

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 1796

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DATE	D-PG	OFFICIAL STATUS
02/27/2019	553	Introduction and first reading
		Referred to Human Services Reform Finance and Policy
03/02/2020	5062a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy

1.1 A bill for an act

1.2 relating to children; reorganizing and clarifying sections relating to child

1.3 maltreatment and neglect; making technical changes; amending Minnesota Statutes

1.4 2018, sections 13.32, subdivision 3; 13.3805, subdivision 3; 13.43, subdivision

1.5 14; 13.82, subdivisions 8, 9, 17; 13.821; 13.84, subdivision 9; 13.871, subdivision

1.6 6; 13.88; 120B.22, subdivision 2; 125A.0942, subdivision 4; 135A.15, subdivision

1.7 10; 144.225, subdivision 2b; 144.343, subdivision 4; 144.7065, subdivision 10;

1.8 144.7068; 144A.472, subdivision 1; 144A.479, subdivision 6; 144A.4796,

1.9 subdivision 6; 144H.16, subdivision 1; 144H.18, subdivision 3; 145.902,

1.10 subdivision 3; 145.952, subdivision 2; 146A.025; 148E.240, subdivision 7; 148F.13,

1.11 subdivision 12; 148F.205, subdivision 1; 153B.70; 214.103, subdivision 8; 214.104;

1.12 245.8261, subdivision 9; 245A.04, subdivision 5; 245A.06, subdivision 8; 245A.07,

1.13 subdivision 5; 245A.08, subdivision 2a; 245A.085; 245A.11, subdivision 7b;

1.14 245C.05, subdivision 6; 245C.15, subdivision 4; 245C.16, subdivision 1; 245C.17,

1.15 subdivision 3; 245C.21, subdivision 2; 245C.24, subdivision 4; 245C.25; 245C.27,

1.16 subdivisions 1, 2; 245C.28, subdivision 1; 245C.29, subdivision 1; 245C.31,

1.17 subdivision 1; 245C.32, subdivision 2; 245D.02, subdivision 11; 245D.06,

1.18 subdivisions 1, 6; 245D.09, subdivision 4; 245D.32, subdivision 5; 245F.04,

1.19 subdivision 1; 245F.15, subdivisions 3, 5; 245F.16, subdivisions 1, 2; 245F.18;

1.20 245G.03, subdivision 1; 245G.10, subdivision 3; 245G.11, subdivisions 3, 4;

1.21 245G.13, subdivision 2; 254A.09; 256.01, subdivisions 12, 15; 256.045,

1.22 subdivisions 3, 3b, 4; 256B.0621, subdivision 4; 256B.0625, subdivision 33;

1.23 256B.0945, subdivision 1; 256B.0949, subdivision 16; 256B.0951, subdivision 5;

1.24 256B.0954; 256B.097, subdivisions 4, 6; 256B.77, subdivision 17; 256B.85,

1.25 subdivision 12a; 256E.21, subdivision 5; 256F.10, subdivisions 1, 4; 256L.07,

1.26 subdivision 4; 256M.10, subdivision 2; 256M.40, subdivision 1; 256M.41,

1.27 subdivision 1; 257.0764; 260.012; 260.761, subdivision 2; 260B.171, subdivision

1.28 6; 260C.007, subdivisions 3, 5, 6, 13; 260C.150, subdivision 3; 260C.171,

1.29 subdivision 3; 260C.177; 260C.209, subdivision 2; 260C.212, subdivision 12;

1.30 260C.221; 260C.503, subdivision 2; 260D.01; 260D.02, subdivisions 3, 5; 388.051,

1.31 subdivision 2; 518.165, subdivisions 2, 5; 524.5-118, subdivision 2; 595.02,

1.32 subdivisions 1, 2; 609.26, subdivision 7; 609.3457, subdivision 2; 609.379,

1.33 subdivision 2; 609.507; 609.7495, subdivision 1; 611A.203, subdivision 4; 611A.90,

1.34 subdivision 1; 626.557, subdivision 9d; Minnesota Statutes 2019 Supplement,

1.35 sections 13.46, subdivisions 3, 4; 122A.20, subdivision 2; 122A.40, subdivision

1.36 13; 122A.41, subdivision 6; 144A.4796, subdivision 2; 148B.593; 243.166,

1.37 subdivision 7; 245A.07, subdivision 3; 245A.145, subdivision 1; 245A.40,

1.38 subdivision 1; 245G.12; 245G.13, subdivision 1; 245H.11; 254B.04, subdivision

1; 256.01, subdivision 14b; 256B.85, subdivision 10; 260B.198, subdivision 1; 260C.139, subdivision 3; 260C.178, subdivision 1; 260C.201, subdivision 6; 299C.093; proposing coding for new law in Minnesota Statutes, chapter 260A; repealing Minnesota Statutes 2018, sections 626.556, subdivisions 1, 3, 3a, 3c, 3d, 3f, 4, 4a, 5, 6, 6a, 7, 7a, 8, 9, 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h, 10i, 10j, 10k, 10l, 10m, 10n, 11a, 11b, 11c, 11d, 12, 14, 15, 16; 626.5561; 626.5562; 626.558; 626.559, subdivisions 1, 1a, 1b, 2, 3, 5; 626.5591; 626.561; Minnesota Statutes 2019 Supplement, section 626.556, subdivisions 2, 3b, 3e, 10, 11.

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

ARTICLE 1 REORGANIZATION

Section 1. [260A.11] POLICY.

(a) The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through maltreatment. While it is recognized that most parents want to keep their children safe, sometimes circumstances or conditions interfere with their ability to do so. When this occurs, the health and safety of the children must be of paramount concern. Intervention and prevention efforts must address immediate concerns for child safety and the ongoing risk of maltreatment and should engage the protective capacities of families. In furtherance of this public policy, it is the intent of the legislature under this chapter to:

(1) protect children and promote child safety;

(2) strengthen the family;

(3) make the home, school, and community safe for children by promoting responsible child care in all settings; and

(4) provide, when necessary, a safe temporary or permanent home environment for maltreated children.

(b) In addition, it is the policy of this state to:

(1) require the reporting of maltreatment of children in the home, school, and community settings;

(2) provide for the voluntary reporting of maltreatment of children;

(3) require an investigation when the report alleges sexual abuse or substantial child endangerment;

(4) provide a family assessment, if appropriate, when the report does not allege sexual abuse or substantial child endangerment; and

3.1 (5) provide protective, family support, and family preservation services when needed
3.2 in appropriate cases.

3.3 Sec. 2. **[260A.12] MULTIDISCIPLINARY CHILD PROTECTION TEAM.**

3.4 Subdivision 1. **Establishment of team.** A county shall establish a multidisciplinary
3.5 child protection team that may include, but not be limited to, the director of the local welfare
3.6 agency or designees, the county attorney or designees, the county sheriff or designees,
3.7 representatives of health and education, representatives of mental health or other appropriate
3.8 human service or community-based agencies, and parent groups. As used in this section, a
3.9 "community-based agency" may include, but is not limited to, schools, social service
3.10 agencies, family service and mental health collaboratives, children's advocacy centers, early
3.11 childhood and family education programs, Head Start, or other agencies serving children
3.12 and families. A member of the team must be designated as the lead person of the team
3.13 responsible for the planning process to develop standards for the team's activities with
3.14 battered women's and domestic abuse programs and services.

3.15 Subd. 2. **Duties of team.** A multidisciplinary child protection team may provide public
3.16 and professional education, develop resources for prevention, intervention, and treatment,
3.17 and provide case consultation to the local welfare agency or other interested community-based
3.18 agencies. The community-based agencies may request case consultation from the
3.19 multidisciplinary child protection team regarding a child or family for whom the
3.20 community-based agency is providing services. As used in this section, "case consultation"
3.21 means a case review process in which recommendations are made concerning services to
3.22 be provided to the identified children and family. Case consultation may be performed by
3.23 a committee or subcommittee of members representing human services, including mental
3.24 health and chemical dependency; law enforcement, including probation and parole; the
3.25 county attorney; a children's advocacy center; health care; education; community-based
3.26 agencies and other necessary agencies; and persons directly involved in an individual case
3.27 as designated by other members performing case consultation.

3.28 Subd. 3. **Sexually exploited youth outreach program.** A multidisciplinary child
3.29 protection team may assist the local welfare agency, local law enforcement agency, or an
3.30 appropriate private organization in developing a program of outreach services for sexually
3.31 exploited youth, including homeless, runaway, and truant youth who are at risk of sexual
3.32 exploitation. For the purposes of this subdivision, at least one representative of a youth
3.33 intervention program or, where this type of program is unavailable, one representative of a
3.34 nonprofit agency serving youth in crisis shall be appointed to and serve on the

multidisciplinary child protection team in addition to the standing members of the team.
These services may include counseling, medical care, short-term shelter, alternative living
arrangements, and drop-in centers. A juvenile's receipt of intervention services under this
subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

Subd. 4. **Information sharing.** (a) The local welfare agency may make available to the
case consultation committee or subcommittee all records collected and maintained by the
agency under this chapter and in connection with case consultation. A case consultation
committee or subcommittee member may share information acquired in the member's
professional capacity with the committee or subcommittee to assist in case consultation.

(b) Case consultation committee or subcommittee members must annually sign a data
sharing agreement, approved by the commissioner of human services, assuring compliance
with chapter 13. Not public data, as defined in section 13.02, subdivision 8a, may be shared
with members appointed to the committee or subcommittee in connection with an individual
case when the members have signed the data sharing agreement.

(c) All data acquired by the case consultation committee or subcommittee in exercising
case consultation duties are confidential as defined in section 13.02, subdivision 3, and shall
not be disclosed except to the extent necessary to perform case consultation, and shall not
be subject to subpoena or discovery.

(d) No members of a case consultation committee or subcommittee meeting shall disclose
what transpired at a case consultation meeting, except to the extent necessary to carry out
the case consultation plan. The proceedings and records of the case consultation meeting
are not subject to discovery, and may not be introduced into evidence in any civil or criminal
action against a professional or local welfare agency arising out of the matter or matters
which are the subject of consideration of the case consultation meeting. Information,
documents, or records otherwise available from original sources are not immune from
discovery or use in any civil or criminal action merely because they were presented during
a case consultation meeting. Any person who presented information before the consultation
committee or subcommittee or who is a member shall not be prevented from testifying as
to matters within the person's knowledge. However, in a civil or criminal proceeding a
person shall not be questioned about the person's presentation of information before the
case consultation committee or subcommittee or about opinions formed as a result of the
case consultation meetings.

(e) A person who violates this subdivision is subject to the civil remedies and penalties
provided under chapter 13.

5.1 Subd. 5. **Children's advocacy center; definition.** (a) For purposes of this section,
5.2 "children's advocacy center" means an organization using a multidisciplinary team approach
5.3 whose primary purpose is to provide children who have been the victims of abuse and their
5.4 nonoffending family members with:

5.5 (1) support and advocacy;

5.6 (2) specialized medical evaluation;

5.7 (3) trauma-focused mental health services; and

5.8 (4) forensic interviews.

5.9 (b) Children's advocacy centers provide multidisciplinary case review and the tracking
5.10 and monitoring of case progress.

5.11 Sec. 3. **[260A.20] DEFINITIONS.**

5.12 Subdivision 1. **Scope.** As used in this chapter, the following terms have the meanings
5.13 given them unless the specific content indicates otherwise.

5.14 Subd. 2. **Accidental.** "Accidental" means a sudden, not reasonably foreseeable, and
5.15 unexpected occurrence or event that:

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

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

5.20 Subd. 3. **Child fatality.** "Child fatality" means the death of a child from maltreatment.

5.21 Subd. 4. **Commissioner.** "Commissioner" means the commissioner of human services
5.22 unless otherwise indicated in this chapter.

5.23 Subd. 5. **Egregious harm.** "Egregious harm" means harm under section 260C.007,
5.24 subdivision 14, or a similar law of another jurisdiction.

5.25 Subd. 6. **Facility.** "Facility" means:

5.26 (1) a licensed or unlicensed day care facility, certified license-exempt child care center,
5.27 residential facility, agency, hospital, sanitarium, or other facility or institution required to
5.28 be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter
5.29 144H, 245D, or 245H;

(2) a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E;
or
(3) a nonlicensed personal care provider organization as defined in section 256B.0625,
subdivision 19a.

Subd. 7. Family assessment. "Family assessment" means a comprehensive assessment
of child safety, risk of subsequent maltreatment, and family strengths and needs that is
applied to a maltreatment report that does not allege sexual abuse or substantial child
endangerment. Family assessment does not include a determination as to whether
maltreatment occurred but does determine the need for services to address the safety of
family members and the risk of subsequent maltreatment.

Subd. 8. Findings and information. "Findings and information" means a written
summary described in section 260A.87, subdivision 7, paragraph (b), of actions taken or
services rendered by a local welfare agency following receipt of a report.

Subd. 9. Immediately. "Immediately" means as soon as possible but in no event longer
than 24 hours.

Subd. 10. Interested person acting on behalf of the child. "Interested person acting
on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian
ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person
has been determined to be the offender who committed the maltreatment.

Subd. 11. Investigation. "Investigation" means fact gathering conducted during:

(1) a family investigation related to the current safety of a child and the risk of subsequent
maltreatment that determines whether maltreatment occurred and whether child protective
services are needed; or

(2) a facility investigation related to duties under section 260A.50.

Subd. 12. Maltreatment. "Maltreatment" means any of the following acts or omissions:

(1) egregious harm under subdivision 5;

(2) neglect under subdivision 15;

(3) physical abuse under subdivision 18;

(4) sexual abuse under subdivision 20;

(5) substantial child endangerment under subdivision 22;

(6) threatened injury under subdivision 23;

(7) mental injury under subdivision 13; and

(8) maltreatment of a child in a facility.

Subd. 13. **Mental injury.** "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

Subd. 14. **Near fatality.** "Near fatality" means a case in which a physician, advanced practice registered nurse, or physician assistant determines that a child is in serious or critical condition as the result of sickness or injury caused by maltreatment.

Subd. 15. **Neglect.** (a) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (8), other than by accidental means:

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

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

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

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

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

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

8.1 (7) chronic and severe use of alcohol or a controlled substance by a person responsible
8.2 for the child's care that adversely affects the child's basic needs and safety; or

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

8.7 (b) Nothing in this chapter shall be construed to mean that a child is neglected solely
8.8 because the child's parent, guardian, or other person responsible for the child's care in good
8.9 faith selects and depends upon spiritual means or prayer for treatment or care of disease or
8.10 remedial care of the child in lieu of medical care.

8.11 (c) This chapter does not impose upon persons not otherwise legally responsible for
8.12 providing a child with necessary food, clothing, shelter, education, or medical care a duty
8.13 to provide that care.

8.14 Subd. 16. **Person in a current or recent position of authority.** "Person in a current or
8.15 recent position of authority" means an individual in a position of authority over a child and
8.16 includes but is not limited to any person who is a parent or acting in the place of a parent
8.17 and charged with any of a parent's rights, duties, or responsibilities to a child, or a person
8.18 who is charged with any duty or responsibility for the health, welfare, or supervision of a
8.19 child, either independently or through another, no matter how brief, within 120 days
8.20 immediately preceding the act. Person in a position of authority includes a psychotherapist.

8.21 Subd. 17. **Person responsible for the child's care.** "Person responsible for the child's
8.22 care" means (1) an individual functioning within the family unit and having responsibilities
8.23 for the care of the child such as a parent, guardian, or other person having similar care
8.24 responsibilities, or (2) an individual functioning outside the family unit and having
8.25 responsibilities for the care of the child such as a teacher, school administrator, other school
8.26 employee or agent, or other lawful custodian of a child having either full-time or short-term
8.27 care responsibilities including, but not limited to, day care, babysitting whether paid or
8.28 unpaid, counseling, teaching, and coaching.

8.29 Subd. 18. **Physical abuse.** (a) "Physical abuse" means any physical injury, mental injury
8.30 under subdivision 14, or threatened injury under subdivision 24, inflicted by a person
8.31 responsible for the child's care on a child other than by accidental means, or any physical
8.32 or mental injury that cannot reasonably be explained by the child's history of injuries, or
8.33 any aversive or deprivation procedures, or regulated interventions, that have not been
8.34 authorized under section 125A.0942 or 245.825.

(b) Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian that does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582.

(c) For the purposes of this subdivision, actions that are not reasonable and moderate include, but are not limited to, any of the following:

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

(2) striking a child with a closed fist;

(3) shaking a child under age three;

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

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

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

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

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

(9) purposely giving a child:

(i) poison, alcohol, or dangerous, harmful, or controlled substances that were not prescribed for the child by a practitioner in order to control or punish the child; or

(ii) other substances that substantially affect the child's behavior, motor coordination, or judgment; that result in sickness or internal injury; or that subject the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

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

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

Subd. 19. **Report.** "Report" means any communication received by the local welfare agency, police department, county sheriff, or agency responsible for child protection pursuant to this section that describes maltreatment of a child and contains sufficient content to identify the child and any person believed to be responsible for the maltreatment, if known.

10.1 Subd. 20. **Sexual abuse.** "Sexual abuse" means the subjection of a child by a person
10.2 responsible for the child's care, by a person who has a significant relationship to the child,
10.3 or by a person in a current or recent position of authority, to any act that constitutes a
10.4 violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal
10.5 sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree),
10.6 609.345 (criminal sexual conduct in the fourth degree), 609.3451 (criminal sexual conduct
10.7 in the fifth degree), or 609.352 (solicitation of children to engage in sexual conduct;
10.8 communication of sexually explicit materials to children). Sexual abuse also includes any
10.9 act involving a child that constitutes a violation of prostitution offenses under sections
10.10 609.321 to 609.324 or 617.246. Sexual abuse includes all reports of known or suspected
10.11 child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual
10.12 abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b.
10.13 Sexual abuse includes threatened sexual abuse, which includes the status of a parent or
10.14 household member who has committed a violation that requires registration as an offender
10.15 under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under
10.16 section 243.166, subdivision 1b, paragraph (a) or (b).

10.17 Subd. 21. **Significant relationship.** "Significant relationship" means a situation in which
10.18 the alleged offender is:

10.19 (1) the child's parent, stepparent, or guardian;

10.20 (2) any of the following persons related to the child by blood, marriage, or adoption:
10.21 brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent,
10.22 great-grandparent, great-uncle, great-aunt; or

10.23 (3) an adult who jointly resides intermittently or regularly in the same dwelling as the
10.24 child and who is not the child's spouse.

10.25 Subd. 22. **Substantial child endangerment.** "Substantial child endangerment" means
10.26 that a person responsible for a child's care, by act or omission, commits or attempts to
10.27 commit an act against a child under their care that constitutes any of the following:

10.28 (1) egregious harm under subdivision 5;

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

10.30 (3) neglect under subdivision 15, paragraph (a), clause (2), that substantially endangers
10.31 the child's physical or mental health, including a growth delay, which may be referred to
10.32 as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

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

- 11.1 (5) manslaughter in the first or second degree under section 609.20 or 609.205;
- 11.2 (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- 11.3 (7) solicitation, inducement, and promotion of prostitution under section 609.322;
- 11.4 (8) criminal sexual conduct under sections 609.342 to 609.3451;
- 11.5 (9) solicitation of children to engage in sexual conduct under section 609.352;
- 11.6 (10) malicious punishment or neglect or endangerment of a child under section 609.377
- 11.7 or 609.378;
- 11.8 (11) use of a minor in sexual performance under section 617.246; or
- 11.9 (12) parental behavior, status, or condition that mandates that the county attorney file a
- 11.10 termination of parental rights petition under section 260C.503, subdivision 2.
- 11.11 **Subd. 23. Threatened injury.** (a) "Threatened injury" means a statement, overt act,
- 11.12 condition, or status that represents a substantial risk of physical or sexual abuse or mental
- 11.13 injury.
- 11.14 (b) Threatened injury includes, but is not limited to, exposing a child to a person
- 11.15 responsible for the child's care, as defined in subdivision 17, who has:
- 11.16 (1) subjected a child to, or failed to protect a child from, an overt act or condition that
- 11.17 constitutes egregious harm under subdivision 5 or a similar law of another jurisdiction;
- 11.18 (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph
- 11.19 (b), clause (4), or a similar law of another jurisdiction;
- 11.20 (3) committed an act that resulted in an involuntary termination of parental rights under
- 11.21 section 260C.301, or a similar law of another jurisdiction; or
- 11.22 (4) committed an act that resulted in the involuntary transfer of permanent legal and
- 11.23 physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201,
- 11.24 subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law
- 11.25 of another jurisdiction.
- 11.26 (c) A child is the subject of a report of threatened injury when the local welfare agency
- 11.27 receives birth match data under section 260A.33, subdivision 4, from the Department of
- 11.28 Human Services.

12.1 Sec. 4. **[260A.21] EVIDENCE.**

12.2 No evidence relating to the maltreatment of a child or to any prior incident of
12.3 maltreatment involving any of the same persons accused of maltreatment shall be excluded
12.4 in any proceeding arising out of the alleged maltreatment on the grounds of privilege set
12.5 forth in section 595.02, subdivision 1, paragraph (a), (d), or (g).

12.6 Sec. 5. **[260A.22] CULTURAL PRACTICES.**

12.7 A person who conducts an assessment or investigation under this chapter shall take into
12.8 account accepted child-rearing practices of the culture in which a child participates and
12.9 accepted teacher discipline practices that are not injurious to the child's health, welfare, and
12.10 safety.

12.11 Sec. 6. **[260A.23] MALTREATMENT REPORTING.**

12.12 Subdivision 1. **Mandatory reporters.** (a) A person who knows or has reason to believe
12.13 a child is being maltreated, as defined in section 260A.20, or has been maltreated within
12.14 the preceding three years, shall immediately report the information to the local welfare
12.15 agency, agency responsible for assessing or investigating the report, police department,
12.16 county sheriff, tribal social services agency, or tribal police department if the person is:

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

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

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

12.28 Subd. 2. **Voluntary reporters.** Any person may voluntarily report to the local welfare
12.29 agency, agency responsible for assessing or investigating the report, police department,
12.30 county sheriff, tribal social services agency, or tribal police department if the person knows,
12.31 has reason to believe, or suspects a child is being or has been maltreated.

