route separate  
242.21 from the main exit from the space must be available in each room used for sleeping by  
242.22 anyone receiving licensed care, and (2) a basement used for child care. One means of escape  
242.23 must be a stairway or door leading to the floor of exit discharge. The other must be a door  
242.24 or window leading directly outside. A window used as an emergency escape route must be  
242.25 openable without special knowledge.

242.26 (b) In homes with construction that began before ~~May 2, 2016~~ March 31, 2020, the  
242.27 interior of the window leading directly outside must have a net clear opening area of not  
242.28 less than 4.5 square feet or 648 square inches and have minimum clear opening dimensions  
242.29 of 20 inches wide and 20 inches high. The net clear opening dimensions shall be the result  
242.30 of normal operation of the opening. The opening must be no higher than 48 inches from the  
242.31 floor. The height to the window may be measured from a platform if a platform is located  
242.32 below the window.

(c) In homes with construction that began on or after ~~May 2, 2016~~ March 31, 2020, the interior of the window leading directly outside must have minimum clear opening dimensions of 20 inches wide and 24 inches high. The net clear opening dimensions shall be the result of normal operation of the opening. The opening must be no higher than 44 inches from the floor. ~~(d)~~ Additional requirements are dependent on the distance of the openings from the ground outside the window: (1) windows or other openings with a sill height not more than 44 inches above or below the finished ground level adjacent to the opening (grade-floor emergency escape and rescue openings) must have a minimum opening of five square feet; and (2) non-grade-floor emergency escape and rescue openings must have a minimum opening of 5.7 square feet.

**EFFECTIVE DATE.** This section is effective January 1, 2022.

Sec. 16. Minnesota Statutes 2020, section 245A.52, subdivision 2, is amended to read:

Subd. 2. **Door to attached garage.** ~~Notwithstanding Minnesota Rules, part 9502.0425, subpart 5, day care residences with an attached garage are not required to have a self-closing door to the residence.~~ If there is an opening between an attached garage and a day care residence, there must be a door that is:

(1) a solid wood bonded core door at least 1-3/8 inches thick;

~~The door to the residence may be~~ (2) a steel insulated door if the door is at least 1-3/8 inches thick; or

(3) a door with a fire protection rating of 20 minutes or greater.

The separation wall on the garage side between the residence and garage must consist of 1/2-inch-thick gypsum wallboard or its equivalent.

**EFFECTIVE DATE.** This section is effective January 1, 2022.

Sec. 17. Minnesota Statutes 2020, section 245A.52, subdivision 3, is amended to read:

Subd. 3. **Heating and venting systems.** (a) Notwithstanding Minnesota Rules, part 9502.0425, subpart 7, item C, items that can be ignited and support combustion, including but not limited to plastic, fabric, and wood products must not be located within:

(1) 18 inches of a any gas or fuel-oil heater or furnace. fired heat-producing appliances;  
or

(2) 36 inches of any solid-fuel burning appliances.

244.1 (b) If a license holder produces manufacturer instructions listing a smaller distance, then  
244.2 the manufacturer instructions control the distance combustible items must be from gas,  
244.3 fuel-oil, or solid-fuel burning heaters or furnaces appliances.

244.4 **EFFECTIVE DATE.** This section is effective January 1, 2022.

244.5 Sec. 18. Minnesota Statutes 2020, section 245A.52, subdivision 5, is amended to read:

244.6 Subd. 5. **Carbon monoxide and smoke alarms.** (a) All homes must have an approved  
244.7 and operational carbon monoxide alarm installed within ten feet of each room used for  
244.8 sleeping children in care.

244.9 (b) Smoke alarms that have been listed by the Underwriter Laboratory must be properly  
244.10 installed and maintained on all levels including basements, but not including crawl spaces  
244.11 and uninhabitable attics, and in hallways outside rooms used for sleeping children in care.

244.12 (c) In homes with construction that began on or after ~~May 2, 2016~~ March 31, 2003,  
244.13 smoke alarms must be installed and maintained in each room used for sleeping children in  
244.14 care.

244.15 **EFFECTIVE DATE.** This section is effective January 1, 2022.

244.16 Sec. 19. Minnesota Statutes 2020, section 245A.52, is amended by adding a subdivision  
244.17 to read:

244.18 Subd. 7. **Stairways.** All stairways must meet the following conditions.

244.19 (1) Stairways of four or more steps must have handrails on at least one side.

244.20 (2) Any open area between the handrail and stair tread must be enclosed with a protective  
244.21 guardrail as specified in the State Building Code. At open risers, openings located more  
244.22 than 30 inches (762 mm), as measured vertically, to the floor or grade below shall not permit  
244.23 the passage of a 4-inch-diameter (102 mm) sphere.

244.24 (3) Gates or barriers must be used when children between the ages of six and 18 months  
244.25 are in care.

244.26 (4) Stairways must be well-lighted, in good repair, and free of clutter and obstructions.

244.27 **EFFECTIVE DATE.** This section is effective January 1, 2022.

245.1 Sec. 20. Minnesota Statutes 2020, section 245A.52, is amended by adding a subdivision  
245.2 to read:

245.3 Subd. 8. **Fire code variances.** When a variance is requested of the standards contained  
245.4 in subdivision 1, 2, 3, 4, or 5, an applicant or provider must submit written approval from  
245.5 the state fire marshal of the variance requested and the alternative measures identified to  
245.6 ensure the safety of children in care.

245.7 **EFFECTIVE DATE.** This section is effective January 1, 2022.

245.8 Sec. 21. Minnesota Statutes 2020, section 245A.66, subdivision 2, is amended to read:

245.9 Subd. 2. **Child care centers; risk reduction plan.** (a) Child care centers licensed under  
245.10 this chapter and Minnesota Rules, chapter 9503, must develop a risk reduction plan that  
245.11 identifies the general risks to children served by the child care center. The license holder  
245.12 must establish procedures to minimize identified risks, train staff on the procedures, and  
245.13 ~~annually~~ review the procedures once per calendar year.

245.14 (b) The risk reduction plan must include an assessment of risk to children the center  
245.15 serves or intends to serve and identify specific risks based on the outcome of the assessment.  
245.16 The assessment of risk must be based on the following:

245.17 (1) an assessment of the risks presented by the physical plant where the licensed services  
245.18 are provided, including an evaluation of the following factors: the condition and design of  
245.19 the facility and its outdoor space, bathrooms, storage areas, and accessibility of medications  
245.20 and cleaning products that are harmful to children when children are not supervised and the  
245.21 existence of areas that are difficult to supervise; and

245.22 (2) an assessment of the risks presented by the environment for each facility and for  
245.23 each site, including an evaluation of the following factors: the type of grounds and terrain  
245.24 surrounding the building and the proximity to hazards, busy roads, and publicly accessed  
245.25 businesses.

245.26 (c) The risk reduction plan must include a statement of measures that will be taken to  
245.27 minimize the risk of harm presented to children for each risk identified in the assessment  
245.28 required under paragraph (b) related to the physical plant and environment. At a minimum,  
245.29 the stated measures must include the development and implementation of specific policies  
245.30 and procedures or reference to existing policies and procedures that minimize the risks  
245.31 identified.

245.32 (d) In addition to any program-specific risks identified in paragraph (b), the plan must  
245.33 include development and implementation of specific policies and procedures or refer to

246.1 existing policies and procedures that minimize the risk of harm or injury to children,  
246.2 including:

246.3 (1) closing children's fingers in doors, including cabinet doors;

246.4 (2) leaving children in the community without supervision;

246.5 (3) children leaving the facility without supervision;

246.6 (4) caregiver dislocation of children's elbows;

246.7 (5) burns from hot food or beverages, whether served to children or being consumed by  
246.8 caregivers, and the devices used to warm food and beverages;

246.9 (6) injuries from equipment, such as scissors and glue guns;

246.10 (7) sunburn;

246.11 (8) feeding children foods to which they are allergic;

246.12 (9) children falling from changing tables; and

246.13 (10) children accessing dangerous items or chemicals or coming into contact with residue  
246.14 from harmful cleaning products.

246.15 (e) The plan shall prohibit the accessibility of hazardous items to children.

246.16 (f) The plan must include specific policies and procedures to ensure adequate supervision  
246.17 of children at all times as defined under section 245A.02, subdivision 18, with particular  
246.18 emphasis on:

246.19 (1) times when children are transitioned from one area within the facility to another;

246.20 (2) nap-time supervision, including infant crib rooms as specified under section 245A.02,  
246.21 subdivision 18, which requires that when an infant is placed in a crib to sleep, supervision  
246.22 occurs when a staff person is within sight or hearing of the infant. When supervision of a  
246.23 crib room is provided by sight or hearing, the center must have a plan to address the other  
246.24 supervision components;

246.25 (3) child drop-off and pick-up times;

246.26 (4) supervision during outdoor play and on community activities, including but not  
246.27 limited to field trips and neighborhood walks;

246.28 (5) supervision of children in hallways; and

246.29 (6) supervision of school-age children when using the restroom and visiting the child's  
246.30 personal storage space.

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

247.2 Sec. 22. Minnesota Statutes 2020, section 245A.66, is amended by adding a subdivision  
247.3 to read:

247.4 Subd. 4. **Annual training requirement.** In addition to the orientation training required  
247.5 by the applicable licensing rules and statutes, children's residential facility, foster care for  
247.6 children, and private child-placing agency license holders must provide a training annually  
247.7 on the maltreatment of minors reporting requirements and definitions in chapter 260E to  
247.8 each mandatory reporter, as described in section 260E.06, subdivision 1.

247.9 **EFFECTIVE DATE.** This section is effective January 1, 2022.

247.10 Sec. 23. **[245A.70] FAMILY CHILD FOSTER CARE TRAINING REQUIREMENTS.**

247.11 Subdivision 1. **Applicability.** This section applies to programs licensed to provide foster  
247.12 care for children in the license holder's residence. For the purposes of this section, "foster  
247.13 parent" means the license holder or license holders.

247.14 Subd. 2. **Orientation.** (a) Each foster parent applicant must complete a minimum of six  
247.15 hours of orientation before the commissioner will license the applicant. An applicant's  
247.16 orientation training hours do not count toward annual training hours. The commissioner  
247.17 may grant a variance to the applicant regarding the number of orientation hours that this  
247.18 subdivision requires.

247.19 (b) The foster parent's orientation must include training about the following:

247.20 (1) emergency procedures, including evacuation routes, emergency telephone numbers,  
247.21 severe storm and tornado procedures, and the location of alarms and equipment;

247.22 (2) all relevant laws and rules, including this chapter; chapters 260, 260C, and 260E;  
247.23 Minnesota Rules, chapter 9560; and related legal issues and reporting requirements;

247.24 (3) cultural diversity, gender sensitivity, culturally specific services, cultural competence,  
247.25 and information about discrimination and racial bias to ensure that caregivers are culturally  
247.26 competent to care for foster children according to section 260C.212, subdivision 11;

247.27 (4) the foster parent's roles and responsibilities in developing and implementing the  
247.28 child's case plan and involvement in court and administrative reviews of the child's placement;

247.29 (5) the licensing agency's requirements;

(6) one hour relating to reasonable and prudent parenting standards for the child's participation in age-appropriate or developmentally appropriate extracurricular, social, or cultural activities according to section 260C.212, subdivision 14;

(7) two hours relating to children's mental health issues according to subdivision 3;

(8) if subdivision 4 requires, the proper use and installation of child passenger restraint systems in motor vehicles;

(9) if subdivision 5 requires, at least one hour about reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children; and

(10) if subdivision 6 requires, operating medical equipment.

Subd. 3. **Mental health training.** Prior to licensure, each foster parent must complete two hours of training that addresses the causes, symptoms, and key warning signs of children's mental health disorders; cultural considerations; and effective approaches to manage a child's behaviors. Prior to caring for a foster child, each caregiver must complete two hours of training that addresses the causes, symptoms, and key warning signs of children's mental health disorders; cultural considerations; and effective approaches to manage a child's behaviors. Each year, each foster parent and caregiver must complete at least one hour of training about children's mental health issues and treatment. A short-term substitute caregiver is exempt from this subdivision. The commissioner of human services shall approve of a mental health training curriculum that satisfies the requirements of this subdivision.

Subd. 4. **Child passenger restraint systems.** (a) Each foster parent and caregiver must satisfactorily complete training about the proper use and installation of child passenger restraint systems in motor vehicles before transporting a child younger than eight years of age in a motor vehicle.

(b) An individual who is certified and approved by the Department of Public Safety, Office of Traffic Safety must provide training about the proper use and installation of child passenger restraint systems in motor vehicles to each foster parent and caregiver who transports a child. At a minimum, the training must address the proper use of child passenger restraint systems based on a child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle that will be transporting the child. A foster parent or caregiver who transports a child must repeat the training in this subdivision at least once every five years.



(c) Notwithstanding paragraph (a), for an emergency relative placement under section 245A.035, the commissioner may grant a variance to the training required by this subdivision to a child's relative who completes a child seat safety checkup. The Department of Public Safety, Office of Traffic Safety must approve of the child seat safety checkup trainer and must provide one-on-one instruction to the child's relative applicant about placing a child of a specific age in the exact child passenger restraint in the motor vehicle that will be used to transport the child. Once the commissioner grants a variance to the child's relative, the child's relative may transport a relative foster child younger than eight years of age, and once the child's relative meets all other licensing requirements, the commissioner may license the child's relative applicant. The child's relative must complete a child seat safety checkup each time that the child requires a different sized car seat according to car seat and vehicle manufacturer guidelines. A relative license holder must complete training that meets the other requirements of this subdivision prior to placement of another foster child younger than eight years of age in the relative license holder's home or prior to the renewal of the relative license holder's child foster care license.

**Subd. 5. Training about the risk of sudden unexpected infant death and abusive head trauma.** Each foster parent and caregiver who cares for an infant or a child five years of age or younger must satisfactorily complete at least one hour of training about reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. The county or private licensing agency monitoring the foster care provider under section 245A.16 must approve of the training about reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. At a minimum, the training must address the risk factors related to sudden unexpected infant death and abusive head trauma, means of reducing the risk of sudden unexpected infant death and abusive head trauma, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death and abusive head trauma. Each foster parent must complete training about reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children prior to licensure. Each caregiver must complete this training prior to caring for an infant or a child five years of age or younger. This section does not apply to emergency relative placement under section 245A.035. Each foster parent and caregiver must complete the training in this subdivision at least once every five years.

**Subd. 6. Training on use of medical equipment.** (a) If caring for a child who relies on medical equipment to sustain the child's life or monitor the child's medical condition, each foster parent and caregiver must satisfactorily complete training to operate the child's

250.1 equipment with a health care professional or an individual who provides training on the  
250.2 child's equipment.

250.3 (b) A foster parent or caregiver is exempt from this subdivision if:

250.4 (1) the foster parent or caregiver is currently caring for an individual who is using the  
250.5 same equipment in the foster home; or

250.6 (2) the foster parent or caregiver has written documentation that the foster parent or  
250.7 caregiver has cared for an individual who relied on the same equipment within the past six  
250.8 months.

250.9 Subd. 7. **Fetal alcohol spectrum disorders training.** Each foster parent and caregiver  
250.10 must complete at least one hour of the annual training requirement about fetal alcohol  
250.11 spectrum disorders. A provider who is also licensed to provide home and community-based  
250.12 services under chapter 245D and the provider's staff are exempt from this subdivision. A  
250.13 short-term substitute caregiver is exempt from this subdivision. The commissioner of human  
250.14 services shall approve a fetal alcohol spectrum disorders training curriculum that satisfies  
250.15 the requirements of this subdivision.

250.16 Subd. 8. **Annual training requirement.** (a) Each foster parent must complete a minimum  
250.17 of 12 hours of training per year. If a foster parent fails to complete the required annual  
250.18 training and does not show good cause why the foster parent did not complete the training,  
250.19 the foster parent is prohibited from accepting a new foster child placement until the foster  
250.20 parent completes the training. The commissioner may grant a variance to the required number  
250.21 of annual training hours.

250.22 (b) Each year, each foster parent and caregiver must complete one hour of training about  
250.23 children's mental health issues according to subdivision 3, and one hour of training about  
250.24 fetal alcohol spectrum disorders, if required by subdivision 7.

250.25 (c) Each year, each foster parent and caregiver must complete training about the reporting  
250.26 requirements and definitions in chapter 260E, as section 245A.66 requires.

250.27 (d) At least once every five years, each foster parent and caregiver must complete one  
250.28 hour of training about reducing the risk of sudden unexpected infant death and abusive head  
250.29 trauma, if required by subdivision 5.

250.30 (e) At least once every five years, each foster parent and caregiver must complete training  
250.31 regarding child passenger restraint systems, if required by subdivision 4.

250.32 (f) The commissioner may provide each foster parent with a nonexclusive list of eligible  
250.33 training topics that fulfill the remaining hours of required annual training.

251.1 Subd. 9. **Documentation of training.** (a) The licensing agency must document the  
251.2 trainings that this section requires on a form that the commissioner has developed.