13.1 Subd. 3. **Reporting in cases where selection of spiritual means or prayer for**
13.2 **treatment or care may cause serious danger to child's health.** If the child's parent,
13.3 guardian, or other person responsible for the child's care in good faith selects and depends
13.4 upon spiritual means or prayer for treatment or care of disease or remedial care of the child
13.5 in lieu of medical care, the parent, guardian, or caretaker, or a person mandated to report
13.6 pursuant to subdivision 1, has a duty to report if a lack of medical care may cause serious
13.7 danger to the child's health.

13.8 Subd. 4. **Licensing board duty to report.** A board or other entity whose licensees
13.9 perform work within a school facility, upon receiving a complaint of alleged maltreatment,
13.10 shall report the alleged maltreatment to the commissioner of education.

13.11 Sec. 7. **[260A.24] RETALIATION PROHIBITED.**

13.12 (a) An employer of any person required to make reports under section 260A.23,
13.13 subdivision 1, or 260A.28, subdivision 1, shall not retaliate against the person for reporting
13.14 in good faith maltreatment pursuant to this chapter or against a child with respect to whom
13.15 a report is made, because of the report.

13.16 (b) The employer of any person required to report under section 260A.23, subdivision
13.17 1, or 260A.28, subdivision 1, who retaliates against the person because of a report of
13.18 maltreatment is liable to that person for actual damages and, in addition, a penalty of up to
13.19 \$10,000.

13.20 (c) There shall be a rebuttable presumption that any adverse action within 90 days of a
13.21 report is retaliatory. For purposes of this paragraph, the term "adverse action" refers to action
13.22 taken by an employer of a person required to report under section 260A.23, subdivision 1,
13.23 or 260A.28, subdivision 1, which is involved in a report against the person making the report
13.24 or the child with respect to whom the report was made because of the report, and includes,
13.25 but is not limited to:

13.26 (1) discharge, suspension, termination, or transfer from the facility, institution, school,
13.27 or agency;

13.28 (2) discharge from or termination of employment;

13.29 (3) demotion or reduction in remuneration for services; or

13.30 (4) restriction or prohibition of access to the facility, institution, school, agency, or
13.31 persons affiliated with it.

14.1 Sec. 8. **[260A.25] CRIMINAL PENALTIES FOR FAILURE TO REPORT; CIVIL**
14.2 **PENALTY FOR MAKING FALSE REPORT.**

14.3 (a) A person mandated by section 260A.23, subdivision 1, to report who knows or has
14.4 reason to believe that a child is maltreated, as defined in section 260A.20, or has been
14.5 maltreated within the preceding three years, and fails to report is guilty of a misdemeanor.

14.6 (b) A person mandated by section 260A.23, subdivision 1, to report who knows or has
14.7 reason to believe that two or more children not related to the offender have been maltreated,
14.8 as defined in section 260A.20, by the same offender within the preceding ten years, and
14.9 fails to report is guilty of a gross misdemeanor.

14.10 (c) A parent, guardian, or caretaker who knows or reasonably should know that the
14.11 child's health is in serious danger and who fails to report as required by section 260A.23,
14.12 subdivision 3, is guilty of a gross misdemeanor if the child suffers substantial or great bodily
14.13 harm because of the lack of medical care. If the child dies because of the lack of medical
14.14 care, the person is guilty of a felony and may be sentenced to imprisonment for not more
14.15 than two years or to payment of a fine of not more than \$4,000, or both. The provision in
14.16 section 609.378, subdivision 1, paragraph (a), clause (1), providing that a parent, guardian,
14.17 or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment
14.18 or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report
14.19 under this chapter.

14.20 (d) Any person who knowingly or recklessly makes a false report under the provisions
14.21 of this chapter shall be liable in a civil suit for any actual damages suffered by the person
14.22 or persons so reported and for any punitive damages set by the court or jury, plus costs and
14.23 reasonable attorney fees.

14.24 Sec. 9. **[260A.26] REPORTING REQUIREMENTS.**

14.25 (a) An oral report shall be made immediately by telephone or otherwise. An oral report
14.26 made by a person required under section 260A.23, subdivision 1, to report shall be followed
14.27 within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate
14.28 police department, the county sheriff, the agency responsible for assessing or investigating
14.29 the report, or the local welfare agency.

14.30 (b) Any report shall be of sufficient content to identify the child, any person believed
14.31 to be responsible for the maltreatment of the child if the person is known, the nature and
14.32 extent of the maltreatment, and the name and address of the reporter. The local welfare
14.33 agency or agency responsible for assessing or investigating the report shall accept a report

15.1 made under section 260A.23 notwithstanding refusal by a reporter to provide the reporter's
15.2 name or address as long as the report is otherwise sufficient under this paragraph.

15.3 Sec. 10. **[260A.27] NOTIFICATION TO REPORTERS.**

15.4 Subdivision 1. **Screening notification.** If requested, the agency responsible for assessing
15.5 or investigating a report shall inform the reporter within ten days after the report was made,
15.6 either orally or in writing, whether the report was accepted or not. If the responsible agency
15.7 determines the report does not constitute a report under this chapter, the agency shall advise
15.8 the reporter that the report was screened out.

15.9 Subd. 2. **Final notification.** Any person mandated to report shall receive a summary of
15.10 the disposition of any report made by that reporter, including whether the case has been
15.11 opened for child protection or other services, or if a referral has been made to a community
15.12 organization, unless release would be detrimental to the best interests of the child. Any
15.13 person who is not mandated to report shall, upon request to the local welfare agency, receive
15.14 a concise summary of the disposition of any report made by that reporter, unless release
15.15 would be detrimental to the best interests of the child.

15.16 Sec. 11. **[260A.28] AGENCY DESIGNATED TO RECEIVE REPORTS.**

15.17 Subdivision 1. **Reports of maltreatment in facility.** A person mandated to report child
15.18 maltreatment occurring within a licensed facility shall report the information to the agency
15.19 responsible for licensing or certifying the facility under sections 144.50 to 144.58, 241.021,
15.20 and 245A.01 to 245A.16; or chapter 144H, 245D, or 245H; or a nonlicensed personal care
15.21 provider organization as defined in section 256B.0625, subdivision 19a.

15.22 Subd. 2. **Reporting deprivation of parental rights or kidnapping to law**
15.23 **enforcement.** A person mandated to report under section 260A.23, subdivision 1, who
15.24 knows or has reason to know of a violation of section 609.25 or 609.26 shall report the
15.25 information to the local police department or the county sheriff.

15.26 Subd. 3. **Report to medical examiner or coroner; notification to local agency and**
15.27 **law enforcement; report ombudsman.** (a) A person mandated to report maltreatment who
15.28 knows or has reason to believe a child has died as a result of maltreatment shall report that
15.29 information to the appropriate medical examiner or coroner instead of the local welfare
15.30 agency, police department, or county sheriff.

15.31 (b) The medical examiner or coroner shall notify the local welfare agency, police
15.32 department, or county sheriff in instances in which the medical examiner or coroner believes

that the child has died as a result of maltreatment. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local welfare agency.

(c) If the child was receiving services or treatment for mental illness, developmental disability, chemical dependency, or emotional disturbance from an agency, facility, or program as defined in section 245.91, the medical examiner or coroner shall also notify and report findings to the ombudsman established under sections 245.91 to 245.97.

Sec. 12. **[260A.31] REQUIRED ACTIONS OF THE RESPONSIBLE AGENCY AND LAW ENFORCEMENT UPON RECEIVING REPORT.**

Subdivision 1. Police department or county sheriff. (a) The police department or the county sheriff shall immediately notify the local welfare agency or agency responsible for child protection reports under this chapter orally and in writing when a report is received.

(b) Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them.

(c) The county sheriff and the head of each local welfare agency, agency responsible for child protection reports, and police department shall designate a person within the agency, department, or office who is responsible for ensuring that the notification duties of this section are carried out. If the alleged maltreatment occurs on tribal land, the local welfare agency or agency responsible for child protection reports and the local police department or county sheriff shall immediately notify the tribe's social services agency and tribal law enforcement orally and in writing when a report is received. When a police department or county determines that a child has been the subject of maltreatment by a person licensed by the Professional Educator Licensing and Standards Board or the Board of School Administrators, the department or sheriff shall, in addition to other duties under this section, immediately inform the licensing board.

(d) If a child is the victim of an alleged crime under subdivision 2, paragraph (c), the law enforcement agency shall immediately notify the local welfare agency, which shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the maltreated child.

Subd. 2. Local welfare agency or agency responsible for maltreatment report. (a) The local welfare agency or agency responsible for child protection reports shall immediately

17.1 notify the local police department or the county sheriff orally and in writing when a report
17.2 is received.

17.3 (b) Copies of written reports received by a local welfare agency or the agency responsible
17.4 for assessing or investigating the report shall be forwarded immediately to the local police
17.5 department or the county sheriff.

17.6 (c) Receipt by a local welfare agency of a report or notification of a report of kidnapping
17.7 under section 609.25 or depriving another of custodial or parental rights under section
17.8 609.26 shall not be construed to invoke the duties under this chapter except notification of
17.9 law enforcement and the offer of services under section 260A.39, subdivision 1, paragraph
17.10 (a), as appropriate.

17.11 Subd. 3. Penalties for failure to cross notify. (a) If a local welfare agency receives a
17.12 report under section 260A.23 and fails to notify the local police department or county sheriff
17.13 as required by subdivision 2, the person within the agency who is responsible for ensuring
17.14 that notification is made shall be subject to disciplinary action in keeping with the agency's
17.15 existing policy or collective bargaining agreement on discipline of employees.

17.16 (b) If a local police department or a county sheriff receives a report under section 260A.23
17.17 and fails to notify the local welfare agency as required by subdivision 1, the person within
17.18 the police department or county sheriff's office who is responsible for ensuring that
17.19 notification is made shall be subject to disciplinary action in keeping with the agency's
17.20 existing policy or collective bargaining agreement on discipline of employees.

17.21 Sec. 13. **[260A.32] REPORT TO OMBUDSMAN.**

17.22 When a local welfare agency receives a report or otherwise has information indicating
17.23 that a child who is a client, as defined in section 245.91, has been the subject of maltreatment
17.24 at an agency, facility, or program, as defined in section 245.91, the local welfare agency
17.25 shall, in addition to its other duties under this chapter, immediately inform the ombudsman
17.26 established under sections 245.91 to 245.97. The commissioner of education shall inform
17.27 the ombudsman established under sections 245.91 to 245.97 of reports regarding a child
17.28 who is a client, as defined in section 245.91, that maltreatment occurred at a school as
17.29 defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

Sec. 14. **[260A.33] AGENCY RESPONSIBLE FOR SCREENING AND ASSESSMENT OR INVESTIGATION.**

Subdivision 1. Facilities and schools. (a) The local welfare agency is the agency responsible for investigating allegations of maltreatment in child foster care, family child care, legally nonlicensed child care, and reports involving children served by an unlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.

(b) The Department of Human Services is the agency responsible for screening and investigating allegations of maltreatment in juvenile correctional facilities listed under section 241.021 located in the local welfare agency's county and in facilities licensed or certified under chapters 245A, 245D, and 245G, except for child foster care and family child care.

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

(d) The Department of Education is the agency responsible for screening and investigating allegations of maltreatment in a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E. The Department of Education's responsibility to screen and investigate includes allegations of maltreatment involving students 18 to 21 years of age, including students receiving special education services, up to and including graduation and the issuance of a secondary or high school diploma.

(e) A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to this section and sections 260A.38 and 260A.41.

Subd. 2. Sexual abuse. (a) The local welfare agency is the agency responsible for investigating an allegation of sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual functioning within the family unit as a person responsible for the child's care, or a person with a significant relationship to the child if that person resides in the child's household.

(b) The local welfare agency is also responsible for investigating when a child is identified as a victim of sex trafficking.

Subd. 3. Neglect or physical abuse. The local welfare agency is responsible for immediately conducting a family assessment or investigation if the report alleges neglect

19.1 or physical abuse by a parent, guardian, or individual functioning within the family unit as
19.2 a person responsible for the child's care.

19.3 Subd. 4. **Birth match.** (a) Upon receiving data under section 144.225, subdivision 2b,
19.4 contained in a birth record or recognition of parentage identifying a child who is subject to
19.5 threatened injury under section 260A.20, subdivision 23, the Department of Human Services
19.6 shall send the data to the responsible local welfare agency. The data is known as "birth
19.7 match data."

19.8 (b) Unless the responsible local welfare agency has already begun an investigation or
19.9 assessment of the report due to the birth of the child or execution of the recognition of
19.10 parentage and the parent's previous history with child protection, the agency shall accept
19.11 the birth match data as a report under section 260A.20, subdivision 23.

19.12 Subd. 5. **Law enforcement.** (a) The local law enforcement agency is the agency
19.13 responsible for investigating a report of maltreatment if a violation of a criminal statute is
19.14 alleged.

19.15 (b) Law enforcement and the responsible agency must coordinate their investigations
19.16 or assessments as required under this chapter when the report alleges maltreatment that is
19.17 a violation of a criminal statute by a person who is a parent, guardian, sibling, person
19.18 responsible for the child's care functioning within the family unit, or person who lives in
19.19 the child's household and who has a significant relationship to the child, in a setting other
19.20 than a facility as defined in section 260A.20.

19.21 Sec. 15. **[260A.34] SCREENING GUIDELINES.**

19.22 (a) Child protection staff, supervisors, and others involved in child protection screening
19.23 shall follow the guidance provided in the maltreatment screening guidelines issued by the
19.24 commissioner and, when notified by the commissioner, shall immediately implement updated
19.25 procedures and protocols.

19.26 (b) Any modification to the screening guidelines must be preapproved by the
19.27 commissioner and must not be less protective of children than is mandated by statute. The
19.28 county agency must consult with the county attorney before proposing modifications to the
19.29 commissioner. The guidelines may provide additional protection for children but must not
19.30 limit reports that are screened in or provide additional limits on consideration of reports
19.31 that were screened out in making a screening determination.

20.1 Sec. 16. **[260A.35] TIMELINE FOR SCREENING.**

20.2 (a) The local welfare agency shall determine if the report is to be screened in or out as
20.3 soon as possible but in no event longer than 24 hours after the report is received.

20.4 (b) When determining whether a report will be screened in or out, the agency receiving
20.5 the report must consider, when relevant, all previous history, including reports that were
20.6 screened out. The agency may communicate with treating professionals and individuals
20.7 specified under section 260A.87, subdivision 4, paragraph (b).

20.8 Sec. 17. **[260A.36] RESPONSE PATH ASSIGNMENT.**

20.9 Subdivision 1. **Local welfare agency.** (a) Upon receipt of a report, the local welfare
20.10 agency shall determine whether to conduct a family assessment or an investigation as
20.11 appropriate to prevent or provide a remedy for maltreatment.

20.12 (b) The local welfare agency shall conduct an investigation when the report involves
20.13 sexual abuse or substantial child endangerment.

20.14 (c) The local welfare agency shall begin an immediate investigation if, at any time when
20.15 the local welfare agency is using a family assessment response, the local welfare agency
20.16 determines that there is reason to believe that sexual abuse or substantial child endangerment
20.17 or a serious threat to the child's safety exists.

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

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

20.27 Subd. 2. **Responsible social service agency.** The responsible agency shall conduct an
20.28 investigation when the report alleges maltreatment in a facility required to be licensed under
20.29 chapter 144H, 245A, 245D, or 245H; under sections 144.50 to 144.58 and 241.021; in a
20.30 school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E; or in
20.31 a nonlicensed personal care provider association as defined in section 256B.0625, subdivision
20.32 19a.

21.1 Sec. 18. **[260A.37] NOTICE TO CHILD'S TRIBE.**

21.2 The local welfare agency shall provide immediate notice, according to section 260.761,
21.3 subdivision 2, to an Indian child's tribe when the agency has reason to believe the family
21.4 assessment or investigation may involve an Indian child. For purposes of this section,
21.5 "immediate notice" means notice provided within 24 hours.

21.6 Sec. 19. **[260A.38] CONFLICT OF INTEREST.**

21.7 (a) A potential conflict of interest related to assisting in an investigation or assessment
21.8 under this chapter resulting in a direct or shared financial interest with a child maltreatment
21.9 treatment provider or resulting from a personal or family relationship with a party in the
21.10 investigation must be considered by the local welfare agency in an effort to prevent unethical
21.11 relationships.

21.12 (b) A person who conducts an investigation or assessment under this chapter may not
21.13 have:

21.14 (1) any direct or shared financial interest or referral relationship resulting in a direct
21.15 shared financial gain with a child maltreatment treatment provider; or

21.16 (2) a personal or family relationship with a party in the assessment or investigation.

21.17 (c) If an independent assessor is not available, the person responsible for making the
21.18 determination under this chapter may use the services of an assessor with a financial interest,
21.19 referral, or personal or family relationship.

21.20 Sec. 20. **[260A.39] AGENCY DUTIES REGARDING INVESTIGATION AND**
21.21 **ASSESSMENT.**

21.22 Subdivision 1. **General duties.** (a) The local welfare agency shall offer services to
21.23 prevent future maltreatment, safeguarding and enhancing the welfare of the maltreated child,
21.24 and supporting and preserving family life whenever possible.

21.25 (b) If the report alleges a violation of a criminal statute involving maltreatment or child
21.26 endangerment under section 609.378, the local law enforcement agency and local welfare
21.27 agency shall coordinate the planning and execution of their respective investigation and
21.28 assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews.
21.29 Each agency shall prepare a separate report of the results of the agency's investigation or
21.30 assessment.

22.1 (c) In cases of alleged child maltreatment resulting in death, the local agency may rely
22.2 on the fact-finding efforts of a law enforcement investigation to make a determination of
22.3 whether or not maltreatment occurred.

22.4 (d) When necessary, the local welfare agency shall seek authority to remove the child
22.5 from the custody of a parent, guardian, or adult with whom the child is living.

22.6 (e) In performing any of these duties, the local welfare agency shall maintain an
22.7 appropriate record.

22.8 (f) In conducting a family assessment or investigation, the local welfare agency shall
22.9 gather information on the existence of substance abuse and domestic violence.

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

22.14 (h) The agency may use either a family assessment or investigation to determine whether
22.15 the child is safe when responding to a report resulting from birth match data under section
22.16 260A.20, subdivision 23, paragraph (c). If the child subject of birth match data is determined
22.17 to be safe, the agency shall consult with the county attorney to determine the appropriateness
22.18 of filing a petition alleging the child is in need of protection or services under section
22.19 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is
22.20 determined not to be safe, the agency and the county attorney shall take appropriate action
22.21 as required under section 260C.503, subdivision 2.

22.22 Subd. 2. **Face-to-face contact.** (a) Upon receipt of a screened in report, the local welfare
22.23 agency shall conduct a face-to-face contact with the child reported to be maltreated and
22.24 with the child's primary caregiver sufficient to complete a safety assessment and ensure the
22.25 immediate safety of the child.

22.26 (b) The face-to-face contact with the child and primary caregiver shall occur immediately
22.27 if sexual abuse or substantial child endangerment is alleged and within five calendar days
22.28 for all other reports. If the alleged offender was not already interviewed as the primary
22.29 caregiver, the local welfare agency shall also conduct a face-to-face interview with the
22.30 alleged offender in the early stages of the assessment or investigation.

22.31 (c) At the initial contact with the alleged offender, the local welfare agency or the agency
22.32 responsible for assessing or investigating the report must inform the alleged offender of the
22.33 complaints or allegations made against the individual in a manner consistent with laws

protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(d) The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation.

Subd. 3. Collection of information. (a) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent maltreatment, and family strengths and needs and share not public information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose a duty of confidentiality on the local welfare agency in order to implement the tribal state agreement.

(b) The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed.

(c) Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment.

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

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

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the

treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

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

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

(f) Notwithstanding section 13.384 or 144.291 to 144.298, the local welfare agency has access to medical data and records for purposes of paragraph (d), clause (3).

Subd. 4. **Consultation regarding alleged medical neglect.** If the report alleges medical neglect as defined in section 260C.007, subdivision 6, clause (5), the local welfare agency shall, in addition to its other duties under this section, immediately consult with designated hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration, and medication are being provided; and shall immediately secure an independent medical review of the infant's medical charts and records and, if necessary, seek a court order for an independent medical examination of the infant.

Subd. 5. **Law enforcement fact finding.** If the report alleges maltreatment by a person who is not a parent, guardian, sibling, person responsible for the child's care functioning within the family unit, or a person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in section 260A.20, the local welfare agency may rely on the fact-finding efforts of the law enforcement investigation to make a determination whether or not threatened injury or other maltreatment has occurred under section 260A.20, subdivision 12, if an alleged offender has minor children or lives with minors.

Sec. 21. [260A.40] SCREENED-OUT REPORTS.

Subdivision 1. **Records.** A report that is screened out must be maintained according to section 260A.87, subdivision 6, paragraph (b).

Subd. 2. **Offer of social services.** A local welfare agency or agency responsible for investigating or assessing a report may use a screened-out report for making an offer of social services to the subjects of the screened-out report.

Sec. 22. **[260A.41] INTERVIEWS.**

Subdivision 1. Authority to interview. (a) The agency responsible for assessing or investigating reports of maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged offender, and any other person with knowledge of the maltreatment for the purpose of gathering facts, assessing safety and risk to the child, and formulating a plan.

(b) Authority of the local welfare agency responsible for assessing or investigating the maltreatment report, the agency responsible for assessing or investigating the report, and the local law enforcement agency responsible for investigating the alleged maltreatment includes but is not limited to authority to interview, without parental consent, the alleged victim and any other children who currently reside with or who have resided with the alleged offender.

Subd. 2. Interview procedure. (a) The interview may take place at school or at any facility or other place where the alleged victim or other children might be found or the child may be transported to, and the interview may be conducted at a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency.

(b) The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official.

(c) For a family assessment, it is the preferred practice to request a parent or guardian's permission to interview the child before conducting the child interview, unless doing so would compromise the safety assessment.

Subd. 3. Notification after interview. (a) Except as provided in this subdivision, the parent, legal custodian, or guardian shall be notified by the responsible agency or local law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred.

(b) Notwithstanding notice required under the Minnesota Rules of Juvenile Protection, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this subdivision, and any other related information regarding the interview that may be a part of the child's school record. A copy

26.1 of the order shall be sent by the local welfare or law enforcement agency to the appropriate
26.2 school official.

26.3 Subd. 4. **Tennessen notice not required.** In conducting investigations and assessments
26.4 pursuant to this chapter, the notice required by section 13.04, subdivision 2, need not be
26.5 provided to a child under the age of ten who is the alleged victim of maltreatment.

26.6 Subd. 5. **Court order for interview.** (a) Where the alleged offender or a person
26.7 responsible for the care of the alleged victim or other child prevents access to the victim or
26.8 other child by the local welfare agency, the juvenile court may order the parent, legal
26.9 custodian, or guardian to produce the alleged victim or other child for questioning by the
26.10 local welfare agency or the local law enforcement agency outside the presence of the alleged
26.11 offender or any person responsible for the child's care at reasonable places and times as
26.12 specified by court order.

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

26.20 Subd. 6. **Interview format.** (a) When conducting an investigation, the local welfare
26.21 agency shall use a question and answer interviewing format with questioning as nondirective
26.22 as possible to elicit spontaneous responses.

26.23 (b) For investigations only, the following interviewing methods and procedures must
26.24 be used whenever possible when collecting information:

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

26.26 (2) in a case of alleged sexual abuse, audio-video recording of each interview with the
26.27 alleged victim and a child witness.

26.28 Subd. 7. **Interviews on school property.** (a) When the local welfare agency, local law
26.29 enforcement agency, or the agency responsible for assessing or investigating a report of
26.30 maltreatment determines that an interview should take place on school property, written
26.31 notification of intent to interview the child on school property must be received by school
26.32 officials before the interview. The notification shall include the name of the child to be
26.33 interviewed, the purpose of the interview, and a reference to the statutory authority to conduct

27.1 an interview on school property. For an interview conducted by the local welfare agency,
27.2 the notification shall be signed by the chair of the local welfare agency or the chair's designee.
27.3 The notification shall be private data on individuals subject to the provisions of this
27.4 subdivision. School officials may not disclose to the parent, legal custodian, or guardian
27.5 the contents of the notification or any other related information regarding the interview until
27.6 notified in writing by the local welfare agency or local law enforcement agency that the
27.7 investigation or assessment has been concluded, unless a school employee or agent is alleged
27.8 to have maltreated the child. Until that time, the local welfare agency, local law enforcement
27.9 agency, or the agency responsible for assessing or investigating a report of maltreatment
27.10 shall be solely responsible for any disclosure regarding the nature of the assessment or
27.11 investigation.

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

27.23 Sec. 23. **[260A.42] DOCUMENTING INTERVIEWS WITH CHILD**
27.24 **MALTREATMENT VICTIMS.**

27.25 Subdivision 1. **Policy.** It is the policy of this state to encourage adequate and accurate
27.26 documentation of the number and content of interviews conducted with alleged child
27.27 maltreatment victims during the course of a child maltreatment assessment or investigation,
27.28 criminal investigation, or prosecution, and to discourage interviews that are unnecessary,
27.29 duplicative, or otherwise not in the best interests of the child.

27.30 Subd. 2. **Definitions.** As used in this section:

27.31 (1) "government employee" means an employee of a state or local agency, and any
27.32 person acting as an agent of a state or local agency;

(2) "interview" means a statement of an alleged maltreatment victim which is given or made to a government employee during the course of a maltreatment assessment or investigation, criminal investigation, or prosecution; and

(3) "record" means an audio or video recording of an interview, or a written record of an interview.

Subd. 3. Record required. Whenever an interview is conducted, the interviewer must make a record of the interview. The record must contain the following information:

(1) the date, time, place, and duration of the interview;

(2) the identity of the persons present at the interview; and

(3) if the record is in writing, a summary of the information obtained during the interview.

Subd. 4. Records maintained. The records shall be maintained by the interviewer in accordance with applicable provisions of section 260A.87 and chapter 13.

Subd. 5. Guidelines on tape recording of interviews. Every county attorney's office shall be responsible for developing written guidelines on the tape recording of interviews by government employees who conduct child maltreatment assessments or investigations, criminal investigations, or prosecutions. The guidelines are public data as defined in section 13.02, subdivision 14.

Sec. 24. ~~[260A.43]~~ CONCLUSION OF FAMILY ASSESSMENT OR FAMILY INVESTIGATION BY LOCAL WELFARE AGENCY.

Subdivision 1. Timing. The local welfare agency shall conclude the family assessment or the investigation within 45 days of the receipt of a report. The conclusion of the assessment or investigation may be extended to permit the completion of a criminal investigation or the receipt of expert information requested within 45 days of the receipt of the report.

Subd. 2. Determination after family assessment. After conducting a family assessment, the local welfare agency shall determine whether child protective services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment.

Subd. 3. Determinations after family investigation. (a) After conducting an investigation, the local welfare agency shall make two determinations: (1) whether maltreatment occurred; and (2) whether child protective services are needed.

(b) No determination of maltreatment shall be made when the alleged offender is a child under the age of ten.

29.1 (c) The local welfare agency or the agency responsible for investigating the report may
29.2 make a determination of no maltreatment early in an investigation, and close the case and
29.3 retain immunity, if the collected information shows no basis for a full investigation.

29.4 Subd. 4. **Child protective services.** For the purposes of this chapter, except for section
29.5 260A.91, a determination that child protective services are needed means that the local
29.6 welfare agency documented conditions during the assessment or investigation sufficient to
29.7 cause a child protection worker, as defined in section 260A.91, to conclude that a child is
29.8 at significant risk of maltreatment if protective intervention is not provided and that the
29.9 individual or individuals responsible for the child's care have not taken or are not likely to
29.10 take action to protect the child from maltreatment or risk of maltreatment.

29.11 Subd. 5. **Notifications at conclusion of family investigation.** (a) Within ten working
29.12 days of the conclusion of an investigation, the local welfare agency or agency responsible
29.13 for investigating the report shall notify the parent or guardian of the child and the person
29.14 determined to be maltreating the child, if not the parent or guardian of the child, of the
29.15 determination and a summary of the specific reasons for the determination.

29.16 (b) The notice must include a certification that the information collection procedures
29.17 under section 260A.39 were followed and a notice of the right of a data subject to obtain
29.18 access to other private data on the subject collected, created, or maintained under this section.

29.19 (c) In addition, the notice shall include the length of time that the records will be kept
29.20 under section 260A.87, subdivision 6. The investigating agency shall notify the parent or
29.21 guardian of the child who is the subject of the report, and any person determined to have
29.22 maltreated the child, of their appeal or review rights under this chapter.

29.23 (d) The notice must also state that a finding of maltreatment may result in denial of a
29.24 license or certification application or background study disqualification under chapter 245C
29.25 related to employment or services that are licensed or certified by the Department of Human
29.26 Services under chapter 245A or 245H, the Department of Health under chapter 144 or 144A,
29.27 the Department of Corrections under section 241.021, and from providing services related
29.28 to an unlicensed personal care provider organization under chapter 256B.

29.29 Subd. 6. **Required referral to early intervention services.** A child under age three
29.30 who is involved in a substantiated case of maltreatment shall be referred for screening under
29.31 the Individuals with Disabilities Education Act, part C. Parents must be informed that the
29.32 evaluation and acceptance of services are voluntary. The commissioner of human services
29.33 shall monitor referral rates by county and annually report the information to the legislature.

30.1 Refusal to have a child screened is not a basis for a child in need of protection or services
30.2 petition under chapter 260C.

30.3 Subd. 7. **Notification at conclusion of family assessment.** Within ten working days of
30.4 the conclusion of a family assessment, the local welfare agency shall notify the parent or
30.5 guardian of the child of the need for services to address child safety concerns or significant
30.6 risk of subsequent maltreatment. The local welfare agency and the family may also jointly
30.7 agree that family support and family preservation services are needed.

30.8 Sec. 25. **[260A.44] PROVISION OF MEDICAL CARE.**

30.9 (a) If lack of medical care due to a parent's, guardian's, or caretaker's good faith selection
30.10 and dependence upon spiritual means or prayer for treatment or care of disease or remedial
30.11 care for the child in lieu of medical care may result in serious danger to the child's health,
30.12 the local welfare agency may ensure that necessary medical services are provided to the
30.13 child.

30.14 (b) If the review or examination required under section 260A.39, subdivision 4, leads
30.15 to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by
30.16 initiating legal proceedings under section 260C.141 and by filing an expedited motion to
30.17 prevent the withholding of medically indicated treatment.

30.18 Sec. 26. **[260A.45] PROVISION OF CHILD PROTECTIVE SERVICES.**

30.19 The local welfare agency shall create a written plan, in collaboration with the family
30.20 whenever possible, within 30 days of the determination that child protective services are
30.21 needed or upon joint agreement of the local welfare agency and the family that family
30.22 support and preservation services are needed. Child protective services for a family are
30.23 voluntary unless ordered by the court.

30.24 Sec. 27. **[260A.46] CONSULTATION WITH THE COUNTY ATTORNEY.**

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

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

30.29 (2) voluntary child protective services may not provide sufficient protection for the child;

30.30 or

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

31.1 Sec. 28. **[260A.50] CONDUCTING INVESTIGATION IN FACILITY OR SCHOOL.**

31.2 **Subdivision 1. Immediate investigation for alleged maltreatment in a facility.** (a)

31.3 The commissioner of human services, health, or education, whichever is responsible for
31.4 investigating the report, shall immediately investigate if the report alleges that:

31.5 (1) a child who is in the care of a facility as defined in section 260A.20 is the victim of
31.6 maltreatment in a facility by an individual in that facility or has been the victim of
31.7 maltreatment in a facility by an individual in that facility within the three years preceding
31.8 the report; or

31.9 (2) a child is the victim of maltreatment in a facility by an individual in a facility defined
31.10 in section 260A.20, subdivision 6, while in the care of that facility within the three years
31.11 preceding the report.

31.12 (b) The commissioner of the agency responsible for investigating the report shall arrange
31.13 for the transmittal to the commissioner of reports received by local agencies and may delegate
31.14 to a local welfare agency the duty to investigate reports. The commissioner of the agency
31.15 responsible for investigating the report or local welfare agency may interview any children
31.16 who are or have been in the care of a facility under investigation and the children's parents,
31.17 guardians, or legal custodians.

31.18 (c) In conducting an investigation under this section, the commissioner has the powers
31.19 and duties specified for a local welfare agency under this chapter.

31.20 **Subd. 2. Preinterview notification for facility investigation.** Before any interview
31.21 related to maltreatment in a facility under the provisions of section 260A.41, the
31.22 commissioner of the agency responsible for investigating the report or local welfare agency
31.23 shall notify the parent, guardian, or legal custodian of a child who will be interviewed in
31.24 the manner provided for in section 260A.41. If reasonable efforts to reach the parent,
31.25 guardian, or legal custodian of a child in an out-of-home placement have failed, the child
31.26 may be interviewed if there is reason to believe the interview is necessary to protect the
31.27 child or other children in the facility. The commissioner of the agency responsible for
31.28 assessing or investigating the report or local agency must provide the information required
31.29 in this subdivision to the parent, guardian, or legal custodian of a child interviewed without
31.30 parental notification as soon as possible after the interview. When the investigation is
31.31 completed, any parent, guardian, or legal custodian notified under this subdivision shall
31.32 receive the written memorandum provided for in section 260A.52, subdivision 5.

31.33 **Subd. 3. Facility records.** The commissioner of human services, the ombudsman for
31.34 mental health and developmental disabilities, the local welfare agencies responsible for

32.1 investigating reports, the commissioner of education, and the local law enforcement agencies
32.2 have the right to enter a facility as defined in section 260A.20 and to inspect and copy the
32.3 facility's records, including medical records, as part of the investigation. Notwithstanding
32.4 the provisions of chapter 13, the commissioner of human services, the ombudsman for
32.5 mental health and developmental disabilities, the local welfare agencies responsible for
32.6 investigating reports, the commissioner of education, and the local law enforcement agencies
32.7 also have the right to inform the facility under investigation that an investigation is being
32.8 conducted, to disclose to the facility the names of the individuals under investigation for
32.9 maltreating a child, and to provide the facility with a copy of the report and the investigative
32.10 findings.

32.11 Subd. 4. **Access to information.** In conducting investigations under this chapter, the
32.12 commissioner or local welfare agency shall obtain access to information consistent with
32.13 section 260A.39, subdivision 3. In conducting investigations under this section, the
32.14 commissioner of education shall obtain access to reports and investigative data that are
32.15 relevant to a report of maltreatment and are in the possession of a school facility as defined
32.16 in section 260A.20, subdivision 6, clause (2), notwithstanding the classification of the data
32.17 as educational or personnel data under chapter 13. This includes but is not limited to school
32.18 investigative reports, information concerning the conduct of school personnel alleged to
32.19 have committed maltreatment of students, information about witnesses, and any protective
32.20 or corrective action taken by the school facility regarding the school personnel alleged to
32.21 have committed maltreatment.

32.22 Subd. 5. **Investigation involving school facility.** In conducting an investigation involving
32.23 a school facility as defined in section 260A.20, subdivision 6, clause (2), the commissioner
32.24 of education shall collect available and relevant information and use the procedures in
32.25 sections 260A.39, subdivisions 2 and 3, and 260A.41, except that the requirement for
32.26 face-to-face observation of the child and face-to-face interview of the alleged offender is
32.27 to occur in the initial stages of the investigation provided that the commissioner may also
32.28 base the investigation on investigative reports and data received from the school facility
32.29 and local law enforcement agency, to the extent those investigations satisfy the requirements
32.30 of sections 260A.39, subdivisions 2 and 3, and 260A.41.

32.31 Sec. 29. **[260A.51] NOTIFICATION REQUIREMENTS FOR SCHOOLS AND**
32.32 **FACILITIES.**

32.33 Subdivision 1. **Notification requirements for school facility.** (a) Notwithstanding
32.34 section 260A.26, the commissioner of education must inform the parent, guardian, or legal

33.1 custodian of the child who is the subject of a report of alleged maltreatment in a school
33.2 facility within ten days of receiving the report, either orally or in writing, whether the
33.3 commissioner is investigating the report of alleged maltreatment.

33.4 (b) Regardless of whether a report is made under section 260A.26, as soon as practicable
33.5 after a school receives information regarding an incident that may constitute maltreatment
33.6 of a child in a school facility, the school shall inform the parent, legal guardian, or custodian
33.7 of the child that an incident occurred that may constitute maltreatment of the child, when
33.8 the incident occurred, and the nature of the conduct that may constitute maltreatment.

33.9 Subd. 2. **Notification requirements for other types of facilities.** When a report is
33.10 received that alleges maltreatment of a child while in the care of a licensed or unlicensed
33.11 day care facility, residential facility, agency, hospital, sanitarium, or other facility or
33.12 institution required to be licensed or certified according to sections 144.50 to 144.58;
33.13 241.021; or 245A.01 to 245A.16; or chapter 144H, 245D, or 245H; or a school as defined
33.14 in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal
33.15 care provider organization as defined in section 256B.0625, subdivision 19a, the
33.16 commissioner of the agency responsible for investigating the report or local welfare agency
33.17 investigating the report shall provide the following information to the parent, guardian, or
33.18 legal custodian of a child alleged to have been the victim of maltreatment in the facility:
33.19 the name of the facility; the fact that a report alleging maltreatment in the facility has been
33.20 received; the nature of the alleged maltreatment in the facility; that the agency is conducting
33.21 an investigation; any protective or corrective measures being taken pending the outcome
33.22 of the investigation; and that a written memorandum will be provided when the investigation
33.23 is completed.

33.24 Subd. 3. **Discretionary notification.** The commissioner of the agency responsible for
33.25 investigating the report or local welfare agency may also provide the information in
33.26 subdivision 2 to the parent, guardian, or legal custodian of any other child in the facility if
33.27 the investigative agency knows or has reason to believe the alleged maltreatment of a child
33.28 in the facility occurred. In determining whether to exercise this authority, the commissioner
33.29 of the agency responsible for investigating the report or local welfare agency shall consider
33.30 the seriousness of the alleged maltreatment of a child in the facility; the number of alleged
33.31 victims of maltreatment of a child in the facility; the number of alleged offenders; and the
33.32 length of the investigation. The facility shall be notified whenever this discretion is exercised.

Sec. 30. **[260A.52] CONCLUSION OF SCHOOL OR FACILITY INVESTIGATION.**

Subdivision 1. Investigation involving a school facility. If the commissioner of education conducts an investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases, the commissioner shall inform the school board or employer that a report was received; the subject of the report; the date of the initial report; the category of maltreatment alleged as defined in section 260A.20, subdivision 12; the fact that maltreatment was not determined; and a summary of the specific reasons for the determination.

Subd. 2. Investigation involving a facility. (a) When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in subdivision 4. Determinations under this subdivision must be made based on a preponderance of the evidence and are private data on individuals or nonpublic data as maintained by the commissioner of education.

(b) Any operator, employee, or volunteer worker at any facility who intentionally maltreats any child in the care of that facility may be charged with a violation of section 609.255, 609.377, or 609.378. Any operator of a facility who knowingly permits conditions to exist that result in maltreatment of a child in a facility while in the care of that facility may be charged with a violation of section 609.378. The facility operator shall inform all mandated reporters employed by or otherwise associated with the facility of the duties required of mandated reporters and shall inform all mandatory reporters of the prohibition against retaliation for reports made in good faith under this section.

Subd. 3. Nonmaltreatment mistake. (a) If paragraph (b) applies, rather than making a determination of substantiated maltreatment by the individual, the commissioner of human services shall determine that a nonmaltreatment mistake was made by the individual.

(b) A nonmaltreatment mistake occurs when:

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

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

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

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

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

35.9 (c) This subdivision only applies to child care centers licensed under Minnesota Rules,
35.10 chapter 9503.

35.11 Subd. 4. **Mitigating factors in investigating facilities.** (a) When determining whether
35.12 the facility or individual is the responsible party, or whether both the facility and the
35.13 individual are responsible for determined maltreatment in a facility, the investigating agency
35.14 shall consider at least the following mitigating factors:

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

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

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

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

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

Subd. 5. **Notification when school or facility investigation is completed.** (a) When the commissioner of the agency responsible for investigating the report or local welfare agency has completed its investigation, every parent, guardian, or legal custodian previously notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged maltreatment of a child in the facility; the investigator's name; a summary of the investigation findings; a statement of whether maltreatment was found; and the protective or corrective measures that are being or will be taken.

(b) The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name or, to the extent possible, reveal the identity of the alleged offender or the identity of individuals interviewed during the investigation.

(c) If maltreatment is determined to exist, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility who had contact with the individual responsible for the maltreatment.

(d) When the facility is the responsible party for maltreatment, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child who received services in the population of the facility where the maltreatment occurred.

(e) This notification must be provided to the parent, guardian, or legal custodian of each child receiving services from the time the maltreatment occurred until either the individual responsible for maltreatment is no longer in contact with a child or children in the facility or the conclusion of the investigation.

(f) In the case of maltreatment within a school facility, as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E, the commissioner of education need not provide notification to parents, guardians, or legal custodians of each child in the facility, but shall, within ten days after the investigation is completed, provide written notification to the parent, guardian, or legal custodian of any student alleged to have been maltreated.

(g) The commissioner of education may notify the parent, guardian, or legal custodian of any student involved as a witness to alleged maltreatment.

37.1 Subd. 6. **Notification to parent, child, or offender following investigation.** (a) Within
37.2 ten working days of the conclusion of an investigation, the local welfare agency or agency
37.3 responsible for investigating the report of maltreatment in a facility shall notify the parent
37.4 or guardian of the child, the person determined to be maltreating the child, and the director
37.5 of the facility of the determination and a summary of the specific reasons for the
37.6 determination.

37.7 (b) When the investigation involves a child foster care setting that is monitored by a
37.8 private licensing agency under section 245A.16, the local welfare agency responsible for
37.9 investigating the report shall notify the private licensing agency of the determination and
37.10 shall provide a summary of the specific reasons for the determination. The notice to the
37.11 private licensing agency must include identifying private data, but not the identity of the
37.12 reporter of maltreatment.

37.13 (c) The notice must also include a certification that the information collection procedures
37.14 under section 260A.39, subdivision 3, were followed and a notice of the right of a data
37.15 subject to obtain access to other private data on the subject collected, created, or maintained
37.16 under this section.

37.17 (d) In addition, the notice shall include the length of time that the records will be kept
37.18 under section 260A.87, subdivision 6.

37.19 (e) The investigating agency shall notify the parent or guardian of the child who is the
37.20 subject of the report, and any person or facility determined to have maltreated a child, of
37.21 their appeal or review rights under this section.

37.22 (f) The notice must also state that a finding of maltreatment may result in denial of a
37.23 license or certification application or background study disqualification under chapter 245C
37.24 related to employment or services that are licensed by the Department of Human Services
37.25 under chapter 245A or 245H, the Department of Health under chapter 144 or 144A, the
37.26 Department of Corrections under section 241.021, and from providing services related to
37.27 an unlicensed personal care provider organization under chapter 256B.

37.28 Sec. 31. **[260A.70] REPORTING OF PRENATAL EXPOSURE TO CONTROLLED**
37.29 **SUBSTANCES.**

37.30 Subdivision 1. **Reports required.** (a) Except as provided in paragraph (b), a person
37.31 mandated to report under this chapter shall immediately report to the local welfare agency
37.32 if the person knows or has reason to believe that a woman is pregnant and has used a
37.33 controlled substance for a nonmedical purpose during the pregnancy, including but not

38.1 limited to tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy
38.2 in any way that is habitual or excessive.