251.3 (b) For training required under subdivision 6, the agency must also retain a training and  
251.4 skills form on file and update the form each year for each foster care provider who completes  
251.5 training about caring for a child who relies on medical equipment to sustain the child's life  
251.6 or monitor the child's medical condition. The agency placing the child must obtain a copy  
251.7 of the training and skills form from the foster parent or from the agency supervising the  
251.8 foster parent. The agency must retain the form and any updated information on file for the  
251.9 placement's duration. The form must be available to the parent or guardian and the child's  
251.10 social worker for the social worker to make an informed placement decision. The agency  
251.11 must use the training and skills form that the commissioner has developed.

251.12 **EFFECTIVE DATE.** This section is effective January 1, 2022.

251.13 Sec. 24. **[245A.75] FOSTER RESIDENCE SETTING STAFF TRAINING**  
251.14 **REQUIREMENTS.**

251.15 Subdivision 1. **Applicability.** This section applies to foster residence settings, which is  
251.16 defined as foster care that a license holder provides in a home in which the license holder  
251.17 does not reside. "Foster residence setting" does not include any program licensed or certified  
251.18 under Minnesota Rules, parts 2960.0010 to 2960.0710.

251.19 Subd. 2. **Orientation.** The license holder must ensure that each staff person attends and  
251.20 successfully completes at least six hours of orientation training before the staff person has  
251.21 unsupervised contact with a foster child. Orientation training hours are not counted toward  
251.22 the hours of annual training. Orientation must include training about the following:

251.23 (1) emergency procedures, including evacuation routes, emergency telephone numbers,  
251.24 severe storm and tornado procedures, and the location of facility alarms and equipment;

251.25 (2) all relevant laws, rules, and legal issues, including reporting requirements for  
251.26 maltreatment, abuse, and neglect specified in chapter 260E and section 626.557 and other  
251.27 reporting requirements based on the children's ages;

251.28 (3) cultural diversity, gender sensitivity, culturally specific services, and information  
251.29 about discrimination and racial bias to ensure that caregivers are culturally sensitive and  
251.30 culturally competent to care for foster children according to section 260C.212, subdivision  
251.31 11;

251.32 (4) general and special needs, including disability needs, of children and families served;

252.1 (5) operational policies and procedures of the license holder;

252.2 (6) data practices requirements and issues;

252.3 (7) two hours of training about children's mental health disorders according to subdivision

252.4 3;

252.5 (8) if required by subdivision 4, the proper use and installation of child passenger restraint

252.6 systems in motor vehicles;

252.7 (9) if required by subdivision 5, at least one hour of training about reducing the risk of

252.8 sudden unexpected infant death and abusive head trauma from shaking infants and young

252.9 children; and

252.10 (10) if required by subdivision 6, caring for a child who relies on medical equipment to

252.11 sustain the child's life or monitor the child's medical condition.

252.12 Subd. 3. **Mental health training.** Prior to caring for a child, a staff person must complete

252.13 two hours of training that addresses the causes, symptoms, and key warning signs of mental

252.14 health disorders; cultural considerations; and effective approaches to manage a child's

252.15 behaviors. A foster residence staff person must complete at least one hour of the annual

252.16 training requirement regarding children's mental health issues and treatment. A short-term

252.17 substitute caregiver is exempt from this subdivision. The commissioner of human services

252.18 shall approve a mental health training curriculum that satisfies the requirements of this

252.19 subdivision.

252.20 Subd. 4. **Child passenger restraint systems.** Prior to transporting a child younger than

252.21 eight years of age in a motor vehicle, a license holder, staff person, or caregiver must

252.22 satisfactorily complete training about the proper use and installation of child restraint systems

252.23 in motor vehicles. An individual who is certified and approved by the Department of Public

252.24 Safety, Office of Traffic Safety must provide training to a license holder, staff person, or

252.25 caregiver about the proper use and installation of child restraint systems in motor vehicles.

252.26 At a minimum, the training must address the proper use of child passenger restraint systems

252.27 based on a child's size, weight, and age and the proper installation of a car seat or booster

252.28 seat in the motor vehicle transporting the child. Each license holder, staff person, and

252.29 caregiver transporting a child younger than eight years of age in a motor vehicle must

252.30 complete the training in this subdivision at least once every five years.

252.31 Subd. 5. **Training about the risk of sudden unexpected infant death and abusive**

252.32 **head trauma.** A license holder who cares for an infant or a child five years of age or younger

252.33 must document that each staff person has satisfactorily completed at least one hour of

training about reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. The county or private licensing agency responsible for monitoring the child foster care provider under section 245A.16 must approve of the training about reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. At a minimum, the training must address the risk factors related to sudden unexpected infant death and abusive head trauma, means of reducing the risk of sudden unexpected infant death and abusive head trauma, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. Each staff person must complete the training in this subdivision prior to caring for an infant or a child five years of age or younger. Each staff person caring for an infant or a child five years of age or younger must complete the training in this subdivision at least once every five years.

**Subd. 6. Training on use of medical equipment.** (a) If caring for a child who relies on medical equipment to sustain the child's life or monitor a child's medical condition, the license holder or staff person must complete training to operate the child's equipment. A health care professional or an individual who provides training on the equipment must train the license holder or staff person about how to operate the child's equipment.

(b) A license holder is exempt from this subdivision if:

(1) the license holder is currently caring for an individual who is using the same equipment in the foster home and each staff person has received training to use the equipment; or

(2) the license holder has written documentation that, within the past six months, the license holder has cared for an individual who relied on the same equipment and each current staff person has received training to use the same equipment.

**Subd. 7. Fetal alcohol spectrum disorder training.** (a) Each staff person must complete at least one hour of the annual training requirement about fetal alcohol spectrum disorders. The commissioner of human services shall approve of a fetal alcohol spectrum disorder training curriculum that satisfies the requirements of this subdivision.

(b) A provider who is also licensed to provide home and community-based services under chapter 245D and the provider's staff are exempt from this subdivision. A short-term substitute caregiver is exempt from this subdivision.

**Subd. 8. Prudent parenting standards training.** The license holder must have at least one on-site staff person who is trained regarding the reasonable and prudent parenting standards in section 260C.212, subdivision 14, and authorized to apply the reasonable and

254.1 prudent parenting standards to decisions involving the approval of a foster child's  
254.2 participation in age-appropriate and developmentally appropriate extracurricular, social, or  
254.3 cultural activities. The trained on-site staff person is not required to be available 24 hours  
254.4 per day.

254.5 Subd. 9. **Annual training plan and hours.** (a) A license holder must develop an annual  
254.6 training plan for staff and volunteers. The license holder must modify training for staff and  
254.7 volunteers each year to meet each staff person's current needs and provide sufficient training  
254.8 to accomplish each staff person's duties. To determine the type and amount of training for  
254.9 each staff person and volunteer, the license holder must consider the foster care program's  
254.10 target population, the program's services, and expected outcomes from the services, as well  
254.11 as the employee's job description, tasks, and the position's performance indicators.

254.12 (b) A full-time staff person who has direct contact with children must complete at least  
254.13 18 hours of in-service training per year, including nine hours of skill development training.

254.14 (c) A part-time direct care staff person must complete sufficient training to competently  
254.15 care for children. The amount of training must be at least one hour of training for each 60  
254.16 hours that the part-time direct care staff person has worked, up to 18 hours of training per  
254.17 part-time employee per year.

254.18 (d) Other foster residence staff and volunteers must complete in-service training  
254.19 requirements each year that is consistent with the foster residence staff and volunteers'  
254.20 duties.

254.21 (e) Section 245A.66 requires a license holder to ensure that all staff and volunteers have  
254.22 training annually about the reporting requirements and definitions in chapter 260E.

254.23 Subd. 10. **Documentation of training.** (a) For each staff person and volunteer, the  
254.24 license holder must document the date, number of training hours, and the entity's name that  
254.25 provided the training.

254.26 (b) For training that subdivision 6 requires, the agency supervising the foster care provider  
254.27 must retain a training and skills form on file and update the form each year for each staff  
254.28 person who completes training about caring for a child who relies on medical equipment  
254.29 to sustain the child's life or monitor a child's medical condition. The agency placing the  
254.30 child must obtain a copy of the training and skills form from the foster care provider or the  
254.31 agency supervising the foster care provider. The placing agency must retain the form and  
254.32 any updated information on file for the placement's duration. The form must be available  
254.33 to the child's parent or the child's primary caregiver and the child's social worker to make

255.1 an informed placement decision. The agency must use the training and skills form that the  
255.2 commissioner has developed.