38.3 (b) A health care professional or a social service professional who is mandated to report
38.4 under this chapter is exempt from reporting under paragraph (a) a woman's use or
38.5 consumption of tetrahydrocannabinol or alcoholic beverages during pregnancy if the
38.6 professional is providing the woman with prenatal care or other health care services.

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

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

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

38.20 Subd. 2. **Local welfare agency.** Upon receipt of a report of prenatal exposure to a
38.21 controlled substance required under subdivision 1, the local welfare agency shall immediately
38.22 conduct an appropriate assessment and offer services indicated under the circumstances.
38.23 Services offered may include but are not limited to a referral for chemical dependency
38.24 assessment, a referral for chemical dependency treatment if recommended, and a referral
38.25 for prenatal care. The local welfare agency may also take any appropriate action under
38.26 chapter 253B, including seeking an emergency admission under section 253B.05. The local
38.27 welfare agency shall seek an emergency admission under section 253B.05 if the pregnant
38.28 woman refuses recommended voluntary services or fails recommended treatment.

38.29 Subd. 3. **Related provisions.** Reports under this section are governed by sections
38.30 260A.22, 260A.23, 260A.86, and 260A.87.

38.31 Subd. 4. **Controlled substances.** For purposes of this section and section 260A.71,
38.32 "controlled substance" means a controlled substance listed in section 253B.02, subdivision
38.33 2.

39.1 Sec. 32. **[260A.71] TOXICOLOGY TESTS REQUIRED.**

39.2 Subdivision 1. **Test; report.** (a) A physician shall administer a toxicology test to a
39.3 pregnant woman under the physician's care or to a woman under the physician's care within
39.4 eight hours after delivery to determine whether there is evidence that she has ingested a
39.5 controlled substance, if the woman has obstetrical complications that are a medical indication
39.6 of possible use of a controlled substance for a nonmedical purpose.

39.7 (b) If the test results are positive, the physician shall report the results under section
39.8 260A.70. A negative test result does not eliminate the obligation to report under section
39.9 260A.70 if other evidence gives the physician reason to believe the patient has used a
39.10 controlled substance for a nonmedical purpose.

39.11 Subd. 2. **Newborns.** (a) A physician shall administer to each newborn infant born under
39.12 the physician's care a toxicology test to determine whether there is evidence of prenatal
39.13 exposure to a controlled substance, if the physician has reason to believe based on a medical
39.14 assessment of the mother or the infant that the mother used a controlled substance for a
39.15 nonmedical purpose during the pregnancy.

39.16 (b) If the test results are positive, the physician shall report the results as neglect under
39.17 section 260A.20. A negative test result does not eliminate the obligation to report under
39.18 this chapter if other medical evidence of prenatal exposure to a controlled substance is
39.19 present.

39.20 Subd. 3. **Report to Department of Health.** Physicians shall report to the Department
39.21 of Health the results of tests performed under subdivisions 1 and 2. A report shall be made
39.22 on the certificate of live birth medical supplement or the report of fetal death medical
39.23 supplement filed on or after February 1, 1991. The reports are medical data under section
39.24 13.384.

39.25 Subd. 4. **Reliability of tests.** A positive test result reported under this section must be
39.26 obtained from a confirmatory test performed by a drug testing laboratory that meets the
39.27 requirements of section 181.953 and must be performed according to the requirements for
39.28 performance of confirmatory tests imposed by the licensing, accreditation, or certification
39.29 program listed in section 181.953, subdivision 1, in which the laboratory participates.

39.30 Sec. 33. **[260A.85] RECONSIDERATION AND APPEAL OF MALTREATMENT**
39.31 **DETERMINATION FOLLOWING INVESTIGATION.**

39.32 Subdivision 1. **Following family assessment.** Administrative reconsideration is not
39.33 applicable in a family assessment since no determination concerning maltreatment is made.

40.1 Subd. 2. Request for reconsideration. (a) Except as provided under subdivision 5, an
40.2 individual or facility that the commissioner of human services, a local welfare agency, or
40.3 the commissioner of education determines has maltreated a child, an interested person acting
40.4 on behalf of the child, regardless of the determination, who contests the investigating agency's
40.5 final determination regarding maltreatment, may request the investigating agency to
40.6 reconsider its final determination regarding maltreatment. The request for reconsideration
40.7 must be submitted in writing to the investigating agency within 15 calendar days after receipt
40.8 of notice of the final determination regarding maltreatment or, if the request is made by an
40.9 interested person who is not entitled to notice, within 15 days after receipt of the notice by
40.10 the parent or guardian of the child. If mailed, the request for reconsideration must be
40.11 postmarked and sent to the investigating agency within 15 calendar days of the individual's
40.12 or facility's receipt of the final determination. If the request for reconsideration is made by
40.13 personal service, it must be received by the investigating agency within 15 calendar days
40.14 after the individual's or facility's receipt of the final determination.

40.15 (b) An individual who was determined to have maltreated a child under this chapter and
40.16 who was disqualified on the basis of serious or recurring maltreatment under sections
40.17 245C.14 and 245C.15 may request reconsideration of the maltreatment determination and
40.18 the disqualification. The request for reconsideration of the maltreatment determination and
40.19 the disqualification must be submitted within 30 calendar days of the individual's receipt
40.20 of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request
40.21 for reconsideration of the maltreatment determination and the disqualification must be
40.22 postmarked and sent to the investigating agency within 30 calendar days of the individual's
40.23 receipt of the maltreatment determination and notice of disqualification. If the request for
40.24 reconsideration is made by personal service, it must be received by the investigating agency
40.25 within 30 calendar days after the individual's receipt of the notice of disqualification.

40.26 Subd. 3. Request for fair hearing. (a) Except as provided under subdivisions 5 and 6,
40.27 if the investigating agency denies the request or fails to act upon the request within 15
40.28 working days after receiving the request for reconsideration, the person or facility entitled
40.29 to a fair hearing under section 256.045 may submit to the commissioner of human services
40.30 or the commissioner of education a written request for a hearing under section 256.045.
40.31 Section 256.045 also governs hearings requested to contest a final determination of the
40.32 commissioner of education. The investigating agency shall notify persons who request
40.33 reconsideration of their rights under this paragraph. The hearings specified under this section
40.34 are the only administrative appeal of a decision issued under subdivision 2. Determinations

41.1 under this section are not subject to accuracy and completeness challenges under section
41.2 13.04.

41.3 (b) Except as provided under subdivision 6, if an individual or facility contests the
41.4 investigating agency's final determination regarding maltreatment by requesting a fair
41.5 hearing under section 256.045, the commissioner of human services shall ensure that the
41.6 hearing is conducted and a decision is reached within 90 days of receipt of the request for
41.7 a hearing. The time for action on the decision may be extended for as many days as the
41.8 hearing is postponed or the record is held open for the benefit of either party.

41.9 Subd. 4. **Change of maltreatment determination.** If, as a result of a reconsideration
41.10 or fair hearing, the investigating agency changes the determination of maltreatment, that
41.11 agency shall notify every parent, guardian, or legal custodian previously notified of the
41.12 investigation, the commissioner of the agency responsible for assessing or investigating the
41.13 report, the local welfare agency, and, if applicable, the director of the facility and the private
41.14 licensing agency.

41.15 Subd. 5. **Consolidation.** If an individual was disqualified under sections 245C.14 and
41.16 245C.15 on the basis of a determination of maltreatment which was serious or recurring,
41.17 and the individual requested reconsideration of the maltreatment determination under
41.18 subdivision 2 and requested reconsideration of the disqualification under sections 245C.21
41.19 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the
41.20 disqualification shall be consolidated into a single fair hearing. If reconsideration of the
41.21 maltreatment determination is denied and the individual remains disqualified following a
41.22 reconsideration decision, the individual may request a fair hearing under section 256.045.
41.23 If an individual requests a fair hearing on the maltreatment determination and the
41.24 disqualification, the scope of the fair hearing shall include both the maltreatment
41.25 determination and the disqualification.

41.26 Subd. 6. **Contested case hearing.** If a maltreatment determination or a disqualification
41.27 based on serious or recurring maltreatment is the basis for a denial of a license under section
41.28 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to
41.29 a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to
41.30 1400.8612. As provided for under section 245A.08, subdivision 2a, the scope of the contested
41.31 case hearing shall include the maltreatment determination, disqualification, and licensing
41.32 sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment
41.33 determination and disqualification shall not be conducted under section 256.045. Except
41.34 for family child care and child foster care, reconsideration of a maltreatment determination

42.1 as provided under this subdivision, and reconsideration of a disqualification as provided
42.2 under section 245C.22, shall also not be conducted when:

42.3 (1) a denial of a license under section 245A.05 or a licensing sanction under section
42.4 245A.07 is based on a determination that the license holder is responsible for maltreatment
42.5 or the disqualification of a license holder based on serious or recurring maltreatment;

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

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

42.10 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
42.11 determination or disqualification, but does not appeal the denial of a license or a licensing
42.12 sanction, reconsideration of the maltreatment determination shall be conducted under
42.13 subdivision 2 and section 626.557, subdivision 9d, and reconsideration of the disqualification
42.14 shall be conducted under section 245C.22. In such cases, a fair hearing shall also be
42.15 conducted as provided under subdivision 2 and sections 245C.27 and 626.557, subdivision
42.16 9d.

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

42.21 Subd. 7. **Process for correction order or decertification.** If a maltreatment determination
42.22 is the basis for a correction order under section 245H.06 or decertification under section
42.23 245H.07, the certification holder has the right to request reconsideration under sections
42.24 245H.06 and 245H.07. If the certification holder appeals the maltreatment determination
42.25 or disqualification, but does not appeal the correction order or decertification, reconsideration
42.26 of the maltreatment determination shall be conducted under subdivision 2 and reconsideration
42.27 of the disqualification shall be conducted under section 245C.22.

42.28 Sec. 34. **[260A.86] IMMUNITY.**

42.29 (a) The following persons are immune from any civil or criminal liability that otherwise
42.30 might result from the person's actions, if the person is acting in good faith:

42.31 (1) a person making a voluntary or mandated report under this chapter or assisting in an
42.32 assessment under this chapter;

43.1 (2) a person with responsibility for performing duties under this section or supervisor
43.2 employed by a local welfare agency, the commissioner of an agency responsible for operating
43.3 or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital,
43.4 sanitarium, or other facility or institution required to be licensed or certified under sections
43.5 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B or 245H; or a school as
43.6 defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed
43.7 personal care provider organization as defined in section 256B.0625, subdivision 19a,
43.8 complying with sections 260A.42, subdivisions 2 and 3, and 260A.52; and

43.9 (3) a public or private school, facility as defined in section 260A.20, or the employee
43.10 of any public or private school or facility who permits access by a local welfare agency, the
43.11 Department of Education, or a local law enforcement agency and assists in an investigation
43.12 or assessment pursuant to this chapter.

43.13 (b) A person who is a supervisor or person with responsibility for performing duties
43.14 under this chapter employed by a local welfare agency, the commissioner of human services,
43.15 or the commissioner of education complying with this chapter or any related rule or provision
43.16 of law is immune from any civil or criminal liability that might otherwise result from the
43.17 person's actions, if the person is (1) acting in good faith and exercising due care, or (2)
43.18 acting in good faith and following the information collection procedures established under
43.19 section 260A.39, subdivision 3.

43.20 (c) Any physician or other medical personnel administering a toxicology test under
43.21 section 260A.71 to determine the presence of a controlled substance in a pregnant woman,
43.22 in a woman within eight hours after delivery, or in a child at birth or during the first month
43.23 of life is immune from civil or criminal liability arising from administration of the test, if
43.24 the physician ordering the test believes in good faith that the test is required under this
43.25 section and the test is administered in accordance with an established protocol and reasonable
43.26 medical practice.

43.27 (d) This section does not provide immunity to any person for failure to make a required
43.28 report or for committing maltreatment.

43.29 (e) If a person who makes a voluntary or mandatory report under section 260A.23 prevails
43.30 in a civil action from which the person has been granted immunity under this section, the
43.31 court may award the person attorney fees and costs.

44.1 Sec. 35. [260A.87] DATA PRACTICES.

44.2 Subdivision 1. **Maintaining data.** Notwithstanding the data's classification in the
44.3 possession of any other agency, data acquired by the local welfare agency or the agency
44.4 responsible for assessing or investigating the report during the course of the assessment or
44.5 investigation are private data on individuals and must be maintained according to this section.

44.6 Subd. 2. **Data collected during investigation of maltreatment in school.** (a) Data of
44.7 the commissioner of education collected or maintained during and for the purpose of an
44.8 investigation of alleged maltreatment in a school are governed by this chapter,
44.9 notwithstanding the data's classification as educational, licensing, or personnel data under
44.10 chapter 13.

44.11 (b) In conducting an investigation involving a school facility as defined in section
44.12 260A.20, subdivision 6, clause (2), the commissioner of education shall collect investigative
44.13 reports and data that are relevant to a report of maltreatment from local law enforcement
44.14 and the school facility.

44.15 Subd. 3. **Classification and release of data.** (a) A written copy of a report maintained
44.16 by personnel of agencies, other than welfare or law enforcement agencies, which are subject
44.17 to chapter 13 shall be confidential. An individual subject of the report may obtain access
44.18 to the original report as provided by paragraphs (g) to (o).

44.19 (b) All reports and records created, collected, or maintained under this chapter by a local
44.20 welfare agency or law enforcement agency may be disclosed to a local welfare or other
44.21 child welfare agency of another state when the agency certifies that:

44.22 (1) the reports and records are necessary to conduct an investigation of actions that would
44.23 qualify as maltreatment under this chapter; and

44.24 (2) the reports and records will be used only for purposes of a child protection assessment
44.25 or investigation and will not be further disclosed to any other person or agency.

44.26 (c) The local social service agency or law enforcement agency in this state shall keep a
44.27 record of all records or reports disclosed pursuant to this subdivision and of any agency to
44.28 which the records or reports are disclosed. If in any case records or reports are disclosed
44.29 before a determination is made under section 260A.43, subdivision 3, paragraph (a), or a
44.30 disposition of a criminal proceeding is reached, the local social service agency or law
44.31 enforcement agency in this state shall forward the determination or disposition to any agency
44.32 that has received a report or record under this subdivision.

45.1 (d) The responsible authority of a local welfare agency or the responsible authority's
45.2 designee may release private or confidential data on an active case involving assessment
45.3 or investigation of actions that are defined as maltreatment under this chapter to a court
45.4 services agency if:

45.5 (1) the court services agency has an active case involving a common client who is the
45.6 subject of the data; and

45.7 (2) the data are necessary for the court services agency to effectively process the court
45.8 services agency's case, including investigating or performing other duties relating to the
45.9 case required by law.

45.10 (e) The data disclosed under paragraph (d) may be used only for purposes of the active
45.11 court services case described in paragraph (d), clause (1), and may not be further disclosed
45.12 to any other person or agency, except as authorized by law.

45.13 (f) Records maintained under subdivision 4, paragraph (b), may be shared with another
45.14 local welfare agency that requests the information because it is conducting an assessment
45.15 or investigation under this section of the subject of the records.

45.16 (g) Except as provided in paragraphs (b), (h), (i), (o), and (p); subdivision 1; and sections
45.17 260A.41, subdivision 2; and 260A.42, all records concerning individuals maintained by a
45.18 local welfare agency or agency responsible for assessing or investigating the report under
45.19 this chapter, including any written reports filed under sections 260A.23 and 260A.26, shall
45.20 be private data on individuals, except insofar as copies of reports are required by section
45.21 260A.31, subdivision 1 or 2, to be sent to the local police department or the county sheriff.

45.22 (h) All records concerning determinations of maltreatment by a facility are nonpublic
45.23 data as maintained by the Department of Education, except insofar as copies of reports are
45.24 required by section 260A.31, subdivision 1 or 2, to be sent to the local police department
45.25 or the county sheriff.

45.26 (i) Reports maintained by any police department or the county sheriff shall be private
45.27 data on individuals, except the reports shall be made available to the investigating, petitioning,
45.28 or prosecuting authority, including a county medical examiner or county coroner.

45.29 (j) Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data other than
45.30 the reports.

45.31 (k) The local welfare agency or agency responsible for assessing or investigating the
45.32 report shall make available to the investigating, petitioning, or prosecuting authority,
45.33 including a county medical examiner or county coroner or a professional delegate, any

records that contain information relating to a specific incident of maltreatment that is under investigation, petition, or prosecution and information relating to any prior incident of maltreatment involving any of the same persons. The records shall be collected and maintained according to chapter 13.

(l) An individual subject of a record shall have access to the record according to those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this section.

(m) Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter before the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall 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 the court that the report was false and that 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.

(n) Upon request of the legislative auditor, data on individuals maintained under this chapter must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data according to chapter 13.

(o) Active law enforcement investigative data received by a local welfare agency or agency responsible for assessing or investigating the report under this chapter are confidential data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals.

(p) Section 13.03, subdivision 4, applies to data received by the commissioner of education from a licensing entity.

Subd. 4. **Data disclosed to reporter.** (a) A local welfare or child protection agency, or the agency responsible for assessing or investigating the report of maltreatment, shall provide relevant private data on individuals obtained under this chapter to a mandated reporter who made the report and who has an ongoing responsibility for the health, education, or welfare of a child affected by the data, unless the agency determines that providing the data would not be in the best interests of the child.

(b) The agency may provide the data to other mandated reporters with ongoing responsibility for the health, education, or welfare of the child. Mandated reporters with ongoing responsibility for the health, education, or welfare of a child affected by the data

47.1 include the child's teachers or other appropriate school personnel, foster parents, health care
47.2 providers, respite care workers, therapists, social workers, child care providers, residential
47.3 care staff, crisis nursery staff, probation officers, and court services personnel. Under this
47.4 chapter, a mandated reporter need not have made the report to be considered a person with
47.5 ongoing responsibility for the health, education, or welfare of a child affected by the data.
47.6 Data provided under this chapter must be limited to data pertinent to the individual's
47.7 responsibility for caring for the child.

47.8 (c) A reporter who receives private data on individuals under this subdivision must treat
47.9 the data according to that classification, regardless of whether the reporter is an employee
47.10 of a government entity. The remedies and penalties under sections 13.08 and 13.09 apply
47.11 if a reporter releases data in violation of this chapter or other law.

47.12 Subd. 5. **Data provided to commissioner of education.** The commissioner of education
47.13 must be provided with all requested data that are relevant to a report of maltreatment and
47.14 are in possession of a school facility as defined in section 260A.20, subdivision 6, clause
47.15 (2), when the data are requested pursuant to an assessment or investigation of a maltreatment
47.16 report of a student in a school. If the commissioner of education makes a determination of
47.17 maltreatment involving an individual performing work within a school facility who is
47.18 licensed by a board or other agency, the commissioner shall provide a copy of its offender
47.19 maltreatment determination report to the licensing entity with all student-identifying
47.20 information removed. The offender maltreatment determination report shall include but is
47.21 not limited to the following sections: report of alleged maltreatment; legal standard;
47.22 investigation; summary of findings; determination; corrective action by a school;
47.23 reconsideration process; and a listing of records related to the investigation. Notwithstanding
47.24 section 13.03, subdivision 4, data received by a licensing entity under this paragraph are
47.25 governed by section 13.41 or other applicable law governing data of the receiving entity,
47.26 except that this section applies to the classification of and access to data on the reporter of
47.27 the maltreatment.

47.28 Subd. 6. **Data retention.** (a) Notwithstanding sections 138.163 and 138.17, a record
47.29 maintained or a record derived from a report of maltreatment by a local welfare agency,
47.30 agency responsible for assessing or investigating the report, court services agency, or school
47.31 under this chapter shall be destroyed as provided in paragraphs (b) to (e) by the responsible
47.32 authority.

47.33 (b) For a report alleging maltreatment that was not accepted for assessment or
47.34 investigation, a family assessment case, and a case where an investigation results in no
47.35 determination of maltreatment or the need for child protective services, the record must be

maintained for a period of five years after the date the report was not accepted for assessment or investigation or the date of the final entry in the case record. A record of a report that was not accepted must contain sufficient information to identify the subjects of the report, the nature of the alleged maltreatment, and the reasons as to why the report was not accepted. Records under this paragraph may not be used for employment, background checks, or purposes other than to assist in future screening decisions and risk and safety assessments.

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

(d) All records regarding a report of maltreatment, including a notification of intent to interview that was received by a school under section 260A.41, subdivision 7, shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

(e) Private or confidential data released to a court services agency under subdivision 3, paragraph (d), must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency or agency responsible for assessing or investigating the report shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

Subd. 7. **Disclosure to public.** (a) Notwithstanding any other provision of law and subject to this subdivision, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

(1) a person is criminally charged with having caused the child fatality or near fatality;

(2) a county attorney certifies that a person would have been charged with having caused the child fatality or near fatality but for that person's death; or

(3) a child protection investigation resulted in a determination of maltreatment.

(b) Findings and information disclosed under this subdivision consist of a written summary that includes any of the following information the agency is able to provide:

(1) the cause and circumstances regarding the child fatality or near fatality;

(2) the age and gender of the child;

(3) information on any previous reports of maltreatment that are pertinent to the maltreatment that led to the child fatality or near fatality;

(4) information on any previous investigations that are pertinent to the maltreatment that led to the child fatality or near fatality;

(5) the result of any investigations described in clause (4);

(6) actions of and services provided by the local welfare agency on behalf of a child that are pertinent to the maltreatment that led to the child fatality or near fatality; and

(7) the result of any review of the state child mortality review panel, a local child mortality review panel, a local community child protection team, or any public agency.

(c) Nothing in this subdivision authorizes access to the private data in the custody of a local welfare agency, or the disclosure to the public of the records or content of any psychiatric, psychological, or therapeutic evaluation, or the disclosure of information that would reveal the identities of persons who provided information related to maltreatment of the child.

(d) A person whose request is denied may apply to the appropriate court for an order compelling disclosure of all or part of the findings and information of the public agency. The application must set forth, with reasonable particularity, factors supporting the application. The court has jurisdiction to issue these orders. Actions under this chapter must be set down for immediate hearing, and subsequent proceedings in those actions must be given priority by the appellate courts.