255.3 **EFFECTIVE DATE.** This section is effective January 1, 2022.

255.4 Sec. 25. Minnesota Statutes 2020, section 245G.13, subdivision 2, is amended to read:

255.5 Subd. 2. **Staff development.** (a) A license holder must ensure that each staff member  
255.6 has the training described in this subdivision.

255.7 (b) Each staff member must be trained every two years in:

255.8 (1) client confidentiality rules and regulations and client ethical boundaries; and

255.9 (2) emergency procedures and client rights as specified in sections 144.651, 148F.165,  
255.10 and 253B.03.

255.11 (c) Annually each staff member with direct contact must be trained on mandatory  
255.12 reporting as specified in sections 245A.65, 626.557, and 626.5572, and chapter 260E,  
255.13 including specific training covering the license holder's policies for obtaining a release of  
255.14 client information.

255.15 (d) Upon employment and annually thereafter, each staff member with direct contact  
255.16 must receive training on HIV minimum standards according to section 245A.19.

255.17 (e) The license holder must ensure that each mandatory reporter, as described in section  
255.18 260E.06, subdivision 1, is trained on the maltreatment of minors reporting requirements  
255.19 and definitions in chapter 260E before the mandatory reporter has direct contact, as defined  
255.20 in section 245C.02, subdivision 11, with a person served by the program.

255.21 (f) A treatment director, supervisor, nurse, or counselor must have a minimum of 12  
255.22 hours of training in co-occurring disorders that includes competencies related to philosophy,  
255.23 trauma-informed care, screening, assessment, diagnosis and person-centered treatment  
255.24 planning, documentation, programming, medication, collaboration, mental health  
255.25 consultation, and discharge planning. A new staff member who has not obtained the training  
255.26 must complete the training within six months of employment. A staff member may request,  
255.27 and the license holder may grant, credit for relevant training obtained before employment,  
255.28 which must be documented in the staff member's personnel file.

255.29 **EFFECTIVE DATE.** This section is effective January 1, 2022.

256.1 Sec. 26. Minnesota Statutes 2020, section 245H.08, subdivision 4, is amended to read:

256.2 Subd. 4. **Maximum group size.** (a) For a child six weeks old through 16 months old,  
256.3 the maximum group size shall be no more than eight children.

256.4 (b) For a child 16 months old through 33 months old, the maximum group size shall be  
256.5 no more than 14 children.

256.6 (c) For a child 33 months old through prekindergarten, a maximum group size shall be  
256.7 no more than 20 children.

256.8 (d) For a child in kindergarten through 13 years old, a maximum group size shall be no  
256.9 more than 30 children.

256.10 (e) The maximum group size applies at all times except during group activity coordination  
256.11 time not exceeding 15 minutes, during a meal, outdoor activity, field trip, nap and rest, and  
256.12 special activity including a film, guest speaker, indoor large muscle activity, or holiday  
256.13 program.

256.14 (f) Notwithstanding paragraph (d), a certified center may continue to serve a child older  
256.15 than 13 years old if one of the following conditions is true:

256.16 (1) the child remains eligible for child care assistance under section 119B.09, subdivision  
256.17 1, paragraph (e);

256.18 (2) the certified center serves children in a middle school-only program, defined as  
256.19 grades 6 through 8; or

256.20 (3) the certified center serves only school-age children in a setting that has students  
256.21 enrolled in no grade higher than 8th grade, and if a child older than 13 is in attendance, the  
256.22 certified center groups the older children so that there is no more than a 48-month difference  
256.23 in age between the youngest child and the oldest child in each group.

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

256.25 Sec. 27. Minnesota Statutes 2020, section 245H.08, subdivision 5, is amended to read:

256.26 Subd. 5. **Ratios.** (a) The minimally acceptable staff-to-child ratios are:

256.27	six weeks old through 16 months old	1:4
256.28	16 months old through 33 months old	1:7
256.29	33 months old through prekindergarten	1:10
256.30	kindergarten through 13 years old	1:15



257.1 (b) Kindergarten includes a child of sufficient age to have attended the first day of  
257.2 kindergarten or who is eligible to enter kindergarten within the next four months.

257.3 (c) For mixed groups, the ratio for the age group of the youngest child applies.

257.4 (d) Notwithstanding paragraph (a), a certified center may continue to serve a child older  
257.5 than 13 years old if one of the following conditions is true:

257.6 (1) the child remains eligible for child care assistance under section 119B.09, subdivision  
257.7 1, paragraph (e);

257.8 (2) the certified center serves children in a middle school-only program, defined as  
257.9 grades 6 through 8; or

257.10 (3) the certified center serves only school-age children in a setting that has students  
257.11 enrolled in no grade higher than 8th grade, and if a child older than 13 is in attendance, the  
257.12 certified center groups the older children so that there is no more than a 48-month difference  
257.13 in age between the youngest child and the oldest child in each group.

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

257.15 Sec. 28. Minnesota Statutes 2020, section 256.041, is amended to read:

257.16 **256.041 CULTURAL AND ETHNIC COMMUNITIES LEADERSHIP COUNCIL.**

257.17 Subdivision 1. **Establishment; purpose.** (a) There is hereby established the Cultural  
257.18 and Ethnic Communities Leadership Council for the Department of Human Services. The  
257.19 purpose of the council is to advise the commissioner of human services on ~~reducing~~  
257.20 implementing strategies to reduce inequities and disparities that particularly affect racial  
257.21 and ethnic groups in Minnesota.

257.22 (b) This council is comprised of racially and ethnically diverse community leaders  
257.23 including American Indians who are residents of Minnesota facing the compounded  
257.24 challenges of systemic inequities. Members include people who are refugees, immigrants,  
257.25 and LGBTQ+; people who have disabilities; and people who live in rural Minnesota.

257.26 Subd. 2. **Members.** (a) The council must consist of:

257.27 (1) the chairs and ranking minority members of the committees in the house of  
257.28 representatives and the senate with jurisdiction over human services; and

257.29 (2) no fewer than 15 and no more than 25 members appointed by and serving at the  
257.30 pleasure of the commissioner of human services, in consultation with county, tribal, cultural,

258.1 and ethnic communities; diverse program participants; and parent representatives from these  
258.2 communities, and cultural and ethnic communities leadership council members.

258.3 (b) In making appointments under this section, the commissioner shall give priority  
258.4 consideration to public members of the legislative councils of color established under ~~chapter~~  
258.5 ~~3~~ section 15.0145.

258.6 (c) Members must be appointed to allow for representation of the following groups:

258.7 (1) racial and ethnic minority groups;

258.8 (2) the American Indian community, which must be represented by two members;

258.9 (3) culturally and linguistically specific advocacy groups and service providers;

258.10 (4) human services program participants;

258.11 (5) public and private institutions;

258.12 (6) parents of human services program participants;

258.13 (7) members of the faith community;

258.14 (8) Department of Human Services employees; and

258.15 (9) any other group the commissioner deems appropriate to facilitate the goals and duties  
258.16 of the council.

258.17 Subd. 3. **Guidelines.** The commissioner shall direct the development of guidelines  
258.18 defining the membership of the council; setting out definitions; and developing duties of  
258.19 the commissioner, the council, and council members regarding racial and ethnic disparities  
258.20 reduction. The guidelines must be developed in consultation with:

258.21 (1) the chairs of relevant committees; and

258.22 (2) county, tribal, and cultural communities and program participants from these  
258.23 communities.

258.24 Subd. 4. **Chair.** The commissioner shall accept recommendations from the council to  
258.25 appoint a chair or chairs.

258.26 ~~Subd. 5. **Terms for first appointees.** The initial members appointed shall serve until~~  
258.27 ~~January 15, 2016.~~

258.28 Subd. 6. **Terms.** A term shall be for two years and appointees may be reappointed to  
258.29 serve two additional terms. The commissioner shall make appointments to replace members

259.1 vacating their positions ~~by January 15 of each year~~ in a timely manner, no more than three  
259.2 months after the council reviews panel recommendations.