(e) A public agency or its employees acting in good faith in disclosing or declining to disclose information under this chapter are immune from criminal or civil liability that might otherwise be incurred or imposed for that action.

Subd. 8. **Disclosure not required.** When interviewing a child under this chapter, an individual does not include the parent or guardian of the child for purposes of section 13.04, subdivision 2, when the parent or guardian is the alleged offender.

Sec. 36. [260A.90] SPECIALIZED TRAINING AND EDUCATION REQUIRED.

Subdivision 1. **Job classification; continuing education.** (a) The commissioner of human services, for employees subject to the Minnesota Merit System, and directors of county personnel systems, for counties not subject to the Minnesota Merit System, shall establish a job classification consisting exclusively of persons with the specialized knowledge, skills, and experience required to satisfactorily perform child protection duties pursuant to this chapter.

(b) All child protection workers or social services staff having responsibility for child protection duties under this chapter shall receive 15 hours of continuing education or in-service training each year relevant to providing child protective services. The local welfare agency shall maintain a record of training completed by each employee having responsibility for performing child protection duties.

Subd. 2. **Child protection worker foundation education.** An individual who seeks employment as a child protection worker after the commissioner of human services has implemented the foundation training program developed under section 260A.91 must complete competency-based foundation training during their first six months of employment as a child protection worker.

Subd. 3. **Background studies.** (a) County employees hired on or after July 1, 2015, who have responsibility for child protection duties or current county employees who are assigned new child protection duties on or after July 1, 2015, are required to undergo a background study. A county may complete these background studies by either:

(1) use of the Department of Human Services NETStudy 2.0 system according to sections 245C.03 and 245C.10; or

(2) an alternative process defined by the county.

(b) County social services agencies and local welfare agencies must initiate background studies before an individual begins a position allowing direct contact with persons served by the agency.

Subd. 4. **Joint training.** The commissioners of human services and public safety shall cooperate in the development of a joint program for training child maltreatment services professionals in the appropriate techniques for child maltreatment assessment and investigation. The program shall include but need not be limited to the following areas:

(1) the public policy goals of the state as set forth in section 260C.001 and the role of the assessment or investigation in meeting these goals;

(2) the special duties of child protection workers and law enforcement officers under this chapter;

(3) the appropriate methods for directing and managing affiliated professionals who may be utilized in providing protective services and strengthening family ties;

(4) the appropriate methods for interviewing alleged victims of child maltreatment and other children in the course of performing an assessment or an investigation;

51.1 (5) the dynamics of child maltreatment within family systems and the appropriate methods
51.2 for interviewing parents in the course of the assessment or investigation, including training
51.3 in recognizing cases in which one of the parents is a victim of domestic abuse and in need
51.4 of special legal or medical services;

51.5 (6) the legal, evidentiary considerations that may be relevant to the conduct of an
51.6 assessment or an investigation;

51.7 (7) the circumstances under which it is appropriate to remove the alleged offender or
51.8 the alleged victim from the home;

51.9 (8) the protective social services that are available to protect alleged victims from further
51.10 maltreatment, to prevent child maltreatment and domestic abuse, and to preserve the family
51.11 unit; and training in the preparation of case plans to coordinate services for the alleged child
51.12 victim with services for any parents who are victims of domestic abuse;

51.13 (9) the methods by which child protection workers and law enforcement workers
51.14 cooperate in conducting assessments and investigations in order to avoid duplication of
51.15 efforts; and

51.16 (10) appropriate methods for interviewing alleged victims and conducting investigations
51.17 in cases where the alleged victim is developmentally, physically, or mentally disabled.

51.18 Subd. 5. **Priority training.** The commissioners of human services and public safety
51.19 shall provide the program courses described in subdivision 2 at convenient times and
51.20 locations in the state. The commissioners shall give training priority in the program areas
51.21 cited in subdivision 2 to persons currently performing assessments and investigations
51.22 pursuant to this chapter.

51.23 Subd. 6. **Revenue.** (a) The commissioner of human services shall add the following
51.24 funds to the funds appropriated under section 260A.91, subdivision 2, to develop and support
51.25 training.

51.26 (b) The commissioner of human services shall submit claims for federal reimbursement
51.27 earned through the activities and services supported through Department of Human Services
51.28 child protection or child welfare training funds. Federal revenue earned must be used to
51.29 improve and expand training services by the department. The department expenditures
51.30 eligible for federal reimbursement under this section must not be made from federal funds
51.31 or funds used to match other federal funds.

51.32 (c) Each year, the commissioner of human services shall withhold from funds distributed
51.33 to each county under Minnesota Rules, parts 9550.0300 to 9550.0370, an amount equivalent

52.1 to 1.5 percent of each county's annual title XX allocation under section 256M.50. The
52.2 commissioner must use these funds to ensure decentralization of training.

52.3 (d) The federal revenue under this subdivision is available for these purposes until the
52.4 funds are expended.

52.5 **Sec. 37. [260A.91] CHILD PROTECTION WORKERS; TRAINING.**

52.6 Subdivision 1. Definitions. (a) As used in this section, the following terms have the
52.7 meanings given unless the specific context indicates otherwise.

52.8 (b) "Advanced training" means training provided to a local child protection worker after
52.9 the person has performed an initial six months of employment as a child protection worker.

52.10 (c) "Child protection agency" means an agency authorized to receive reports, conduct
52.11 assessments and investigations, and make determinations pursuant to this chapter.

52.12 (d) "Child protection services" means the receipt and assessment of reports of
52.13 maltreatment and the provision of services to families and children when maltreatment has
52.14 occurred or when there is risk of maltreatment. These services include:

52.15 (1) the assessment of risk to a child alleged to have been maltreated;

52.16 (2) interviews of any person alleged to have maltreated a child and the child or children
52.17 involved in the report, and interviews with persons having facts or knowledge necessary to
52.18 assess the level of risk to a child and the need for protective intervention;

52.19 (3) the gathering of written or evidentiary materials;

52.20 (4) the recording of case findings and determinations; and

52.21 (5) other actions required by this chapter, administrative rule, or agency policy.

52.22 (e) "Competency-based training" means a course of instruction that provides both
52.23 information and skills practice, which is based upon clearly stated and measurable
52.24 instructional objectives, and which requires demonstration of the achievement of a particular
52.25 standard of skills and knowledge for satisfactory completion.

52.26 (f) "Foundation training" means training provided to a local child protection worker
52.27 after the person has begun to perform child protection duties, but before the expiration of
52.28 six months of employment as a child protection worker. This foundation training must occur
52.29 during the performance of job duties and must include an evaluation of the employee's
52.30 application of skills and knowledge.

53.1 Subd. 2. **Training program; development.** The commissioner of human services shall
53.2 develop a program of competency-based foundation and advanced training for child
53.3 protection workers if funds are appropriated to the commissioner for this purpose.

53.4 Sec. 38. **[260A.95] AUDIT.**

53.5 Subdivision 1. **Audit required.** The commissioner shall regularly audit for accuracy
53.6 the data reported by counties on maltreatment of children.

53.7 Subd. 2. **Audit procedure.** The commissioner shall develop a plan to perform quality
53.8 assurance reviews of local welfare agency screening practices and decisions. The
53.9 commissioner shall provide oversight and guidance to counties to ensure consistent
53.10 application of screening guidelines, thorough and appropriate screening decisions, and
53.11 correct documentation and maintenance of reports.

53.12 Subd. 3. **Report required.** The commissioner shall produce an annual report of the
53.13 summary results of the reviews. The report must only contain aggregate data and may not
53.14 include any data that could be used to personally identify any subject whose data is included
53.15 in the report. The report is public information and must be provided to the chairs and ranking
53.16 minority members of the legislative committees having jurisdiction over child protection
53.17 issues.

53.18 Sec. 39. **REVISOR'S INSTRUCTION.**

53.19 The revisor of statutes shall make necessary cross-reference changes and remove statutory
53.20 cross-references in Minnesota Statutes to conform with the recodification and repealer in
53.21 this act. The revisor may make technical and other necessary changes to sentence structure
53.22 to preserve the meaning of the text. The revisor may alter the statutory coding in this act to
53.23 incorporate statutory changes made by other law in the 2020 regular legislative session. If
53.24 a provision repealed in this act is also amended in the 2020 regular legislative session by
53.25 other law, the revisor shall merge the amendment into the recodification, notwithstanding
53.26 Minnesota Statutes, section 645.30.

53.27 Sec. 40. **REPEALER.**

53.28 (a) Minnesota Statutes 2018, sections 626.556, subdivisions 1, 3, 3a, 3c, 3d, 3f, 4, 4a,
53.29 5, 6, 6a, 7, 7a, 8, 9, 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h, 10i, 10j, 10k, 10l, 10m, 10n,
53.30 11a, 11b, 11c, 11d, 12, 14, 15, and 16; 626.5561; 626.5562; 626.558; 626.559, subdivisions
53.31 1, 1a, 1b, 2, 3, and 5; 626.5591; and 626.561, are repealed.

54.1 (b) Minnesota Statutes 2019 Supplement, section 626.556, subdivisions 2, 3b, 3e, 10,
54.2 and 11, are repealed.

54.3 ARTICLE 2

54.4 CONFORMING CHANGES

54.5 Section 1. Minnesota Statutes 2018, section 13.32, subdivision 3, is amended to read:

54.6 Subd. 3. **Private data; when disclosure is permitted.** Except as provided in subdivision
54.7 5, educational data is private data on individuals and shall not be disclosed except as follows:

54.8 (a) pursuant to section 13.05;

54.9 (b) pursuant to a valid court order;

54.10 (c) pursuant to a statute specifically authorizing access to the private data;

54.11 (d) to disclose information in health, including mental health, and safety emergencies
54.12 pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code
54.13 of Federal Regulations, title 34, section 99.36;

54.14 (e) pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1),
54.15 (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3), (b)(6), (b)(7), and (i), and Code of Federal Regulations,
54.16 title 34, sections 99.31, 99.32, 99.33, 99.34, 99.35, and 99.39;

54.17 (f) to appropriate health authorities to the extent necessary to administer immunization
54.18 programs and for bona fide epidemiologic investigations which the commissioner of health
54.19 determines are necessary to prevent disease or disability to individuals in the public
54.20 educational agency or institution in which the investigation is being conducted;

54.21 (g) when disclosure is required for institutions that participate in a program under title
54.22 IV of the Higher Education Act, United States Code, title 20, section 1092;

54.23 (h) to the appropriate school district officials to the extent necessary under subdivision
54.24 6, annually to indicate the extent and content of remedial instruction, including the results
54.25 of assessment testing and academic performance at a postsecondary institution during the
54.26 previous academic year by a student who graduated from a Minnesota school district within
54.27 two years before receiving the remedial instruction;

54.28 (i) to appropriate authorities as provided in United States Code, title 20, section
54.29 1232g(b)(1)(E)(ii), if the data concern the juvenile justice system and the ability of the
54.30 system to effectively serve, prior to adjudication, the student whose records are released;
54.31 provided that the authorities to whom the data are released submit a written request for the

data that certifies that the data will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student and the request and a record of the release are maintained in the student's file;

(j) to volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students;

(k) to provide student recruiting information, from educational data held by colleges and universities, as required by and subject to Code of Federal Regulations, title 32, section 216;

(l) to the juvenile justice system if information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals;

(m) with respect to Social Security numbers of students in the adult basic education system, to Minnesota State Colleges and Universities and the Department of Employment and Economic Development for the purpose and in the manner described in section 124D.52, subdivision 7;

(n) to the commissioner of education for purposes of an assessment or investigation of a report of alleged maltreatment of a student as mandated by ~~section 626.556~~ chapter 260A. Upon request by the commissioner of education, data that are relevant to a report of maltreatment and are from charter school and school district investigations of alleged maltreatment of a student must be disclosed to the commissioner, including, but not limited to, the following:

(1) information regarding the student alleged to have been maltreated;

(2) information regarding student and employee witnesses;

(3) information regarding the alleged perpetrator; and

(4) what corrective or protective action was taken, if any, by the school facility in response to a report of maltreatment by an employee or agent of the school or school district;

(o) when the disclosure is of the final results of a disciplinary proceeding on a charge of a crime of violence or nonforcible sex offense to the extent authorized under United States Code, title 20, section 1232g(b)(6)(A) and (B) and Code of Federal Regulations, title 34, sections 99.31 (a)(13) and (14);

(p) when the disclosure is information provided to the institution under United States Code, title 42, section 14071, concerning registered sex offenders to the extent authorized under United States Code, title 20, section 1232g(b)(7); or

(q) when the disclosure is to a parent of a student at an institution of postsecondary education regarding the student's violation of any federal, state, or local law or of any rule or policy of the institution, governing the use or possession of alcohol or of a controlled substance, to the extent authorized under United States Code, title 20, section 1232g(i), and Code of Federal Regulations, title 34, section 99.31 (a)(15), and provided the institution has an information release form signed by the student authorizing disclosure to a parent. The institution must notify parents and students about the purpose and availability of the information release forms. At a minimum, the institution must distribute the information release forms at parent and student orientation meetings.

Sec. 2. Minnesota Statutes 2018, section 13.3805, subdivision 3, is amended to read:

Subd. 3. **Office of Health Facility Complaints; investigative data.** Except for investigative data under ~~section 626.556~~ chapter 260A, all investigative data maintained by the Department of Health's Office of Health Facility Complaints are subject to provisions of and classified pursuant to section 626.557, subdivision 12b, paragraphs (b) to (d). Notwithstanding ~~sections 626.556, subdivision 11,~~ 260A.40, subdivision 4; 260A.87; and 626.557, subdivision 12b, paragraph (b), data identifying an individual substantiated as the perpetrator are public data. For purposes of this subdivision, an individual is substantiated as the perpetrator if the commissioner of health determines that the individual is the perpetrator and the determination of the commissioner is upheld after the individual either exercises applicable administrative appeal rights or fails to exercise these rights within the time allowed by law.

Sec. 3. Minnesota Statutes 2018, section 13.43, subdivision 14, is amended to read:

Subd. 14. **Maltreatment data.** (a) When a report of alleged maltreatment of a student in a school facility, as defined in ~~section 626.556, subdivision 2, paragraph (c)~~ 260A.20, subdivision 6, is made to the commissioner of education under ~~section 626.556~~ chapter 260A, data that are relevant to a report of maltreatment and are collected by the school facility about the person alleged to have committed maltreatment must be provided to the commissioner of education upon request for purposes of an assessment or investigation of the maltreatment report. Data received by the commissioner of education pursuant to these assessments or investigations are classified under ~~section 626.556~~ chapter 260A.

57.1 (b) Personnel data may be released for purposes of providing information to a parent,
57.2 legal guardian, or custodian of a child under section ~~626.556, subdivision 7~~ 260A.34.

57.3 Sec. 4. Minnesota Statutes 2019 Supplement, section 13.46, subdivision 3, is amended to
57.4 read:

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

57.11 (1) pursuant to section 13.05;

57.12 (2) pursuant to statute or valid court order;

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

57.15 (4) to an agent of the welfare system or an investigator acting on behalf of a county,
57.16 state, or federal government, including a law enforcement officer or attorney in the
57.17 investigation or prosecution of a criminal, civil, or administrative proceeding, unless the
57.18 commissioner of human services determines that disclosure may compromise a Department
57.19 of Human Services ongoing investigation; or

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

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

57.24 (b) Notwithstanding any other provision in law, the commissioner of human services
57.25 shall provide all active and inactive investigative data, including the name of the reporter
57.26 of alleged maltreatment under section ~~626.556 or 626.557~~ chapter 260A, to the ombudsman
57.27 for mental health and developmental disabilities upon the request of the ombudsman.

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

58.1 Sec. 5. Minnesota Statutes 2019 Supplement, section 13.46, subdivision 4, is amended to
58.2 read:

58.3 Subd. 4. **Licensing data.** (a) As used in this subdivision:

58.4 (1) "licensing data" are all data collected, maintained, used, or disseminated by the
58.5 welfare system pertaining to persons licensed or registered or who apply for licensure or
58.6 registration or who formerly were licensed or registered under the authority of the
58.7 commissioner of human services;

58.8 (2) "client" means a person who is receiving services from a licensee or from an applicant
58.9 for licensure; and

58.10 (3) "personal and personal financial data" are Social Security numbers, identity of and
58.11 letters of reference, insurance information, reports from the Bureau of Criminal
58.12 Apprehension, health examination reports, and social/home studies.

58.13 (b)(1)(i) Except as provided in paragraph (c), the following data on applicants, license
58.14 holders, and former licensees are public: name, address, telephone number of licensees,
58.15 date of receipt of a completed application, dates of licensure, licensed capacity, type of
58.16 client preferred, variances granted, record of training and education in child care and child
58.17 development, type of dwelling, name and relationship of other family members, previous
58.18 license history, class of license, the existence and status of complaints, and the number of
58.19 serious injuries to or deaths of individuals in the licensed program as reported to the
58.20 commissioner of human services, the local social services agency, or any other county
58.21 welfare agency. For purposes of this clause, a serious injury is one that is treated by a
58.22 physician.

58.23 (ii) Except as provided in item (v), when a correction order, an order to forfeit a fine,
58.24 an order of license suspension, an order of temporary immediate suspension, an order of
58.25 license revocation, an order of license denial, or an order of conditional license has been
58.26 issued, or a complaint is resolved, the following data on current and former licensees and
58.27 applicants are public: the general nature of the complaint or allegations leading to the
58.28 temporary immediate suspension; the substance and investigative findings of the licensing
58.29 or maltreatment complaint, licensing violation, or substantiated maltreatment; the existence
58.30 of settlement negotiations; the record of informal resolution of a licensing violation; orders
58.31 of hearing; findings of fact; conclusions of law; specifications of the final correction order,
58.32 fine, suspension, temporary immediate suspension, revocation, denial, or conditional license
58.33 contained in the record of licensing action; whether a fine has been paid; and the status of
58.34 any appeal of these actions.

(iii) When a license denial under section 245A.05 or a sanction under section 245A.07 is based on a determination that a license holder, applicant, or controlling individual is responsible for maltreatment under section ~~626.556~~ or 626.557 or chapter 260A, the identity of the applicant, license holder, or controlling individual as the individual responsible for maltreatment is public data at the time of the issuance of the license denial or sanction.

(iv) When a license denial under section 245A.05 or a sanction under section 245A.07 is based on a determination that a license holder, applicant, or controlling individual is disqualified under chapter 245C, the identity of the license holder, applicant, or controlling individual as the disqualified individual and the reason for the disqualification are public data at the time of the issuance of the licensing sanction or denial. If the applicant, license holder, or controlling individual requests reconsideration of the disqualification and the disqualification is affirmed, the reason for the disqualification and the reason to not set aside the disqualification are public data.

(v) A correction order or fine issued to a child care provider for a licensing violation is private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9, if the correction order or fine is seven years old or older.

(2) For applicants who withdraw their application prior to licensure or denial of a license, the following data are public: the name of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, and the date of withdrawal of the application.

(3) For applicants who are denied a license, the following data are public: the name and address of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, the date of denial of the application, the nature of the basis for the denial, the existence of settlement negotiations, the record of informal resolution of a denial, orders of hearings, findings of fact, conclusions of law, specifications of the final order of denial, and the status of any appeal of the denial.

(4) When maltreatment is substantiated under section ~~626.556~~ or 626.557 or chapter 260A and the victim and the substantiated perpetrator are affiliated with a program licensed under chapter 245A, the commissioner of human services, local social services agency, or county welfare agency may inform the license holder where the maltreatment occurred of the identity of the substantiated perpetrator and the victim.

(5) Notwithstanding clause (1), for child foster care, only the name of the license holder and the status of the license are public if the county attorney has requested that data otherwise classified as public data under clause (1) be considered private data based on the best interests of a child in placement in a licensed program.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters of complaints or alleged violations of licensing standards under chapters 245A, 245B, 245C, and 245D, and applicable rules and alleged maltreatment under ~~sections 626.556 and~~ section 626.557 and chapter 260A, are confidential data and may be disclosed only as provided in ~~section 626.556, subdivision 11,~~ 260A.40, subdivision 4; 260A.87; or 626.557, subdivision 12b.

(e) Data classified as private, confidential, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning a license which has been suspended, immediately suspended, revoked, or denied.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in ~~section 626.556,~~ subdivision 2 260A.20, or 626.5572, subdivision 18, are subject to the destruction provisions of ~~sections 626.556, subdivision 11,~~ 260A.87, subdivision 6, and 626.557, subdivision 12b.

(h) Upon request, not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report of substantiated maltreatment as defined in ~~section 626.556 or 626.557~~ or chapter 260A may be exchanged with the Department of Health for purposes of completing background studies pursuant to section 144.057 and with the Department of Corrections for purposes of completing background studies pursuant to section 241.021.

(i) Data on individuals collected according to licensing activities under chapters 245A and 245C, data on individuals collected by the commissioner of human services according to investigations under section 626.557 and chapters 245A, 245B, 245C, and 245D, and ~~sections 626.556 and 626.557~~ 260A may be shared with the Department of Human Rights, the Department of Health, the Department of Corrections, the ombudsman for mental health and developmental disabilities, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated or the information may otherwise be relevant to the board's regulatory jurisdiction. Background study data on an individual who is the subject of a background study under chapter 245C for a licensed service for which the commissioner of human services is the license holder may be shared with the commissioner and the commissioner's delegate by the licensing division. Unless otherwise specified in this chapter, the identity of a reporter of alleged maltreatment or licensing violations may not be disclosed.

(j) In addition to the notice of determinations required under ~~section 626.556, subdivision 10f~~ sections 260A.43, subdivisions 5 and 7, and 260A.52, subdivision 6, paragraphs (b), (c), (d), (e), and (f), if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in ~~section 626.556, subdivision 2~~ 260A.20, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

(k) All not public data collected, maintained, used, or disseminated under this subdivision and subdivision 3 may be exchanged between the Department of Human Services, Licensing Division, and the Department of Corrections for purposes of regulating services for which the Department of Human Services and the Department of Corrections have regulatory authority.

Sec. 6. Minnesota Statutes 2018, section 13.82, subdivision 8, is amended to read:

Subd. 8. **Child abuse identity data.** Active or inactive investigative data that identify a victim of child abuse or neglect reported under ~~section 626.556~~ chapter 260A are private data on individuals. Active or inactive investigative data that identify a reporter of child abuse or neglect under ~~section 626.556~~ chapter 260A are confidential data on individuals,

62.1 unless the subject of the report compels disclosure under ~~section 626.556, subdivision 11~~
62.2 sections 260A.40, subdivision 4, or 260A.87.

62.3 Sec. 7. Minnesota Statutes 2018, section 13.82, subdivision 9, is amended to read:

62.4 Subd. 9. **Inactive child abuse data.** Investigative data that become inactive under
62.5 subdivision 7, clause (a) or (b), and that relate to the alleged abuse or neglect of a child by
62.6 a person responsible for the child's care, as defined in section ~~626.556, subdivision 2~~ 260A.20,
62.7 are private data.

62.8 Sec. 8. Minnesota Statutes 2018, section 13.82, subdivision 17, is amended to read:

62.9 Subd. 17. **Protection of identities.** A law enforcement agency or a law enforcement
62.10 dispatching agency working under direction of a law enforcement agency shall withhold
62.11 public access to data on individuals to protect the identity of individuals in the following
62.12 circumstances:

62.13 (a) when access to the data would reveal the identity of an undercover law enforcement
62.14 officer, as provided in section 13.43, subdivision 5;

62.15 (b) when access to the data would reveal the identity of a victim or alleged victim of
62.16 criminal sexual conduct or sex trafficking under section 609.322, 609.341 to 609.3451, or
62.17 617.246, subdivision 2;

62.18 (c) when access to the data would reveal the identity of a paid or unpaid informant being
62.19 used by the agency if the agency reasonably determines that revealing the identity of the
62.20 informant would threaten the personal safety of the informant;

62.21 (d) when access to the data would reveal the identity of a victim of or witness to a crime
62.22 if the victim or witness specifically requests not to be identified publicly, unless the agency
62.23 reasonably determines that revealing the identity of the victim or witness would not threaten
62.24 the personal safety or property of the individual;

62.25 (e) when access to the data would reveal the identity of a deceased person whose body
62.26 was unlawfully removed from a cemetery in which it was interred;

62.27 (f) when access to the data would reveal the identity of a person who placed a call to a
62.28 911 system or the identity or telephone number of a service subscriber whose phone is used
62.29 to place a call to the 911 system and: (1) the agency determines that revealing the identity
62.30 may threaten the personal safety or property of any person; or (2) the object of the call is
62.31 to receive help in a mental health emergency. For the purposes of this paragraph, a voice
62.32 recording of a call placed to the 911 system is deemed to reveal the identity of the caller;

(g) when access to the data would reveal the identity of a juvenile witness and the agency reasonably determines that the subject matter of the investigation justifies protecting the identity of the witness; or

(h) when access to the data would reveal the identity of a mandated reporter under section 60A.952, subdivision 2, 609.456, ~~626.556~~, or ~~626.557~~ or chapter 260A.

Data concerning individuals whose identities are protected by this subdivision are private data about those individuals. Law enforcement agencies shall establish procedures to acquire the data and make the decisions necessary to protect the identity of individuals described in clauses (c), (d), (f), and (g).

Sec. 9. Minnesota Statutes 2018, section 13.821, is amended to read:

13.821 VIDEOTAPES OF CHILD ABUSE VICTIMS.

(a) Notwithstanding section 13.04, subdivision 3, an individual subject of data may not obtain a copy of a videotape in which a child victim or alleged victim is alleging, explaining, denying, or describing an act of physical or sexual abuse without a court order under section 13.03, subdivision 6, or 611A.90. The definitions of physical abuse and sexual abuse in section ~~626.556~~, ~~subdivision 2~~ 260A.20, apply to this section, except that abuse is not limited to acts by a person responsible for the child's care or in a significant relationship with the child or position of authority.

(b) This section does not limit other rights of access to data by an individual under section 13.04, subdivision 3, other than the right to obtain a copy of the videotape, nor prohibit rights of access pursuant to discovery in a court proceeding.

Sec. 10. Minnesota Statutes 2018, section 13.84, subdivision 9, is amended to read:

Subd. 9. **Child abuse data; release to child protective services.** A court services agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under ~~section 626.556~~ chapter 260A to a local welfare agency if:

(1) the local welfare agency has an active case involving a common client or clients who are the subject of the data; and

(2) the data are necessary for the local welfare agency to effectively process the agency's case, including investigating or performing other duties relating to the case required by law.

64.1 Court services data disclosed under this subdivision may be used only for purposes of
64.2 the active case described in clause (1) and may not be further disclosed to any other person
64.3 or agency, except as authorized by law.

64.4 Sec. 11. Minnesota Statutes 2018, section 13.871, subdivision 6, is amended to read:

64.5 Subd. 6. **Training; investigation; apprehension; reports.** (a) **Reports of gunshot**
64.6 **wounds.** Disclosure of the name of a person making a report under section ~~626.52,~~
64.7 ~~subdivision 2,~~ 260A.20 is governed by section 626.53.

64.8 (b) **Child abuse report records.** Data contained in child abuse report records are
64.9 classified under ~~section 626.556~~ chapter 260A.

64.10 (c) **Interstate data exchange.** Disclosure of child abuse reports to agencies of another
64.11 state is classified under section ~~626.556, subdivision 10,~~ 260A.87, subdivision 3, paragraphs
64.12 (b) and (c).

64.13 (d) **Release to family court services.** Release of child abuse data to a court services
64.14 agency is authorized under section ~~626.556, subdivision 10,~~ 260A.87, subdivision 3,
64.15 paragraphs (d) and (e).

64.16 (e) **Release of data to mandated reporters.** Release of child abuse data to mandated
64.17 reporters who have an ongoing responsibility for the health, education, or welfare of a child
64.18 affected by the data is authorized under section ~~626.556, subdivision 10,~~ 260A.87,
64.19 subdivision 4.

64.20 (f) **Release of child abuse assessment or investigative records to other counties.**
64.21 Release of child abuse investigative records to local welfare agencies is authorized under
64.22 section ~~626.556, subdivision 10,~~ 260A.87, subdivision 3, paragraph (f).

64.23 (g) **Classifying and sharing records and reports of child abuse.** The classification of
64.24 child abuse data and the sharing of records and reports of child abuse by and between local
64.25 welfare agencies and law enforcement agencies are governed under ~~section 626.556,~~
64.26 ~~subdivision 11,~~ sections 260A.40, subdivision 4, and 260A.87.

64.27 (h) **Disclosure of information not required in certain cases.** Disclosure of certain data
64.28 obtained from interviewing a minor is governed by section ~~626.556, subdivision 11,~~ 260A.87,
64.29 subdivision 8.

64.30 (i) **Data received from law enforcement.** Classifying child abuse data received by
64.31 certain agencies from law enforcement agencies is governed under section ~~626.556,~~
64.32 ~~subdivision 11,~~ 260A.87, subdivision 3, paragraph (p).

(j) **Disclosure in child fatality cases.** Disclosure of information relating to a child fatality is governed under section ~~626.556, subdivision 11d~~ 260A.87, subdivision 7.

(k) **Reports of prenatal exposure to controlled substances.** Data on persons making reports under section ~~626.5561~~ 260A.70 are classified under section ~~626.5561, subdivision 3~~ 260A.87, subdivision 3.

(l) **Vulnerable adult report records.** Data contained in vulnerable adult report records are classified under section 626.557, subdivision 12b.

(m) **Adult protection team information sharing.** Sharing of local welfare agency vulnerable adult data with a protection team is governed by section 626.5571, subdivision 3.

(n) **Child protection team.** Data acquired by a case consultation committee or subcommittee of a child protection team are classified by section ~~626.558, subdivision 3~~ 260A.12, subdivision 4.

(o) **Peace officer discipline procedures.** Access by an officer under investigation to the investigating agency's investigative report on the officer is governed by section 626.89, subdivision 6.

(p) **Racial profiling study data.** Racial profiling study data is governed by Minnesota Statutes 2006, section 626.951.

Sec. 12. Minnesota Statutes 2018, section 13.88, is amended to read:

13.88 COMMUNITY DISPUTE RESOLUTION CENTER DATA.

The guidelines shall provide that all files relating to a case in a community dispute resolution program are to be classified as private data on individuals, pursuant to section 13.02, subdivision 12, with the following exceptions:

(1) When a party to the case has been formally charged with a criminal offense, the data are to be classified as public data on individuals, pursuant to section 13.02, subdivision 15.

(2) Data relating to suspected neglect or physical or sexual abuse of children or maltreatment of vulnerable adults are to be subject to the reporting requirements of ~~sections 626.556 and~~ section 626.557 and chapter 260A.

Sec. 13. Minnesota Statutes 2018, section 120B.22, subdivision 2, is amended to read:

Subd. 2. **In-service training.** Each district is encouraged to provide training for district staff and school board members on the following:

(1) helping students identify violence in the family and the community so that students may learn to resolve conflicts in effective, nonviolent ways;

(2) responding to a disclosure of child sexual abuse in a supportive, appropriate manner; and

(3) complying with mandatory reporting requirements under ~~section 626.556~~ chapter 260A.

The in-service training must be ongoing and involve experts familiar with sexual abuse, domestic violence, and personal safety issues.

Sec. 14. Minnesota Statutes 2019 Supplement, section 122A.20, subdivision 2, is amended to read:

Subd. 2. **Mandatory reporting.** (a) A school board, superintendent, charter school board, charter school executive director, or charter school authorizer must report to the Professional Educator Licensing and Standards Board, the Board of School Administrators, or the Board of Trustees of the Minnesota State Colleges and Universities, whichever has jurisdiction over the teacher's or administrator's license, when its teacher or administrator is discharged or resigns from employment after a charge is filed with the school board under section 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7, or after charges are filed that are grounds for discharge under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5), or when a teacher or administrator is suspended or resigns while an investigation is pending under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5), or chapter 260A; or 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7; or 626.556, or when a teacher or administrator is suspended without an investigation under section 122A.41, subdivisions 6, paragraph (a), clauses (1), (2), and (3), and 7; ~~or 626.556, or chapter 260A~~.

The report must be made to the appropriate licensing board within ten days after the discharge, suspension, or resignation has occurred. The licensing board to which the report is made must investigate the report for violation of subdivision 1 and the reporting board, administrator, or authorizer must cooperate in the investigation. Notwithstanding any provision in chapter 13 or any law to the contrary, upon written request from the licensing board having jurisdiction over the license, a board, charter school, authorizer, charter school executive director, or school superintendent shall provide the licensing board with information about the teacher or administrator from the district's files, any termination or disciplinary proceeding, any settlement or compromise, or any investigative file. Upon written request from the appropriate licensing board, a board or school superintendent may, at the discretion of the board or school superintendent, solicit the written consent of a student and the student's

parent to provide the licensing board with information that may aid the licensing board in its investigation and license proceedings. The licensing board's request need not identify a student or parent by name. The consent of the student and the student's parent must meet the requirements of chapter 13 and Code of Federal Regulations, title 34, section 99.30. The licensing board may provide a consent form to the district. Any data transmitted to any board under this section is private data under section 13.02, subdivision 12, notwithstanding any other classification of the data when it was in the possession of any other agency.

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

(c) The Professional Educator Licensing and Standards Board and Board of School Administrators must report to the appropriate law enforcement authorities a revocation, suspension, or agreement involving a loss of license, relating to a teacher or administrator's inappropriate sexual conduct with a minor. For purposes of this section, "law enforcement authority" means a police department, county sheriff, or tribal police department. A report by the Professional Educator Licensing and Standards Board to appropriate law enforcement authorities does not diminish, modify, or otherwise affect the responsibilities of a school board or any person mandated to report abuse under ~~section 626.556~~ chapter 260A.

Sec. 15. Minnesota Statutes 2019 Supplement, section 122A.40, subdivision 13, is amended to read:

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

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

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

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

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

68.5 (5) willful neglect of duty; or

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

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

68.10 Prior to discharging a teacher under this paragraph, the board must notify the teacher in
68.11 writing and state its ground for the proposed discharge in reasonable detail. Within ten days
68.12 after receipt of this notification the teacher may make a written request for a hearing before
68.13 the board and it shall be granted before final action is taken. The board may suspend a
68.14 teacher with pay pending the conclusion of the hearing and determination of the issues
68.15 raised in the hearing after charges have been filed which constitute ground for discharge.
68.16 If a teacher has been charged with a felony and the underlying conduct that is the subject
68.17 of the felony charge is a ground for a proposed immediate discharge, the suspension pending
68.18 the conclusion of the hearing and determination of the issues may be without pay. If a
68.19 hearing under this paragraph is held, the board must reimburse the teacher for any salary
68.20 or compensation withheld if the final decision of the board or the arbitrator does not result
68.21 in a penalty to or suspension, termination, or discharge of the teacher.

68.22 (b) A board must discharge a continuing-contract teacher, effective immediately, upon
68.23 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
68.24 license has been revoked due to a conviction for child abuse, as defined in section 609.185;
68.25 sex trafficking in the first degree under section 609.322, subdivision 1; sex trafficking in
68.26 the second degree under section 609.322, subdivision 1a; engaging in hiring or agreeing to
68.27 hire a minor to engage in prostitution under section 609.324, subdivision 1; sexual abuse
68.28 under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23,
68.29 subdivision 3; solicitation of children to engage in sexual conduct or communication of
68.30 sexually explicit materials to children under section 609.352; interference with privacy
68.31 under section 609.746 or harassment or stalking under section 609.749 and the victim was
68.32 a minor; using minors in a sexual performance under section 617.246; possessing
68.33 pornographic works involving a minor under section 617.247; or any other offense not listed

in this paragraph that requires the person to register as a predatory offender under section 243.166, or a crime under a similar law of another state or the United States.

(c) When a teacher is discharged under paragraph (b) or when the commissioner makes a final determination of child maltreatment involving a teacher under section ~~626.556~~, ~~subdivision 11~~ 260A.40, subdivision 4, or 260A.87, the school principal or other person having administrative control of the school must include in the teacher's employment record the information contained in the record of the disciplinary action or the final maltreatment determination, consistent with the definition of public data under section 13.41, subdivision 5, and must provide the Professional Educator Licensing and Standards Board and the licensing division at the department with the necessary and relevant information to enable the Professional Educator Licensing and Standards Board and the department's licensing division to fulfill their statutory and administrative duties related to issuing, renewing, suspending, or revoking a teacher's license. Information received by the Professional Educator Licensing and Standards Board or the licensing division at the department under this paragraph is governed by section 13.41 or other applicable law governing data of the receiving entity. In addition to the background check required under section 123B.03, a school board or other school hiring authority must contact the Professional Educator Licensing and Standards Board and the department to determine whether the teacher's license has been suspended or revoked, consistent with the discharge and final maltreatment determinations identified in this paragraph. Unless restricted by federal or state data practices law or by the terms of a collective bargaining agreement, the responsible authority for a school district must disseminate to another school district private personnel data on a current or former teacher employee or contractor of the district, including the results of background investigations, if the requesting school district seeks the information because the subject of the data has applied for employment with the requesting school district.

Sec. 16. Minnesota Statutes 2019 Supplement, section 122A.41, subdivision 6, is amended to read:

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

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

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

70.1 (3) inefficiency in teaching or in the management of a school, consistent with subdivision
70.2 5, paragraph (b);

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

70.5 (5) discontinuance of position or lack of pupils.

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

70.8 (b) A probationary or continuing-contract teacher must be discharged immediately upon
70.9 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
70.10 license has been revoked due to a conviction for child abuse, as defined in section 609.185;
70.11 sex trafficking in the first degree under section 609.322, subdivision 1; sex trafficking in
70.12 the second degree under section 609.322, subdivision 1a; engaging in hiring or agreeing to
70.13 hire a minor to engage in prostitution under section 609.324, subdivision 1; sexual abuse
70.14 under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23,
70.15 subdivision 3; solicitation of children to engage in sexual conduct or communication of
70.16 sexually explicit materials to children under section 609.352; interference with privacy
70.17 under section 609.746 or harassment or stalking under section 609.749 and the victim was
70.18 a minor; using minors in a sexual performance under section 617.246; possessing
70.19 pornographic works involving a minor under section 617.247; or any other offense not listed
70.20 in this paragraph that requires the person to register as a predatory offender under section
70.21 243.166, or a crime under a similar law of another state or the United States.

70.22 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes
70.23 a final determination of child maltreatment involving a teacher under section ~~626.556,~~
70.24 ~~subdivision 11~~ 260A.40, subdivision 4, or 260A.87, the school principal or other person
70.25 having administrative control of the school must include in the teacher's employment record
70.26 the information contained in the record of the disciplinary action or the final maltreatment
70.27 determination, consistent with the definition of public data under section 13.41, subdivision
70.28 5, and must provide the Professional Educator Licensing and Standards Board and the
70.29 licensing division at the department with the necessary and relevant information to enable
70.30 the Professional Educator Licensing and Standards Board and the department's licensing
70.31 division to fulfill their statutory and administrative duties related to issuing, renewing,
70.32 suspending, or revoking a teacher's license. Information received by the Professional Educator
70.33 Licensing and Standards Board or the licensing division at the department under this
70.34 paragraph is governed by section 13.41 or other applicable law governing data of the

receiving entity. In addition to the background check required under section 123B.03, a school board or other school hiring authority must contact the Professional Educator Licensing and Standards Board and the department to determine whether the teacher's license has been suspended or revoked, consistent with the discharge and final maltreatment determinations identified in this paragraph. Unless restricted by federal or state data practices law or by the terms of a collective bargaining agreement, the responsible authority for a school district must disseminate to another school district private personnel data on a current or former teacher employee or contractor of the district, including the results of background investigations, if the requesting school district seeks the information because the subject of the data has applied for employment with the requesting school district.

Sec. 17. Minnesota Statutes 2018, section 125A.0942, subdivision 4, is amended to read:

Subd. 4. **Prohibitions.** The following actions or procedures are prohibited:

(1) engaging in conduct prohibited under section 121A.58;

(2) requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;

(3) totally or partially restricting a child's senses as punishment;

(4) presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment;

(5) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;

(6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under ~~section 626.556~~ chapter 260A;

(7) withholding regularly scheduled meals or water;

(8) denying access to bathroom facilities;

(9) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso; and

(10) prone restraint.

72.1 Sec. 18. Minnesota Statutes 2018, section 135A.15, subdivision 10, is amended to read:

72.2 Subd. 10. **Applicability of other laws.** This section does not exempt mandatory reporters
72.3 from the requirements of section ~~626.556~~ or 626.557 or chapter 260A governing the reporting
72.4 of maltreatment of minors or vulnerable adults. Nothing in this section limits the authority
72.5 of an institution to comply with other applicable state or federal laws related to investigations
72.6 or reports of sexual harassment, sexual violence, or sexual assault.

72.7 Sec. 19. Minnesota Statutes 2018, section 144.225, subdivision 2b, is amended to read:

72.8 Subd. 2b. **Commissioner of health; duties.** Notwithstanding the designation of certain
72.9 of this data as confidential under subdivision 2 or private under subdivision 2a, the
72.10 commissioner shall give the commissioner of human services access to birth record data
72.11 and data contained in recognitions of parentage prepared according to section 257.75
72.12 necessary to enable the commissioner of human services to identify a child who is subject
72.13 to threatened injury, as defined in section ~~626.556, subdivision 2, paragraph (p)~~ 260A.20,
72.14 subdivision 23, by a person responsible for the child's care, as defined in section ~~626.556,~~
72.15 ~~subdivision 2, paragraph (j), clause (1)~~ 260A.20, subdivision 17. The commissioner shall
72.16 be given access to all data included on official birth records.

72.17 Sec. 20. Minnesota Statutes 2018, section 144.343, subdivision 4, is amended to read:

72.18 Subd. 4. **Limitations.** No notice shall be required under this section if:

72.19 (1) the attending physician certifies in the pregnant woman's medical record that the
72.20 abortion is necessary to prevent the woman's death and there is insufficient time to provide
72.21 the required notice; or

72.22 (2) the abortion is authorized in writing by the person or persons who are entitled to
72.23 notice; or

72.24 (3) the pregnant minor woman declares that she is a victim of sexual abuse, neglect, or
72.25 physical abuse as defined in ~~section 626.556~~ chapter 260A. Notice of that declaration shall
72.26 be made to the proper authorities as provided in section ~~626.556, subdivision 3~~ 260A.23.

72.27 Sec. 21. Minnesota Statutes 2018, section 144.7065, subdivision 10, is amended to read:

72.28 Subd. 10. **Relation to other law; data classification.** (a) Adverse health events described
72.29 in subdivisions 2 to 6 do not constitute "maltreatment," "neglect," or "a physical injury that
72.30 is not reasonably explained" under section ~~626.556~~ or 626.557 or chapter 260A and are
72.31 excluded from the reporting requirements of ~~sections 626.556 and section 626.557~~ and

chapter 260A, provided the facility makes a determination within 24 hours of the discovery of the event that this section is applicable and the facility files the reports required under this section in a timely fashion.

(b) A facility that has determined that an event described in subdivisions 2 to 6 has occurred must inform persons who are mandated reporters under section ~~626.556, subdivision 3,~~ 260A.23 or 626.5572, subdivision 16, of that determination. A mandated reporter otherwise required to report under section ~~626.556, subdivision 3,~~ 260A.23 or 626.557, subdivision 3, paragraph (e), is relieved of the duty to report an event that the facility determines under paragraph (a) to be reportable under subdivisions 2 to 6.

(c) The protections and immunities applicable to voluntary reports under ~~sections 626.556 and section 626.557~~ and chapter 260A are not affected by this section.