259.3 Subd. 7. **Duties of commissioner.** (a) The commissioner of human services or the  
259.4 commissioner's designee shall:

259.5 (1) maintain and actively engage with the council established in this section;

259.6 (2) supervise and coordinate policies for persons from racial, ethnic, cultural, linguistic,  
259.7 and tribal communities who experience disparities in access and outcomes;

259.8 (3) identify human services rules or statutes affecting persons from racial, ethnic, cultural,  
259.9 linguistic, and tribal communities that may need to be revised;

259.10 (4) investigate and implement ~~cost-effective~~ equitable and culturally responsive models  
259.11 of service delivery such as including careful adaptation adoption of clinically proven services  
259.12 ~~that constitute one strategy for increasing~~ to increase the number of culturally relevant  
259.13 services available to currently underserved populations; ~~and~~

259.14 (5) based on recommendations of the council, review identified department policies that  
259.15 maintain racial, ethnic, cultural, linguistic, and tribal disparities, and make adjustments to  
259.16 ensure those disparities are not perpetuated; and advise the department on progress and  
259.17 accountability measures for addressing inequities;

259.18 (6) in partnership with the council, renew and implement equity policy with action plans  
259.19 and resources necessary to implement the action plans;

259.20 (7) support interagency collaboration to advance equity;

259.21 (8) address the council at least twice annually on the state of equity within the department;  
259.22 and

259.23 (9) support member participation in the council, including participation in educational  
259.24 and community engagement events across Minnesota that address equity in human services.

259.25 (b) The commissioner of human services or the commissioner's designee shall consult  
259.26 with the council and receive recommendations from the council when meeting the  
259.27 requirements in this subdivision.

259.28 Subd. 8. **Duties of council.** The council shall:

259.29 (1) recommend to the commissioner for review ~~identified policies in the Department of~~  
259.30 Human Services policy, budgetary, and operational decisions and practices that maintain  
259.31 impact racial, ethnic, cultural, linguistic, and tribal disparities;

260.1 (2) with community input, advance legislative proposals to improve racial and health  
260.2 equity outcomes;

260.3 (3) identify issues regarding inequities and disparities by engaging diverse populations  
260.4 in human services programs;

260.5 ~~(3)~~ (4) engage in mutual learning essential for achieving human services parity and  
260.6 optimal wellness for service recipients;

260.7 ~~(4)~~ (5) raise awareness about human services disparities to the legislature and media;

260.8 ~~(5)~~ (6) provide technical assistance and consultation support to counties, private nonprofit  
260.9 agencies, and other service providers to build their capacity to provide equitable human  
260.10 services for persons from racial, ethnic, cultural, linguistic, and tribal communities who  
260.11 experience disparities in access and outcomes;

260.12 ~~(6)~~ (7) provide technical assistance to promote statewide development of culturally and  
260.13 linguistically appropriate, accessible, and cost-effective human services and related policies;

260.14 ~~(7)~~ ~~provide~~ (8) recommend and monitor training and outreach to facilitate access to  
260.15 culturally and linguistically appropriate, accessible, and cost-effective human services to  
260.16 prevent disparities;

260.17 ~~(8) facilitate culturally appropriate and culturally sensitive admissions, continued services,~~  
260.18 ~~discharges, and utilization review for human services agencies and institutions;~~

260.19 (9) form work groups to help carry out the duties of the council that include, but are not  
260.20 limited to, persons who provide and receive services and representatives of advocacy groups,  
260.21 and provide the work groups with clear guidelines, standardized parameters, and tasks for  
260.22 the work groups to accomplish;

260.23 (10) promote information sharing in the human services community and statewide; ~~and~~

260.24 (11) by February 15 ~~each year~~ in the second year of the biennium, prepare and submit  
260.25 to the chairs and ranking minority members of the committees in the house of representatives  
260.26 and the senate with jurisdiction over human services a report that summarizes the activities  
260.27 of the council, identifies the major problems and issues confronting racial and ethnic groups  
260.28 in accessing human services, makes recommendations to address issues, and lists the specific  
260.29 objectives that the council seeks to attain during the next biennium, and recommendations  
260.30 to strengthen equity, diversity, and inclusion within the department. The report must also  
260.31 ~~include a list of programs, groups, and grants used to reduce disparities, and statistically~~  
260.32 ~~valid reports of outcomes on the reduction of the disparities.~~ identify racial and ethnic groups'  
260.33 difficulty in accessing human services and make recommendations to address the issues.

261.1 The report must include any updated Department of Human Services equity policy,  
261.2 implementation plans, equity initiatives, and the council's progress.

261.3 Subd. 9. **Duties of council members.** The members of the council shall:

261.4 (1) with no more than three absences per year, attend and participate in scheduled  
261.5 meetings and be prepared by reviewing meeting notes;

261.6 (2) maintain open communication channels with respective constituencies;

261.7 (3) identify and communicate issues and risks that could impact the timely completion  
261.8 of tasks;

261.9 (4) collaborate on inequity and disparity reduction efforts;

261.10 (5) communicate updates of the council's work progress and status on the Department  
261.11 of Human Services website; ~~and~~

261.12 (6) participate in any activities the council or chair deems appropriate and necessary to  
261.13 facilitate the goals and duties of the council; and

261.14 (7) participate in work groups to carry out council duties.

261.15 Subd. 10. **Expiration.** The council ~~expires on June 30, 2022~~ shall expire when racial  
261.16 and ethnic-based disparities no longer exist in the state of Minnesota.

261.17 Sec. 29. Minnesota Statutes 2020, section 256B.69, subdivision 9d, is amended to read:

261.18 Subd. 9d. **Financial and quality assurance audits.** (a) The commissioner shall require,  
261.19 in the request for bids and resulting contracts with managed care plans and county-based  
261.20 purchasing plans under this section and section 256B.692, that each managed care plan and  
261.21 county-based purchasing plan submit to and fully cooperate with the independent third-party  
261.22 financial audits by the legislative auditor under subdivision 9e of the information required  
261.23 under subdivision 9c, paragraph (b). Each contract with a managed care plan or county-based  
261.24 purchasing plan under this section or section 256B.692 must provide the commissioner, the  
261.25 legislative auditor, and vendors contracting with the legislative auditor, access to all data  
261.26 required to complete audits under subdivision 9e.

261.27 (b) Each managed care plan and county-based purchasing plan providing services under  
261.28 this section shall provide to the commissioner biweekly encounter data and claims data for  
261.29 state public health care programs and shall participate in a quality assurance program that  
261.30 verifies the timeliness, completeness, accuracy, and consistency of the data provided. The  
261.31 commissioner shall develop written protocols for the quality assurance program and shall  
261.32 make the protocols publicly available. The commissioner shall contract for an independent

third-party audit to evaluate the quality assurance protocols as to the capacity of the protocols to ensure complete and accurate data and to evaluate the commissioner's implementation of the protocols.

(c) Upon completion of the evaluation under paragraph (b), the commissioner shall provide copies of the report to the legislative auditor and the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and financing.

(d) Any actuary under contract with the commissioner to provide actuarial services must meet the independence requirements under the professional code for fellows in the Society of Actuaries and must not have provided actuarial services to a managed care plan or county-based purchasing plan that is under contract with the commissioner pursuant to this section and section 256B.692 during the period in which the actuarial services are being provided. An actuary or actuarial firm meeting the requirements of this paragraph must certify and attest to the rates paid to the managed care plans and county-based purchasing plans under this section and section 256B.692, and the certification and attestation must be auditable.

~~(e) The commissioner, to the extent of available funding, shall conduct ad hoc audits of state public health care program administrative and medical expenses reported by managed care plans and county-based purchasing plans. This includes: financial and encounter data reported to the commissioner under subdivision 9c, including payments to providers and subcontractors; supporting documentation for expenditures; categorization of administrative and medical expenses; and allocation methods used to attribute administrative expenses to state public health care programs. These audits also must monitor compliance with data and financial report certification requirements established by the commissioner for the purposes of managed care capitation payment rate setting. The managed care plans and county-based purchasing plans shall fully cooperate with the audits in this subdivision. The commissioner shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by February 1, 2016, and each February 1 thereafter, the number of ad hoc audits conducted in the past calendar year and the results of these audits.~~

~~(f)~~ (e) Nothing in this subdivision shall allow the release of information that is nonpublic data pursuant to section 13.02.

Sec. 30. Minnesota Statutes 2020, section 626.557, subdivision 12b, is amended to read:

Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a lead investigative agency, the county social service agency shall maintain appropriate

263.1 records. Data collected by the county social service agency under this section are welfare  
263.2 data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data  
263.3 under this paragraph that are inactive investigative data on an individual who is a vendor  
263.4 of services are private data on individuals, as defined in section 13.02. The identity of the  
263.5 reporter may only be disclosed as provided in paragraph (c).

263.6 Data maintained by the common entry point are confidential data on individuals or  
263.7 protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the  
263.8 common entry point shall maintain data for three calendar years after date of receipt and  
263.9 then destroy the data unless otherwise directed by federal requirements.