(d) Notwithstanding section ~~626.556,~~ 626.557, chapter 260A, or any other provision of Minnesota statute or rule to the contrary, a lead agency under section ~~626.556, subdivision 3e~~ 260A.33, subdivision 1, paragraphs (a), (b), and (c), a lead investigative agency under section 626.5572, subdivision 13, the commissioner of health, or the director of the Office of Health Facility Complaints is not required to conduct an investigation of or obtain or create investigative data or reports regarding an event described in subdivisions 2 to 6. If the facility satisfies the requirements described in paragraph (a), the review or investigation shall be conducted and data or reports shall be obtained or created only under sections 144.706 to 144.7069, except as permitted or required under sections 144.50 to 144.564, or as necessary to carry out the state's certification responsibility under the provisions of sections 1864 and 1867 of the Social Security Act. If a licensed health care provider reports an event to the facility required to be reported under subdivisions 2 to 6 in a timely manner, the provider's licensing board is not required to conduct an investigation of or obtain or create investigative data or reports regarding the individual reporting of the events described in subdivisions 2 to 6.

(e) Data contained in the following records are nonpublic and, to the extent they contain data on individuals, confidential data on individuals, as defined in section 13.02:

(1) reports provided to the commissioner under sections 147.155, 147A.155, 148.267, 151.301, and 153.255;

(2) event reports, findings of root cause analyses, and corrective action plans filed by a facility under this section; and

(3) records created or obtained by the commissioner in reviewing or investigating the reports, findings, and plans described in clause (2).

For purposes of the nonpublic data classification contained in this paragraph, the reporting facility shall be deemed the subject of the data.

Sec. 22. Minnesota Statutes 2018, section 144.7068, is amended to read:

144.7068 REPORTS FROM LICENSING BOARDS.

(a) Effective upon full implementation of the adverse health care events reporting system, the records maintained under sections 147.155, 147A.155, 148.267, 151.301, and 153.255, shall be reported to the commissioner on the schedule established in those sections.

(b) The commissioner shall forward these reports to the facility named in the report.

(c) The facility shall determine whether the event has been previously reported under section 144.7065. The facility shall notify the commissioner whether the event has been reported previously. If the event has not been previously reported, the facility shall make a determination whether the event was reportable under section 144.7065. If the facility determines the event was reportable, the date of discovery of the event for the purposes of section 144.7065, subdivision 10, paragraph (d), shall be as follows:

(1) if the commissioner determines that the facility knew or reasonably should have known about the occurrence of the event, the date the event occurred shall be the date of discovery. The facility shall be considered out of compliance with the reporting act, and the event shall be subject to ~~sections 626.556 and~~ section 626.557 and chapter 260A; or

(2) if the commissioner determines that the facility did not know about the occurrence of the event, the date the facility receives the report from the commissioner shall serve as the date of discovery.

If the facility determines that the event was not reportable under section 144.7065, the facility shall notify the commissioner of that determination.

Sec. 23. Minnesota Statutes 2018, section 144A.472, subdivision 1, is amended to read:

Subdivision 1. **License applications.** Each application for a home care provider license must include information sufficient to show that the applicant meets the requirements of licensure, including:

(1) the applicant's name, e-mail address, physical address, and mailing address, including the name of the county in which the applicant resides and has a principal place of business;

(2) the initial license fee in the amount specified in subdivision 7;

- 75.1 (3) the e-mail address, physical address, mailing address, and telephone number of the
75.2 principal administrative office;
- 75.3 (4) the e-mail address, physical address, mailing address, and telephone number of each
75.4 branch office, if any;
- 75.5 (5) the names, e-mail and mailing addresses, and telephone numbers of all owners and
75.6 managerial officials;
- 75.7 (6) documentation of compliance with the background study requirements of section
75.8 144A.476 for all persons involved in the management, operation, or control of the home
75.9 care provider;
- 75.10 (7) documentation of a background study as required by section 144.057 for any
75.11 individual seeking employment, paid or volunteer, with the home care provider;
- 75.12 (8) evidence of workers' compensation coverage as required by sections 176.181 and
75.13 176.182;
- 75.14 (9) documentation of liability coverage, if the provider has it;
- 75.15 (10) identification of the license level the provider is seeking;
- 75.16 (11) documentation that identifies the managerial official who is in charge of day-to-day
75.17 operations and attestation that the person has reviewed and understands the home care
75.18 provider regulations;
- 75.19 (12) documentation that the applicant has designated one or more owners, managerial
75.20 officials, or employees as an agent or agents, which shall not affect the legal responsibility
75.21 of any other owner or managerial official under this chapter;
- 75.22 (13) the signature of the officer or managing agent on behalf of an entity, corporation,
75.23 association, or unit of government;
- 75.24 (14) verification that the applicant has the following policies and procedures in place so
75.25 that if a license is issued, the applicant will implement the policies and procedures and keep
75.26 them current:
- 75.27 (i) requirements in ~~sections 626.556~~ chapter 260A, reporting of maltreatment of minors,
75.28 and section 626.557, reporting of maltreatment of vulnerable adults;
- 75.29 (ii) conducting and handling background studies on employees;
- 75.30 (iii) orientation, training, and competency evaluations of home care staff, and a process
75.31 for evaluating staff performance;

76.1 (iv) handling complaints from clients, family members, or client representatives regarding
76.2 staff or services provided by staff;

76.3 (v) conducting initial evaluation of clients' needs and the providers' ability to provide
76.4 those services;

76.5 (vi) conducting initial and ongoing client evaluations and assessments and how changes
76.6 in a client's condition are identified, managed, and communicated to staff and other health
76.7 care providers as appropriate;

76.8 (vii) orientation to and implementation of the home care client bill of rights;

76.9 (viii) infection control practices;

76.10 (ix) reminders for medications, treatments, or exercises, if provided; and

76.11 (x) conducting appropriate screenings, or documentation of prior screenings, to show
76.12 that staff are free of tuberculosis, consistent with current United States Centers for Disease
76.13 Control and Prevention standards; and

76.14 (15) other information required by the department.

76.15 Sec. 24. Minnesota Statutes 2018, section 144A.479, subdivision 6, is amended to read:

76.16 Subd. 6. **Reporting maltreatment of vulnerable adults and minors.** (a) All home care
76.17 providers must comply with requirements for the reporting of maltreatment of minors in
76.18 ~~section 626.556~~ chapter 260A and the requirements for the reporting of maltreatment of
76.19 vulnerable adults in section 626.557. Each home care provider must establish and implement
76.20 a written procedure to ensure that all cases of suspected maltreatment are reported.

76.21 (b) Each home care provider must develop and implement an individual abuse prevention
76.22 plan for each vulnerable minor or adult for whom home care services are provided by a
76.23 home care provider. The plan shall contain an individualized review or assessment of the
76.24 person's susceptibility to abuse by another individual, including other vulnerable adults or
76.25 minors; the person's risk of abusing other vulnerable adults or minors; and statements of
76.26 the specific measures to be taken to minimize the risk of abuse to that person and other
76.27 vulnerable adults or minors. For purposes of the abuse prevention plan, the term abuse
76.28 includes self-abuse.

76.29 Sec. 25. Minnesota Statutes 2019 Supplement, section 144A.4796, subdivision 2, is
76.30 amended to read:

76.31 Subd. 2. **Content.** (a) The orientation must contain the following topics:

(1) an overview of sections 144A.43 to 144A.4798;

(2) introduction and review of all the provider's policies and procedures related to the provision of home care services by the individual staff person;

(3) handling of emergencies and use of emergency services;

(4) compliance with and reporting of the maltreatment of minors or vulnerable adults under ~~sections 626.556 and~~ section 626.557 and chapter 260A;

(5) home care bill of rights under section 144A.44;

(6) handling of clients' complaints, reporting of complaints, and where to report complaints including information on the Office of Health Facility Complaints and the Common Entry Point;

(7) consumer advocacy services of the Office of Ombudsman for Long-Term Care, Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care Ombudsman at the Department of Human Services, county managed care advocates, or other relevant advocacy services; and

(8) review of the types of home care services the employee will be providing and the provider's scope of licensure.

(b) In addition to the topics listed in paragraph (a), orientation may also contain training on providing services to clients with hearing loss. Any training on hearing loss provided under this subdivision must be high quality and research-based, may include online training, and must include training on one or more of the following topics:

(1) an explanation of age-related hearing loss and how it manifests itself, its prevalence, and challenges it poses to communication;

(2) health impacts related to untreated age-related hearing loss, such as increased incidence of dementia, falls, hospitalizations, isolation, and depression; or

(3) information about strategies and technology that may enhance communication and involvement, including communication strategies, assistive listening devices, hearing aids, visual and tactile alerting devices, communication access in real time, and closed captions.

Sec. 26. Minnesota Statutes 2018, section 144A.4796, subdivision 6, is amended to read:

Subd. 6. Required annual training. (a) All staff that perform direct home care services must complete at least eight hours of annual training for each 12 months of employment. The training may be obtained from the home care provider or another source and must

78.1 include topics relevant to the provision of home care services. The annual training must
78.2 include:

78.3 (1) training on reporting of maltreatment of minors under ~~section 626.556~~ chapter 260A
78.4 and maltreatment of vulnerable adults under section 626.557, whichever is applicable to
78.5 the services provided;

78.6 (2) review of the home care bill of rights in section 144A.44;

78.7 (3) review of infection control techniques used in the home and implementation of
78.8 infection control standards including a review of hand-washing techniques; the need for
78.9 and use of protective gloves, gowns, and masks; appropriate disposal of contaminated
78.10 materials and equipment, such as dressings, needles, syringes, and razor blades; disinfecting
78.11 reusable equipment; disinfecting environmental surfaces; and reporting of communicable
78.12 diseases; and

78.13 (4) review of the provider's policies and procedures relating to the provision of home
78.14 care services and how to implement those policies and procedures.

78.15 (b) In addition to the topics listed in paragraph (a), annual training may also contain
78.16 training on providing services to clients with hearing loss. Any training on hearing loss
78.17 provided under this subdivision must be high quality and research-based, may include online
78.18 training, and must include training on one or more of the following topics:

78.19 (1) an explanation of age-related hearing loss and how it manifests itself, its prevalence,
78.20 and challenges it poses to communication;

78.21 (2) health impacts related to untreated age-related hearing loss, such as increased
78.22 incidence of dementia, falls, hospitalizations, isolation, and depression; or

78.23 (3) information about strategies and technology that may enhance communication and
78.24 involvement, including communication strategies, assistive listening devices, hearing aids,
78.25 visual and tactile alerting devices, communication access in real time, and closed captions.

78.26 Sec. 27. Minnesota Statutes 2018, section 144H.16, subdivision 1, is amended to read:

78.27 Subdivision 1. **Reporting of maltreatment of minors.** A PPEC center must develop
78.28 policies and procedures for reporting suspected child maltreatment that fulfill the
78.29 requirements of ~~section 626.556~~ chapter 260A. The policies and procedures must include
78.30 the telephone numbers of the local county child protection agency for reporting suspected
78.31 maltreatment. The policies and procedures specified in this subdivision must be provided

79.1 to the parents or guardians of all children at the time of admission to the PPEC center and
79.2 must be available upon request.

79.3 Sec. 28. Minnesota Statutes 2018, section 144H.18, subdivision 3, is amended to read:

79.4 Subd. 3. **Fines for violations of other statutes.** The commissioner shall impose a fine
79.5 of \$250 on a PPEC center, employee, or contractor for each violation by that PPEC center,
79.6 employee, or contractor of section 144H.16, subdivision 2, ~~or 626.556~~ or chapter 260A.

79.7 Sec. 29. Minnesota Statutes 2018, section 145.902, subdivision 3, is amended to read:

79.8 Subd. 3. **Immunity.** (a) A safe place with responsibility for performing duties under
79.9 this section, and any employee, doctor, ambulance personnel, or other medical professional
79.10 working at the safe place, are immune from any criminal liability that otherwise might result
79.11 from their actions, if they are acting in good faith in receiving a newborn, and are immune
79.12 from any civil liability that otherwise might result from merely receiving a newborn.

79.13 (b) A safe place performing duties under this section, or an employee, doctor, ambulance
79.14 personnel, or other medical professional working at the safe place who is a mandated reporter
79.15 under ~~section 626.556~~ chapter 260A, is immune from any criminal or civil liability that
79.16 otherwise might result from the failure to make a report under that section if the person is
79.17 acting in good faith in complying with this section.

79.18 Sec. 30. Minnesota Statutes 2018, section 145.952, subdivision 2, is amended to read:

79.19 Subd. 2. **Abuse.** "Abuse" means physical abuse, sexual abuse, neglect, mental injury,
79.20 and threatened injury, as those terms are defined in ~~section 626.556, subdivision 2~~ chapter
79.21 260A.

79.22 Sec. 31. Minnesota Statutes 2018, section 146A.025, is amended to read:

79.23 **146A.025 MALTREATMENT OF MINORS.**

79.24 Nothing in this chapter shall restrict the ability of a local welfare agency, local law
79.25 enforcement agency, the commissioner of human services, or the state to take action regarding
79.26 the maltreatment of minors under section 609.378 ~~or 626.556~~ or chapter 260A. A parent
79.27 who obtains complementary and alternative health care for the parent's minor child is not
79.28 relieved of the duty to seek necessary medical care consistent with the requirements of
79.29 ~~sections~~ section 609.378 ~~and 626.556~~ and chapter 260A. A complementary or alternative
79.30 health care practitioner who is providing services to a child who is not receiving necessary
79.31 medical care must make a report under ~~section 626.556~~ chapter 260A. A complementary

80.1 or alternative health care provider is a mandated reporter under section ~~626.556, subdivision~~
80.2 ~~3~~ 260A.23.

80.3 Sec. 32. Minnesota Statutes 2019 Supplement, section 148B.593, is amended to read:

80.4 **148B.593 DISCLOSURE OF INFORMATION.**

80.5 (a) A person licensed under sections 148B.50 to 148B.593 may not disclose without
80.6 written consent of the client any communication made by the client to the licensee in the
80.7 course of the practice of professional counseling, nor may any employee of the licensee
80.8 reveal the information without the consent of the employer or client except as provided
80.9 under section ~~626.556~~ or 626.557 or chapter 260A.

80.10 (b) For purposes of sections 148B.50 to 148B.593, the confidential relations and
80.11 communications between the licensee and a client are placed upon the same basis as those
80.12 that exist between a licensed psychologist and client. Nothing in sections 148B.50 to
80.13 148B.593 may be construed to require any communications to be disclosed except by court
80.14 order or as provided in paragraph (c).

80.15 (c) Private information may be disclosed without the consent of the client when a duty
80.16 to warn arises, or as otherwise provided by law or court order. The duty to warn of, or take
80.17 reasonable precautions to provide protection from, violent behavior arises only when a client
80.18 or other person has communicated to the provider a specific, serious threat of physical
80.19 violence to self or a specific, clearly identified or identifiable potential victim. If a duty to
80.20 warn arises, the duty is discharged by the provider if reasonable efforts are made to
80.21 communicate the threat to law enforcement agencies, the potential victim, the family of the
80.22 client, or appropriate third parties who are in a position to prevent or avert the harm. No
80.23 monetary liability and no cause of action or disciplinary action by the board may arise
80.24 against a provider for disclosure of confidences to third parties, for failure to disclose
80.25 confidences to third parties, or for erroneous disclosure of confidences to third parties in a
80.26 good faith effort to warn against or take precautions against a client's violent behavior or
80.27 threat of suicide.

80.28 (d) For purposes of this section, (1) "provider" includes a licensee, an applicant for
80.29 licensure, and a student or intern practicing professional counseling or professional clinical
80.30 counseling under supervision as part of an accredited graduate educational program or under
80.31 a supervised postgraduate experience in professional counseling or professional clinical
80.32 counseling required for licensure; (2) "other person" means an immediate family member
80.33 or someone who personally knows the client and has reason to believe the client is capable
80.34 of and will carry out the serious, specific threat of harm to a specific, clearly identified, or

81.1 identifiable victim; and (3) "reasonable efforts" means communicating the serious, specific
81.2 threat to the potential victim and if unable to make contact with the potential victim,
81.3 communicating the serious, specific threat to the law enforcement agency closest to the
81.4 potential victim of the client.

81.5 Sec. 33. Minnesota Statutes 2018, section 148E.240, subdivision 7, is amended to read:

81.6 Subd. 7. **Reporting maltreatment of minors.** An applicant or licensee must comply
81.7 with the reporting of maltreatment of minors established by ~~section 626.556~~ chapter 260A.

81.8 Sec. 34. Minnesota Statutes 2018, section 148F.13, subdivision 12, is amended to read:

81.9 Subd. 12. **Abuse or neglect of minors or vulnerable adults.** An applicant or licensee
81.10 must comply with the reporting of maltreatment of minors established in ~~section 626.556~~
81.11 chapter 260A and the reporting of maltreatment of vulnerable adults established in section
81.12 626.557.

81.13 Sec. 35. Minnesota Statutes 2018, section 148F.205, subdivision 1, is amended to read:

81.14 Subdivision 1. **Mandatory reporting requirements.** A provider is required to file a
81.15 complaint when the provider knows or has reason to believe that another provider:

81.16 (1) is unable to practice with reasonable skill and safety as a result of a physical or mental
81.17 illness or condition, including, but not limited to, substance abuse or dependence, except
81.18 that this mandated reporting requirement is deemed fulfilled by a report made to the Health
81.19 Professionals Services Program (HPSP) as provided by section 214.33, subdivision 1;

81.20 (2) is engaging in or has engaged in sexual behavior with a client or former client in
81.21 violation of section 148F.165, subdivision 6 or 7;

81.22 (3) has failed to report abuse or neglect of children or vulnerable adults in violation of
81.23 ~~section 626.556 or 626.557~~ or chapter 260A; or

81.24 (4) has employed fraud or deception in obtaining or renewing an alcohol and drug
81.25 counseling license.

81.26 Sec. 36. Minnesota Statutes 2018, section 153B.70, is amended to read:

81.27 **153B.70 GROUNDS FOR DISCIPLINARY ACTION.**

81.28 (a) The board may refuse to issue or renew a license, revoke or suspend a license, or
81.29 place on probation or reprimand a licensee for one or any combination of the following:

- 82.1 (1) making a material misstatement in furnishing information to the board;
- 82.2 (2) violating or intentionally disregarding the requirements of this chapter;
- 82.3 (3) conviction of a crime, including a finding or verdict of guilt, an admission of guilt,
- 82.4 or a no-contest plea, in this state or elsewhere, reasonably related to the practice of the
- 82.5 profession. Conviction, as used in this clause, includes a conviction of an offense which, if
- 82.6 committed in this state, would be deemed a felony, gross misdemeanor, or misdemeanor,
- 82.7 without regard to its designation elsewhere, or a criminal proceeding where a finding or
- 82.8 verdict of guilty is made or returned but the adjudication of guilt is either withheld or not
- 82.9 entered;
- 82.10 (4) making a misrepresentation in order to obtain or renew a license;
- 82.11 (5) displaying a pattern of practice or other behavior that demonstrates incapacity or
- 82.12 incompetence to practice;
- 82.13 (6) aiding or assisting another person in violating the provisions of this chapter;
- 82.14 (7) failing to provide information within 60 days in response to a written request from
- 82.15 the board, including documentation of completion of continuing education requirements;
- 82.16 (8) engaging in dishonorable, unethical, or unprofessional conduct;
- 82.17 (9) engaging in conduct of a character likely to deceive, defraud, or harm the public;
- 82.18 (10) inability to practice due to habitual intoxication, addiction to drugs, or mental or
- 82.19 physical illness;
- 82.20 (11) being disciplined by another state or territory of the United States, the federal
- 82.21 government, a national certification organization, or foreign nation, if at least one of the
- 82.22 grounds for the discipline is the same or substantially equivalent to one of the grounds in
- 82.23 this section;
- 82.24 (12) directly or indirectly giving to or receiving from a person, firm, corporation,
- 82.25 partnership, or association a fee, commission, rebate, or other form of compensation for
- 82.26 professional services not actually or personally rendered;
- 82.27 (13) incurring a finding by the board that the licensee, after the licensee has been placed
- 82.28 on probationary status, has violated the conditions of the probation;
- 82.29 (14) abandoning a patient or client;

(15) willfully making or filing false records or reports in the course of the licensee's practice including, but not limited to, false records or reports filed with state or federal agencies;

(16) willfully failing to report child maltreatment as required under the Maltreatment of Minors Act, ~~section 626.556~~ chapter 260A; or

(17) soliciting professional services using false or misleading advertising.

(b) A license to practice is automatically suspended if (1) a guardian of a licensee is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the licensee, or (2) the licensee is committed by order of a court pursuant to chapter 253B. The license remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing. The licensee may be reinstated to practice, either with or without restrictions, by demonstrating clear and convincing evidence of rehabilitation. The regulated person is not required to prove rehabilitation if the subsequent court decision overturns previous court findings of public risk.

(c) If the board has probable cause to believe that a licensee or applicant has violated paragraph (a), clause (10), it may direct the person to submit to a mental or physical examination. For the purpose of this section, every person is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and to have waived all objections to the admissibility of the examining physician's testimony or examination report on the grounds that the testimony or report constitutes a privileged communication. Failure of a regulated person to submit to an examination when directed constitutes an admission of the allegations against the person, unless the failure was due to circumstances beyond the person's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A regulated person affected under this paragraph shall at reasonable intervals be given an opportunity to demonstrate that the person can resume the competent practice of the regulated profession with reasonable skill and safety to the public. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a regulated person in any other proceeding.

(d) In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.384 or 144.293, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a licensee or applicant without the person's or applicant's consent if the board has probable cause to believe that a

licensee is subject to paragraph (a), clause (10). The medical data may be requested from a provider as defined in section 144.291, subdivision 2, paragraph (i), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this section and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this section, unless the information is false and the provider giving the information knew, or had reason to know, the information was false. Information obtained under this section is private data on individuals as defined in section 13.02.

(e) If the board issues an order of immediate suspension of a license, a hearing must be held within 30 days of the suspension and completed without delay.