263.10 (b) The commissioners of health and human services shall prepare an investigation  
263.11 memorandum for each report alleging maltreatment investigated under this section. County  
263.12 social service agencies must maintain private data on individuals but are not required to  
263.13 prepare an investigation memorandum. During an investigation by the commissioner of  
263.14 health or the commissioner of human services, data collected under this section are  
263.15 confidential data on individuals or protected nonpublic data as defined in section 13.02.  
263.16 Upon completion of the investigation, the data are classified as provided in clauses (1) to  
263.17 (3) and paragraph (c).

263.18 (1) The investigation memorandum must contain the following data, which are public:

263.19 (i) the name of the facility investigated;

263.20 (ii) a statement of the nature of the alleged maltreatment;

263.21 (iii) pertinent information obtained from medical or other records reviewed;

263.22 (iv) the identity of the investigator;

263.23 (v) a summary of the investigation's findings;

263.24 (vi) statement of whether the report was found to be substantiated, inconclusive, false,  
263.25 or that no determination will be made;

263.26 (vii) a statement of any action taken by the facility;

263.27 (viii) a statement of any action taken by the lead investigative agency; and

263.28 (ix) when a lead investigative agency's determination has substantiated maltreatment, a  
263.29 statement of whether an individual, individuals, or a facility were responsible for the  
263.30 substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

(i) the name of the vulnerable adult;

(ii) the identity of the individual alleged to be the perpetrator;

(iii) the identity of the individual substantiated as the perpetrator; and

(iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) After the assessment or investigation is completed, the name of the reporter must be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be maintained under the following schedule and then destroyed unless otherwise directed by federal requirements:

(1) data from reports determined to be false, maintained for three years after the finding was made;

(2) data from reports determined to be inconclusive, maintained for four years after the finding was made;

(3) data from reports determined to be substantiated, maintained for seven years after the finding was made; and

(4) data from reports which were not investigated by a lead investigative agency and for which there is no final disposition, maintained for three years from the date of the report.

~~(e) The commissioners of health and human services shall annually publish on their websites the number and type of reports of alleged maltreatment involving licensed facilities~~



265.1 ~~reported under this section, the number of those requiring investigation under this section,~~  
265.2 ~~and the resolution of those investigations. On a biennial basis, the commissioners of health~~  
265.3 ~~and human services shall jointly report the following information to the legislature and the~~  
265.4 ~~governor:~~

265.5 ~~(1) the number and type of reports of alleged maltreatment involving licensed facilities~~  
265.6 ~~reported under this section, the number of those requiring investigations under this section,~~  
265.7 ~~the resolution of those investigations, and which of the two lead agencies was responsible;~~

265.8 ~~(2) trends about types of substantiated maltreatment found in the reporting period;~~

265.9 ~~(3) if there are upward trends for types of maltreatment substantiated, recommendations~~  
265.10 ~~for addressing and responding to them;~~

265.11 ~~(4) efforts undertaken or recommended to improve the protection of vulnerable adults;~~

265.12 ~~(5) whether and where backlogs of cases result in a failure to conform with statutory~~  
265.13 ~~time frames and recommendations for reducing backlogs if applicable;~~

265.14 ~~(6) recommended changes to statutes affecting the protection of vulnerable adults; and~~

265.15 ~~(7) any other information that is relevant to the report trends and findings.~~

265.16 ~~(f)~~ (e) Each lead investigative agency must have a record retention policy.

265.17 ~~(g)~~ (f) Lead investigative agencies, prosecuting authorities, and law enforcement agencies  
265.18 may exchange not public data, as defined in section 13.02, if the agency or authority  
265.19 requesting the data determines that the data are pertinent and necessary to the requesting  
265.20 agency in initiating, furthering, or completing an investigation under this section. Data  
265.21 collected under this section must be made available to prosecuting authorities and law  
265.22 enforcement officials, local county agencies, and licensing agencies investigating the alleged  
265.23 maltreatment under this section. The lead investigative agency shall exchange not public  
265.24 data with the vulnerable adult maltreatment review panel established in section 256.021 if  
265.25 the data are pertinent and necessary for a review requested under that section.  
265.26 Notwithstanding section 138.17, upon completion of the review, not public data received  
265.27 by the review panel must be destroyed.

265.28 ~~(h)~~ (g) Each lead investigative agency shall keep records of the length of time it takes  
265.29 to complete its investigations.

265.30 ~~(i)~~ (h) A lead investigative agency may notify other affected parties and their authorized  
265.31 representative if the lead investigative agency has reason to believe maltreatment has occurred

266.1 and determines the information will safeguard the well-being of the affected parties or dispel  
266.2 widespread rumor or unrest in the affected facility.

266.3 ~~(j)~~ (i) Under any notification provision of this section, where federal law specifically  
266.4 prohibits the disclosure of patient identifying information, a lead investigative agency may  
266.5 not provide any notice unless the vulnerable adult has consented to disclosure in a manner  
266.6 which conforms to federal requirements.

266.7 Sec. 31. **REPEALER.**

266.8 (a) Minnesota Statutes 2020, sections 245.981; 245A.144; 245A.175; 246B.03,  
266.9 subdivision 2; 256.01, subdivision 31; and 256.9657, subdivision 8, are repealed.

266.10 (b) Laws 2012, chapter 247, article 1, section 30, is repealed.

266.11 (c) Minnesota Rules, parts 2960.3070; 2960.3210; and 9502.0425, subparts 5 and 10,  
266.12 are repealed.

**119B.04 FEDERAL CHILD CARE AND DEVELOPMENT FUND.**

Subdivision 1. **Commissioner to administer program.** The commissioner is authorized and directed to receive, administer, and expend funds available under the child care and development fund under Public Law 104-193, Title VI.

Subd. 2. **Rulemaking authority.** The commissioner may adopt rules under chapter 14 to administer the child care and development fund.

**119B.125 PROVIDER REQUIREMENTS.**

No active language found for: 119B.125.5

**245.981 COMPULSIVE GAMBLING ANNUAL REPORT.**

(a) Each year by February 15, 2014, and thereafter, the commissioner of human services shall report to the chairs and ranking minority members of the legislative committees having jurisdiction over compulsive gambling on the percentage of gambling revenues that come from gamblers identified as problem gamblers, or a similarly defined term, as defined by the National Council on Problem Gambling. The report must disaggregate the revenue by the various types of gambling, including, but not limited to: lottery; electronic and paper pull-tabs; bingo; linked bingo; and pari-mutuel betting.

(b) By February 15, 2013, the commissioner shall provide a preliminary update for the report required under paragraph (a) to the chairs and ranking minority members of the legislative committees having jurisdiction over compulsive gambling and the estimated cost of the full report.

**245A.03 WHO MUST BE LICENSED.**

Subd. 5. **Excluded housing with services programs; right to seek licensure.** Nothing in this section shall prohibit a housing with services program that is excluded from licensure under subdivision 2, paragraph (a), clause (25), from seeking a license under this chapter. The commissioner shall ensure that any application received from such an excluded provider is processed in the same manner as all other applications for licensed adult foster care.

**245A.144 TRAINING ON RISK OF SUDDEN UNEXPECTED INFANT DEATH AND ABUSIVE HEAD TRAUMA FOR CHILD FOSTER CARE PROVIDERS.**

(a) Licensed child foster care providers that care for infants or children through five years of age must document that before staff persons and caregivers assist in the care of infants or children through five years of age, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. This section does not apply to emergency relative placement under section 245A.035. The training on reducing the risk of sudden unexpected infant death and abusive head trauma may be provided as:

(1) orientation training to child foster care providers, who care for infants or children through five years of age, under Minnesota Rules, part 2960.3070, subpart 1; or

(2) in-service training to child foster care providers, who care for infants or children through five years of age, under Minnesota Rules, part 2960.3070, subpart 2.

(b) Training required under this section must be at least one hour in length and must be completed at least once every five years. At a minimum, the training must address the risk factors related to sudden unexpected infant death and abusive head trauma, means of reducing the risk of sudden unexpected infant death and abusive head trauma, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death and abusive head trauma.

(c) Training for child foster care providers must be approved by the county or private licensing agency that is responsible for monitoring the child foster care provider under section 245A.16. The approved training fulfills, in part, training required under Minnesota Rules, part 2960.3070.

**245A.175 CHILD FOSTER CARE TRAINING REQUIREMENT; MENTAL HEALTH TRAINING; FETAL ALCOHOL SPECTRUM DISORDERS TRAINING.**

Prior to a nonemergency placement of a child in a foster care home, the child foster care license holder and caregivers in foster family and treatment foster care settings, and all staff providing care in foster residence settings must complete two hours of training that addresses the causes, symptoms, and key warning signs of mental health disorders; cultural considerations; and effective approaches for dealing with a child's behaviors. At least one hour of the annual training requirement for the

foster family license holder and caregivers, and foster residence staff must be on children's mental health issues and treatment. Except for providers and services under chapter 245D, the annual training must also include at least one hour of training on fetal alcohol spectrum disorders, which must be counted toward the 12 hours of required in-service training per year. Short-term substitute caregivers are exempt from these requirements. Training curriculum shall be approved by the commissioner of human services.

**246B.03 LICENSURE, EVALUATION, AND GRIEVANCE RESOLUTION.**

Subd. 2. **Minnesota Sex Offender Program evaluation.** (a) The commissioner shall contract with national sex offender experts to evaluate the sex offender treatment program. The consultant group shall consist of four national experts, including:

(1) three experts who are licensed psychologists, psychiatrists, clinical therapists, or other mental health treatment providers with established and recognized training and experience in the assessment and treatment of sexual offenders; and

(2) one nontreatment professional with relevant training and experience regarding the oversight or licensing of sex offender treatment programs or other relevant mental health treatment programs.

(b) These experts shall, in consultation with the executive clinical director of the sex offender treatment program:

(1) review and identify relevant information and evidence-based best practices and methodologies for effectively assessing, diagnosing, and treating civilly committed sex offenders;

(2) on at least an annual basis, complete a site visit and comprehensive program evaluation that may include a review of program policies and procedures to determine the program's level of compliance, address specific areas of concern brought to the panel's attention by the executive clinical director or executive director, offer recommendations, and complete a written report of its findings to the executive director and clinical director; and

(3) in addition to the annual site visit and review, provide advice, input, and assistance as requested by the executive clinical director or executive director.

(c) The commissioner or commissioner's designee shall enter into contracts as necessary to fulfill the responsibilities under this subdivision.

**252.28 COMMISSIONER OF HUMAN SERVICES; DUTIES.**

No active language found for: 252.28.1

No active language found for: 252.28.5

**252A.02 DEFINITIONS.**

No active language found for: 252A.02.8

No active language found for: 252A.02.10

**252A.21 GENERAL PROVISIONS.**

No active language found for: 252A.21.3

**256.01 COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES.**

Subd. 31. **Consumer satisfaction; human services.** (a) The commissioner of human services shall submit a memorandum each year to the governor and the chairs of the house of representatives and senate standing committees with jurisdiction over the department's programs that provides the following information:

(1) the number of calls made to each of the department's help lines by consumers and citizens regarding the services provided by the department;

(2) the program area related to the call;

(3) the number of calls resolved at the department;

(4) the number of calls that were referred to a county agency for resolution;

(5) the number of calls that were referred elsewhere for resolution;

(6) the number of calls that remain open; and

(7) the number of calls that were without merit.

(b) The initial memorandum shall be submitted no later than February 15, 2012, with subsequent memoranda submitted no later than February 15 each following year.

(c) The commissioner shall publish the annual memorandum on the department's website each year no later than March 1.

#### **256.9657 PROVIDER SURCHARGES.**

Subd. 8. **Commissioner's duties.** The commissioner of human services shall report to the legislature quarterly on the first day of January, April, July, and October regarding the provider surcharge program. The report shall include information on total billings, total collections, and administrative expenditures. The report on January 1, 1993, shall include information on all surcharge billings, collections, federal matching payments received, efforts to collect unpaid amounts, and administrative costs pertaining to the surcharge program in effect from July 1, 1991, to September 30, 1992. The surcharge shall be adjusted by inflationary and caseload changes in future bienniums to maintain reimbursement of health care providers in accordance with the requirements of the state and federal laws governing the medical assistance program, including the requirements of the Medicaid moratorium amendments of 1991 found in Public Law No. 102-234. The commissioner shall request the Minnesota congressional delegation to support a change in federal law that would prohibit federal disallowances for any state that makes a good faith effort to comply with Public Law 102-234 by enacting conforming legislation prior to the issuance of federal implementing regulations.

#### **256R.08 REPORTING OF FINANCIAL STATEMENTS.**

Subd. 2. **Extensions.** The commissioner may grant up to a 15-day extension of the reporting deadline to a nursing facility for good cause. To receive such an extension, a nursing facility shall submit a written request by January 1. The commissioner shall notify the nursing facility of the decision by January 15. Between January 1 and February 1, the nursing facility may request a reporting extension for good cause by telephone and followed by a written request.

#### **256R.49 RATE ADJUSTMENTS FOR COMPENSATION-RELATED COSTS FOR MINIMUM WAGE CHANGES.**

Subdivision 1. **Rate adjustments for compensation-related costs.** (a) Rate increases provided under this section before October 1, 2016, expire effective January 1, 2018, and rate increases provided on or after October 1, 2016, expire effective January 1, 2019.

(b) Nursing facilities that receive approval of the applications in subdivision 2 must receive rate adjustments according to subdivision 4. The rate adjustments must be used to pay compensation costs for nursing facility employees paid less than \$14 per hour.

Subd. 2. **Application process.** To receive a rate adjustment, nursing facilities must submit applications to the commissioner in a form and manner determined by the commissioner. The applications for the rate adjustments shall include specified data, and spending plans that describe how the funds from the rate adjustments will be allocated for compensation to employees paid less than \$14 per hour. The applications must be submitted within three months of the effective date of any operating payment rate adjustment under this section. The commissioner may request any additional information needed to determine the rate adjustment within three weeks of receiving a complete application. The nursing facility must provide any additional information requested by the commissioner within six months of the effective date of any operating payment rate adjustment under this section. The commissioner may waive the deadlines in this section under extraordinary circumstances.

Subd. 3. **Additional application requirements for facilities with employees represented by an exclusive bargaining representative.** For nursing facilities in which employees are represented by an exclusive bargaining representative, the commissioner shall approve the applications submitted under subdivision 2 only upon receipt of a letter or letters of acceptance of the spending plans in regard to members of the bargaining unit, signed by the exclusive bargaining agent and dated after May 31, 2014. Upon receipt of the letter or letters of acceptance, the commissioner shall deem all requirements of this section as having been met in regard to the members of the bargaining unit.

Subd. 4. **Determination of the rate adjustments for compensation-related costs.** Based on the application in subdivision 2, the commissioner shall calculate the allowable annualized compensation costs by adding the totals of clauses (1), (2), and (3). The result must be divided by the standardized or resident days from the most recently available cost report to determine per day

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amounts, which must be included in the operating portion of the total payment rate and allocated to direct care or other operating as determined by the commissioner:

(1) the sum of the difference between \$9.50 and any hourly wage rate less than \$9.50 for October 1, 2016; and between the indexed value of the minimum wage, as defined in section 177.24, subdivision 1, paragraph (f), and any hourly wage less than that indexed value for rate years beginning on and after October 1, 2017; multiplied by the number of compensated hours at that wage rate;

(2) using wages and hours in effect during the first three months of calendar year 2014, beginning with the first pay period beginning on or after January 1, 2014; 22.2 percent of the sum of items (i) to (viii) for October 1, 2016;

(i) for all compensated hours from \$8 to \$8.49 per hour, the number of compensated hours is multiplied by \$0.13;

(ii) for all compensated hours from \$8.50 to \$8.99 per hour, the number of compensated hours is multiplied by \$0.25;

(iii) for all compensated hours from \$9 to \$9.49 per hour, the number of compensated hours is multiplied by \$0.38;

(iv) for all compensated hours from \$9.50 to \$10.49 per hour, the number of compensated hours is multiplied by \$0.50;

(v) for all compensated hours from \$10.50 to \$10.99 per hour, the number of compensated hours is multiplied by \$0.40;

(vi) for all compensated hours from \$11 to \$11.49 per hour, the number of compensated hours is multiplied by \$0.30;

(vii) for all compensated hours from \$11.50 to \$11.99 per hour, the number of compensated hours is multiplied by \$0.20; and

(viii) for all compensated hours from \$12 to \$13 per hour, the number of compensated hours is multiplied by \$0.10; and

(3) the sum of the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, pensions, and contributions to employee retirement accounts attributable to the amounts in clauses (1) and (2).

**256S.20 CUSTOMIZED LIVING SERVICES; POLICY.**

No active language found for: 256S.20.2

No active language found for: 259A.70

*Laws 2012, chapter 247, article 1, section 30*

Sec. 30. **COST-SHARING REQUIREMENTS STUDY.**

The commissioner of human services, in consultation with managed care plans, county-based purchasing plans, and other relevant stakeholders, shall develop recommendations to implement a revised cost-sharing structure for state public health care programs that ensures application of meaningful cost-sharing requirements within the limits of title 42, Code of Federal Regulations, section 447.54, for enrollees in these programs. The commissioner shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over these issues by January 15, 2013, with draft legislation to implement these recommendations effective January 1, 2014.

**2960.3070 FOSTER PARENT TRAINING.**

Subpart 1. **Orientation.** A nonrelative foster parent must complete a minimum of six hours of orientation before admitting a foster child. Orientation is required for relative foster parents who will be licensed as a child's foster parents. Orientation for relatives must be completed within 30 days following the initial placement. The foster parent's orientation must include items A to E:

A. emergency procedures, including evacuation routes, emergency telephone numbers, severe storm and tornado procedures, and location of alarms and equipment;

B. relevant laws and rules, including, but not limited to, chapter 9560 and Minnesota Statutes, chapters 245A, 260, 260C, and 260E, and legal issues and reporting requirements;

C. cultural diversity, gender sensitivity, culturally specific services, cultural competence, and information about discrimination and racial bias issues to ensure that caregivers will be culturally competent to care for foster children according to Minnesota Statutes, section 260C.212, subdivision 11;

D. information about the role and responsibilities of the foster parent in the development and implementation of the case plan and in court and administrative reviews of the child's placement; and

E. requirements of the licensing agency.

Subp. 2. **In-service training.** Each foster parent must complete a minimum of 12 hours of training per year in one or more of the areas in this subpart or in other areas as agreed upon by the licensing agency and the foster parent. If the foster parent has not completed the required annual training at the time of relicensure and does not show good cause why the training was not completed, the foster parent may not accept new foster children until the training is completed. The nonexclusive list of topics in items A to Z provides examples of in-service training topics that could be useful to a foster parent:

A. cultural competence and transcultural placements;

B. adoption and permanency;

C. crisis intervention, including suicide prevention;

D. sexual offender behaviors;

E. children's psychological, spiritual, cultural, sexual, emotional, intellectual, and social development;

F. legal issues including liability;

G. foster family relationships with placing agencies and other service providers;

H. first aid and life-sustaining treatment such as cardiopulmonary resuscitation;

I. preparing foster children for independent living;

J. parenting children who suffered physical, emotional, or sexual abuse or domestic violence;

K. chemical dependency, and signs or symptoms of alcohol and drug abuse;

L. mental health and emotional disturbance issues;

M. Americans with Disabilities Act and Individuals With Disabilities Education Act;

N. caring for children with disabilities and disability-related issues regarding developmental disabilities, emotional and behavioral disorders, and specific learning disabilities;



- O. privacy issues of foster children;
- P. physical and nonphysical behavior guidance, crisis de-escalation, and discipline techniques, including how to handle aggression for specific age groups and specific issues such as developmental disabilities, chemical dependency, emotional disturbances, learning disabilities, and past abuse;
- Q. birth families and reunification;
- R. effects of foster care on foster families;
- S. home safety;
- T. emergency procedures;
- U. child and family wellness;
- V. sexual orientation;
- W. disability bias and discrimination;
- X. management of sexual perpetration, violence, bullying, and exploitative behaviors;
- Y. medical technology-dependent or medically fragile conditions; and
- Z. separation, loss, and attachment.

Subp. 3. **Medical equipment training.** Foster parents who care for children who rely on medical equipment to sustain life or monitor a medical condition must meet the requirements of Minnesota Statutes, section 245A.155.

#### **2960.3210 STAFF TRAINING REQUIREMENTS.**

Subpart 1. **Orientation.** The license holder must ensure that all staff attend and successfully complete at least six hours of orientation training before having unsupervised contact with foster children. The number of hours of orientation training are not counted as part of the hours of annual training. Orientation training must include at least the topics in items A to F:

- A. emergency procedures, including evacuation routes, emergency telephone numbers, severe storm and tornado procedures, and location of facility alarms and equipment;
- B. relevant statutes and administrative rules and legal issues, including reporting requirements for abuse and neglect specified in Minnesota Statutes, chapter 260E and section 626.557, and other reporting requirements based on the ages of the children;
- C. cultural diversity and gender sensitivity, culturally specific services, and information about discrimination and racial bias issues to ensure that caregivers have cultural sensitivity and will be culturally competent to care for children according to Minnesota Statutes, section 260C.212, subdivision 11;
- D. general and special needs, including disability needs, of children and families served;
- E. operational policies and procedures of the license holder; and
- F. data practices regulations and issues.

Subp. 2. **Personnel training.** The license holder must provide training for staff that is modified annually to meet the current needs of individual staff persons. The license holder must develop an annual training plan for employees that addresses items A to C.

A. Full-time and part-time direct care staff and volunteers must have sufficient training to accomplish their duties. To determine the type and amount of training an employee needs, the license holder must consider the foster care program's target population, services the program delivers, and outcomes expected from the services, as well as the employee's

position description, tasks to be performed, and the performance indicators for the position. The license holder and staff who care for children who rely on medical equipment to sustain life or monitor a medical condition must meet the requirements of Minnesota Statutes, section 245A.155.

B. Full-time staff who have direct contact with children must complete at least 18 hours of in-service training per year. One-half of the training must be skill development training. Other foster home staff and volunteers must complete in-service training requirements consistent with their duties.

C. Part-time direct care staff must receive sufficient training to competently care for children. The amount of training must be provided at least at a ratio of one hour of training for each 60 hours worked, up to 18 hours of training per part-time employee per year.

Subp. 3. **Documentation of training.** The license holder must document the date and number of hours of orientation and in-service training completed by each staff person in each topic area and the name of the entity that provided the training.

#### **9502.0425 PHYSICAL ENVIRONMENT.**

Subp. 5. **Occupancy separations.** Day care residences with an attached garage must have a self-closing, tight fitting solid wood bonded core door at least 1-3/8 inch thick, or door with a fire protection rating of 20 minutes or greater and a separation wall consisting of 5/8 inch thick gypsum wallboard or its equivalent on the garage side between the residence and garage.

Subp. 10. **Stairways.** All stairways must meet the following conditions.

A. Stairways of three or more steps must have handrails.

B. Any open area between the handrail and stair tread must be enclosed with a protective guardrail as specified in the State Building Code. The back of the stair risers must be enclosed.

C. Gates or barriers must be used when children between the ages of 6 and 18 months are in care.

D. Stairways must be well-lighted, in good repair, and free of clutter and obstructions.

**9505.0275** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1693** [Repealed, L 2021 1Sp7 art 1 s 40]

#### **9505.1696**

Subpart 1. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 2. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 3. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 4. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 5. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 6. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 7. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 8. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 9. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 11. [Repealed, L 2021 1Sp7 art 1 s 40]

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Subp. 12. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 13. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 14. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 15. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 16. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 17. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 18. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 19. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 20. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 21. [Repealed, L 2021 1Sp7 art 1 s 40]

Subp. 22. [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1699** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1701** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1703** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1706** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1712** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1715** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1718** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1724** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1727** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1730** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1733** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1736** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1739** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1742** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1745** [Repealed, L 2021 1Sp7 art 1 s 40]

**9505.1748** [Repealed, L 2021 1Sp7 art 1 s 40]

**9555.6255 RESIDENT'S RIGHTS.**

Subpart 1. **Information about rights.** The operator shall ensure that a resident and a resident's legal representative are given, at admission:

A. an explanation and copy of the resident's rights specified in subparts 2 to 7;

B. a written summary of the Vulnerable Adults Act prepared by the department;  
and

C. the name, address, and telephone number of the local agency to which a resident or a resident's legal representative may submit an oral or written complaint.

Subp. 2. **Right to use telephone.** A resident has the right to daily, private access to and use of a non-coin operated telephone for local calls and long distance calls made collect or paid for by the resident.

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Subp. 3. **Right to receive and send mail.** A resident has the right to receive and send uncensored, unopened mail.

Subp. 4. **Right to privacy.** A resident has the right to personal privacy and privacy for visits from others, and the respect of individuality and cultural identity. Privacy must be respected by operators, caregivers, household members, and volunteers by knocking on the door of a resident's bedroom and seeking consent before entering, except in an emergency, and during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance as noted in the resident's individual record.

Subp. 5. **Right to use personal property.** A resident has the right to keep and use personal clothing and possessions as space permits, unless to do so would infringe on the health, safety, or rights of other residents or household members.

Subp. 6. **Right to associate.** A resident has the right to meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference if the activities do not infringe on the rights of other residents or household members.

Subp. 7. **Married residents.** Married residents have the right to privacy for visits by their spouses, and, if both spouses are residents of the adult foster home, they have the right to share a bedroom and bed.