Sec. 37. Minnesota Statutes 2018, section 214.103, subdivision 8, is amended to read:

Subd. 8. Dismissal and reopening of a complaint. (a) A complaint may not be dismissed without the concurrence of at least two board members and, upon the request of the complainant, a review by a representative of the attorney general's office. The designee of the attorney general must review before dismissal any complaints which allege any violation of chapter 609, any conduct which would be required to be reported under section ~~626.556~~ ~~or 626.557~~ or chapter 260A, any sexual contact or sexual conduct with a client, any violation of a federal law, any actual or potential inability to practice the regulated profession or occupation by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental or physical condition, any violation of state medical assistance laws, or any disciplinary action related to credentialing in another jurisdiction or country which was based on the same or related conduct specified in this subdivision.

(b) The board may reopen a dismissed complaint if the board receives newly discovered information that was not available to the board during the initial investigation of the complaint, or if the board receives a new complaint that indicates a pattern of behavior or conduct.

Sec. 38. Minnesota Statutes 2018, section 214.104, is amended to read:

214.104 HEALTH-RELATED LICENSING BOARDS; SUBSTANTIATED MALTREATMENT.

(a) A health-related licensing board shall make determinations as to whether regulated persons who are under the board's jurisdiction should be the subject of disciplinary or corrective action because of substantiated maltreatment under section ~~626.556~~ ~~or 626.557~~.

85.1 or chapter 260A. The board shall make a determination upon receipt, and after the review,
85.2 of an investigation memorandum or other notice of substantiated maltreatment under section
85.3 ~~626.556~~ or 626.557, chapter 260A, or of a notice from the commissioner of human services
85.4 that a background study of a regulated person shows substantiated maltreatment.

85.5 (b) Upon completion of its review of a report of substantiated maltreatment, the board
85.6 shall notify the commissioner of human services of its determination. The board shall notify
85.7 the commissioner of human services if, following a review of the report of substantiated
85.8 maltreatment, the board determines that it does not have jurisdiction in the matter and the
85.9 commissioner shall make the appropriate disqualification decision regarding the regulated
85.10 person as otherwise provided in chapter 245C. The board shall also notify the commissioner
85.11 of health or the commissioner of human services immediately upon receipt of knowledge
85.12 of a facility or program allowing a regulated person to provide direct contact services at the
85.13 facility or program while not complying with requirements placed on the regulated person.

85.14 (c) In addition to any other remedy provided by law, the board may, through its designated
85.15 board member, temporarily suspend the license of a licensee; deny a credential to an
85.16 applicant; or require the regulated person to be continuously supervised, if the board finds
85.17 there is probable cause to believe the regulated person referred to the board according to
85.18 paragraph (a) poses an immediate risk of harm to vulnerable persons. The board shall
85.19 consider all relevant information available, which may include but is not limited to:

85.20 (1) the extent the action is needed to protect persons receiving services or the public;

85.21 (2) the recency of the maltreatment;

85.22 (3) the number of incidents of maltreatment;

85.23 (4) the intrusiveness or violence of the maltreatment; and

85.24 (5) the vulnerability of the victim of maltreatment.

85.25 The action shall take effect upon written notice to the regulated person, served by certified
85.26 mail, specifying the statute violated. The board shall notify the commissioner of health or
85.27 the commissioner of human services of the suspension or denial of a credential. The action
85.28 shall remain in effect until the board issues a temporary stay or a final order in the matter
85.29 after a hearing or upon agreement between the board and the regulated person. At the time
85.30 the board issues the notice, the regulated person shall inform the board of all settings in
85.31 which the regulated person is employed or practices. The board shall inform all known
85.32 employment and practice settings of the board action and schedule a disciplinary hearing
85.33 to be held under chapter 14. The board shall provide the regulated person with at least 30

86.1 days' notice of the hearing, unless the parties agree to a hearing date that provides less than
86.2 30 days' notice, and shall schedule the hearing to begin no later than 90 days after issuance
86.3 of the notice of hearing.

86.4 Sec. 39. Minnesota Statutes 2019 Supplement, section 243.166, subdivision 7, is amended
86.5 to read:

86.6 Subd. 7. **Use of data.** (a) Except as otherwise provided in subdivision 4b or 7a or sections
86.7 244.052 and 299C.093, the data provided under this section is private data on individuals
86.8 under section 13.02, subdivision 12.

86.9 (b) The data may be used only by law enforcement and corrections agencies for law
86.10 enforcement and corrections purposes. Law enforcement or a corrections agent may disclose
86.11 the status of an individual as a predatory offender to a child protection worker with a local
86.12 welfare agency for purposes of doing a family assessment under ~~section 626.556~~ chapter
86.13 260A. A corrections agent may also disclose the status of an individual as a predatory
86.14 offender to comply with section 244.057.

86.15 (c) The commissioner of human services is authorized to have access to the data for:

86.16 (1) state-operated services, as defined in section 246.014, for the purposes described in
86.17 section 246.13, subdivision 2, paragraph (b); and

86.18 (2) purposes of completing background studies under chapter 245C.

86.19 Sec. 40. Minnesota Statutes 2018, section 245.8261, subdivision 9, is amended to read:

86.20 Subd. 9. **Conditions on use of restrictive procedures.** Restrictive procedures must not:

86.21 (1) be implemented with a child in a manner that constitutes sexual abuse, neglect, or
86.22 physical abuse under ~~section 626.556~~ chapter 260A, the reporting of maltreatment of minors;

86.23 (2) restrict a child's normal access to a nutritious diet, drinking water, adequate ventilation,
86.24 necessary medical care, ordinary hygiene facilities, or necessary clothing or to any protection
86.25 required by state licensing standards and federal regulations governing the program;

86.26 (3) be used as punishment or for the convenience of staff; or

86.27 (4) deny the child visitation or contact with legal counsel and next of kin.

87.1 Sec. 41. Minnesota Statutes 2018, section 245A.04, subdivision 5, is amended to read:

87.2 Subd. 5. **Commissioner's right of access.** (a) When the commissioner is exercising the
87.3 powers conferred by this chapter and, sections 245.69, ~~626.556~~, and 626.557, and chapter
87.4 260A, the commissioner must be given access to:

87.5 (1) the physical plant and grounds where the program is provided;

87.6 (2) documents and records, including records maintained in electronic format;

87.7 (3) persons served by the program; and

87.8 (4) staff and personnel records of current and former staff whenever the program is in
87.9 operation and the information is relevant to inspections or investigations conducted by the
87.10 commissioner. Upon request, the license holder must provide the commissioner verification
87.11 of documentation of staff work experience, training, or educational requirements.

87.12 The commissioner must be given access without prior notice and as often as the
87.13 commissioner considers necessary if the commissioner is investigating alleged maltreatment,
87.14 conducting a licensing inspection, or investigating an alleged violation of applicable laws
87.15 or rules. In conducting inspections, the commissioner may request and shall receive assistance
87.16 from other state, county, and municipal governmental agencies and departments. The
87.17 applicant or license holder shall allow the commissioner to photocopy, photograph, and
87.18 make audio and video tape recordings during the inspection of the program at the
87.19 commissioner's expense. The commissioner shall obtain a court order or the consent of the
87.20 subject of the records or the parents or legal guardian of the subject before photocopying
87.21 hospital medical records.

87.22 (b) Persons served by the program have the right to refuse to consent to be interviewed,
87.23 photographed, or audio or videotaped. Failure or refusal of an applicant or license holder
87.24 to fully comply with this subdivision is reasonable cause for the commissioner to deny the
87.25 application or immediately suspend or revoke the license.

87.26 Sec. 42. Minnesota Statutes 2018, section 245A.06, subdivision 8, is amended to read:

87.27 Subd. 8. **Requirement to post conditional license.** For licensed family child care
87.28 providers and child care centers, upon receipt of any order of conditional license issued by
87.29 the commissioner under this section, and notwithstanding a pending request for
87.30 reconsideration of the order of conditional license by the license holder, the license holder
87.31 shall post the order of conditional license in a place that is conspicuous to the people receiving
87.32 services and all visitors to the facility for two years. When the order of conditional license
87.33 is accompanied by a maltreatment investigation memorandum prepared under section

88.1 ~~626.556~~ or 626.557 or chapter 260A, the investigation memoranda must be posted with the
88.2 order of conditional license.

88.3 Sec. 43. Minnesota Statutes 2019 Supplement, section 245A.07, subdivision 3, is amended
88.4 to read:

88.5 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend
88.6 or revoke a license, or impose a fine if:

88.7 (1) a license holder fails to comply fully with applicable laws or rules including but not
88.8 limited to the requirements of this chapter and chapter 245C;

88.9 (2) a license holder, a controlling individual, or an individual living in the household
88.10 where the licensed services are provided or is otherwise subject to a background study has
88.11 been disqualified and the disqualification was not set aside and no variance has been granted;

88.12 (3) a license holder knowingly withholds relevant information from or gives false or
88.13 misleading information to the commissioner in connection with an application for a license,
88.14 in connection with the background study status of an individual, during an investigation,
88.15 or regarding compliance with applicable laws or rules;

88.16 (4) a license holder is excluded from any program administered by the commissioner
88.17 under section 245.095; or

88.18 (5) revocation is required under section 245A.04, subdivision 7, paragraph (d).

88.19 A license holder who has had a license issued under this chapter suspended, revoked,
88.20 or has been ordered to pay a fine must be given notice of the action by certified mail or
88.21 personal service. If mailed, the notice must be mailed to the address shown on the application
88.22 or the last known address of the license holder. The notice must state in plain language the
88.23 reasons the license was suspended or revoked, or a fine was ordered.

88.24 (b) If the license was suspended or revoked, the notice must inform the license holder
88.25 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
88.26 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
88.27 a license. The appeal of an order suspending or revoking a license must be made in writing
88.28 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
88.29 the commissioner within ten calendar days after the license holder receives notice that the
88.30 license has been suspended or revoked. If a request is made by personal service, it must be
88.31 received by the commissioner within ten calendar days after the license holder received the
88.32 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a
88.33 timely appeal of an order suspending or revoking a license, the license holder may continue

to operate the program as provided in section 245A.04, subdivision 7, paragraphs (f) and (g), until the commissioner issues a final order on the suspension or revocation.

(c)(1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an order to pay a fine must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order.

(2) The license holder shall pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(3) A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail or personal service that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows:

(i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under ~~section 626.556~~ chapter 260A or the maltreatment of a vulnerable adult under section 626.557 for which the license holder is determined responsible for the maltreatment under ~~section 626.556, subdivision 10e, paragraph (i)~~ 260A.52, subdivision 4, paragraphs (a) and (b), or 626.557, subdivision 9c, paragraph (c);

(ii) if the commissioner determines that a determination of maltreatment for which the license holder is responsible is the result of maltreatment that meets the definition of serious maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit \$5,000;

(iii) for a program that operates out of the license holder's home and a program licensed under Minnesota Rules, parts 9502.0300 to 9502.0445, the fine assessed against the license holder shall not exceed \$1,000 for each determination of maltreatment;

(iv) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff-to-child or adult ratios, and failure to comply with background study requirements under chapter 245C; and

(v) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those subject to a \$5,000, \$1,000, or \$200 fine in items (i) to (iv).

For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order. Fines assessed against a license holder that holds a license to provide home and community-based services, as identified in section 245D.03, subdivision 1, and a community residential setting or day services facility license under chapter 245D where the services are provided, may be assessed against both licenses for the same occurrence, but the combined amount of the fines shall not exceed the amount specified in this clause for that occurrence.

(5) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

(d) Except for background study violations involving the failure to comply with an order to immediately remove an individual or an order to provide continuous, direct supervision, the commissioner shall not issue a fine under paragraph (c) relating to a background study violation to a license holder who self-corrects a background study violation before the commissioner discovers the violation. A license holder who has previously exercised the provisions of this paragraph to avoid a fine for a background study violation may not avoid a fine for a subsequent background study violation unless at least 365 days have passed since the license holder self-corrected the earlier background study violation.

Sec. 44. Minnesota Statutes 2018, section 245A.07, subdivision 5, is amended to read:

Subd. 5. **Requirement to post licensing order or fine.** For licensed family child care providers and child care centers, upon receipt of any order of license suspension, temporary immediate suspension, fine, or revocation issued by the commissioner under this section, and notwithstanding a pending appeal of the order of license suspension, temporary

91.1 immediate suspension, fine, or revocation by the license holder, the license holder shall
91.2 post the order of license suspension, temporary immediate suspension, fine, or revocation
91.3 in a place that is conspicuous to the people receiving services and all visitors to the facility
91.4 for two years. When the order of license suspension, temporary immediate suspension, fine,
91.5 or revocation is accompanied by a maltreatment investigation memorandum prepared under
91.6 section ~~626.556~~ or 626.557 or chapter 260A, the investigation memoranda must be posted
91.7 with the order of license suspension, temporary immediate suspension, fine, or revocation.

91.8 Sec. 45. Minnesota Statutes 2018, section 245A.08, subdivision 2a, is amended to read:

91.9 Subd. 2a. **Consolidated contested case hearings.** (a) When a denial of a license under
91.10 section 245A.05 or a licensing sanction under section 245A.07, subdivision 3, is based on
91.11 a disqualification for which reconsideration was timely requested and which was not set
91.12 aside under section 245C.22, the scope of the contested case hearing shall include the
91.13 disqualification and the licensing sanction or denial of a license, unless otherwise specified
91.14 in this subdivision. When the licensing sanction or denial of a license is based on a
91.15 determination of maltreatment under section ~~626.556~~ or 626.557 or chapter 260A, or a
91.16 disqualification for serious or recurring maltreatment which was not set aside, the scope of
91.17 the contested case hearing shall include the maltreatment determination, disqualification,
91.18 and the licensing sanction or denial of a license, unless otherwise specified in this subdivision.
91.19 In such cases, a fair hearing under section 256.045 shall not be conducted as provided for
91.20 in sections 245C.27, ~~626.556, subdivision 10;~~ 260A.85, and 626.557, subdivision 9d.

91.21 (b) Except for family child care and child foster care, reconsideration of a maltreatment
91.22 determination under sections ~~626.556, subdivision 10;~~ 260A.85 and 626.557, subdivision
91.23 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted
91.24 when:

91.25 (1) a denial of a license under section 245A.05, or a licensing sanction under section
91.26 245A.07, is based on a determination that the license holder is responsible for maltreatment
91.27 or the disqualification of a license holder is based on serious or recurring maltreatment;

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

91.30 (3) the license holder appeals the maltreatment determination or disqualification, and
91.31 denial of a license or licensing sanction. In these cases, a fair hearing shall not be conducted
91.32 under sections 245C.27, ~~626.556, subdivision 10;~~ 260A.85, and 626.557, subdivision 9d.
91.33 The scope of the contested case hearing must include the maltreatment determination,
91.34 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 ~~626.556, subdivision 10i,~~ 260A.85 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, ~~626.556, subdivision 10i,~~ 260A.85, and 626.557, subdivision 9d.

(c) In consolidated contested case hearings regarding sanctions issued in family child care, child foster care, family adult day services, adult foster care, and community residential settings, the county attorney shall defend the commissioner's orders in accordance with section 245A.16, subdivision 4.

(d) The commissioner's final order under subdivision 5 is the final agency action on the issue of maltreatment and disqualification, including for purposes of subsequent background studies under chapter 245C and is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

(e) When consolidated hearings under this subdivision involve a licensing sanction based on a previous maltreatment determination for which the commissioner has issued a final order in an appeal of that determination under section 256.045, or the individual failed to exercise the right to appeal the previous maltreatment determination under section ~~626.556, subdivision 10i,~~ 260A.85 or 626.557, subdivision 9d, the commissioner's order is conclusive on the issue of maltreatment. In such cases, the scope of the administrative law judge's review shall be limited to the disqualification and the licensing sanction or denial of a license. In the case of a denial of a license or a licensing sanction issued to a facility based on a maltreatment determination regarding an individual who is not the license holder or a household member, the scope of the administrative law judge's review includes the maltreatment determination.

(f) The hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge, if:

(1) a maltreatment determination or disqualification, which was not set aside under section 245C.22, is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07;

(2) the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245C.03; and

93.1 (3) the individual has a hearing right under section 245C.27.

93.2 (g) When a denial of a license under section 245A.05 or a licensing sanction under
93.3 section 245A.07 is based on a disqualification for which reconsideration was requested and
93.4 was not set aside under section 245C.22, and the individual otherwise has no hearing right
93.5 under section 245C.27, the scope of the administrative law judge's review shall include the
93.6 denial or sanction and a determination whether the disqualification should be set aside,
93.7 unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether
93.8 the disqualification should be set aside, the administrative law judge shall consider the
93.9 factors under section 245C.22, subdivision 4, to determine whether the individual poses a
93.10 risk of harm to any person receiving services from the license holder.

93.11 (h) Notwithstanding section 245C.30, subdivision 5, when a licensing sanction under
93.12 section 245A.07 is based on the termination of a variance under section 245C.30, subdivision
93.13 4, the scope of the administrative law judge's review shall include the sanction and a
93.14 determination whether the disqualification should be set aside, unless section 245C.24
93.15 prohibits the set-aside of the disqualification. In determining whether the disqualification
93.16 should be set aside, the administrative law judge shall consider the factors under section
93.17 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any
93.18 person receiving services from the license holder.

93.19 Sec. 46. Minnesota Statutes 2018, section 245A.085, is amended to read:

93.20 **245A.085 CONSOLIDATION OF HEARINGS; RECONSIDERATION.**

93.21 Hearings authorized under this chapter, ~~chapter 245C, and~~ sections 256.045, 256B.04,
93.22 ~~626.556, and 626.557, and chapters 245C and 260A,~~ shall be consolidated if feasible and
93.23 in accordance with other applicable statutes and rules. Reconsideration under sections
93.24 245C.28; ~~626.556, subdivision 10;~~ 260A.85; and 626.557, subdivision 9d, shall also be
93.25 consolidated if feasible.

93.26 Sec. 47. Minnesota Statutes 2018, section 245A.11, subdivision 7b, is amended to read:

93.27 Subd. 7b. **Adult foster care data privacy and security.** (a) An adult foster care or
93.28 community residential setting license holder who creates, collects, records, maintains, stores,
93.29 or discloses any individually identifiable recipient data, whether in an electronic or any
93.30 other format, must comply with the privacy and security provisions of applicable privacy
93.31 laws and regulations, including:

(1) the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-1; and the HIPAA Privacy Rule, Code of Federal Regulations, title 45, part 160, and subparts A and E of part 164; and

(2) the Minnesota Government Data Practices Act as codified in chapter 13.

(b) For purposes of licensure, the license holder shall be monitored for compliance with the following data privacy and security provisions:

(1) the license holder must control access to data on residents served by the program according to the definitions of public and private data on individuals under section 13.02; classification of the data on individuals as private under section 13.46, subdivision 2; and control over the collection, storage, use, access, protection, and contracting related to data according to section 13.05, in which the license holder is assigned the duties of a government entity;

(2) the license holder must provide each resident served by the program with a notice that meets the requirements under section 13.04, in which the license holder is assigned the duties of the government entity, and that meets the requirements of Code of Federal Regulations, title 45, part 164.52. The notice shall describe the purpose for collection of the data, and to whom and why it may be disclosed pursuant to law. The notice must inform the individual that the license holder uses electronic monitoring and, if applicable, that recording technology is used;

(3) the license holder must not install monitoring cameras in bathrooms;

(4) electronic monitoring cameras must not be concealed from the residents served by the program; and

(5) electronic video and audio recordings of residents served by the program shall be stored by the license holder for five days unless: (i) a resident served by the program or legal representative requests that the recording be held longer based on a specific report of alleged maltreatment; or (ii) the recording captures an incident or event of alleged maltreatment under section ~~626.556~~ or 626.557 or chapter 260A or a crime under chapter 609. When requested by a resident served by the program or when a recording captures an incident or event of alleged maltreatment or a crime, the license holder must maintain the recording in a secured area for no longer than 30 days to give the investigating agency an opportunity to make a copy of the recording. The investigating agency will maintain the electronic video or audio recordings as required in section 626.557, subdivision 12b.

95.1 (c) The commissioner shall develop, and make available to license holders and county
95.2 licensing workers, a checklist of the data privacy provisions to be monitored for purposes
95.3 of licensure.

95.4 Sec. 48. Minnesota Statutes 2019 Supplement, section 245A.145, subdivision 1, is amended
95.5 to read:

95.6 Subdivision 1. **Policies and procedures.** (a) The Department of Human Services must
95.7 develop policies and procedures for reporting suspected child maltreatment that fulfill the
95.8 requirements in ~~section 626.556~~ chapter 260A and provide the policies and procedures to
95.9 all licensed child care providers. The policies and procedures must be written in plain
95.10 language.

95.11 (b) The policies and procedures required in paragraph (a) must:

95.12 (1) be provided to the parents of all children at the time of enrollment in the child care
95.13 program; and

95.14 (2) be made available upon request.

95.15 Sec. 49. Minnesota Statutes 2019 Supplement, section 245A.40, subdivision 1, is amended
95.16 to read:

95.17 Subdivision 1. **Orientation.** (a) The child care center license holder must ensure that
95.18 the director, staff persons, substitutes, and unsupervised volunteers are given orientation
95.19 training and successfully complete the training before starting assigned duties. The orientation
95.20 training must include information about:

95.21 (1) the center's philosophy, child care program, and procedures for maintaining health
95.22 and safety according to section 245A.41 and Minnesota Rules, part 9503.0140, and handling
95.23 emergencies and accidents according to Minnesota Rules, part 9503.0110;

95.24 (2) specific job responsibilities;

95.25 (3) the behavior guidance standards in Minnesota Rules, part 9503.0055;

95.26 (4) the reporting responsibilities in ~~section 626.556~~ chapter 260A, and Minnesota Rules,
95.27 part 9503.0130;

95.28 (5) the center's drug and alcohol policy under section 245A.04, subdivision 1, paragraph
95.29 (c);

95.30 (6) the center's risk reduction plan as required under section 245A.66, subdivision 2;

(7) at least one-half hour of training on the standards under section 245A.1435 and on reducing the risk of sudden unexpected infant death as required in subdivision 5, if applicable;

(8) at least one-half hour of training on the risk of abusive head trauma as required for the director and staff under subdivision 5a, if applicable; and

(9) training required by a child's individual child care program plan as required under Minnesota Rules, part 9503.0065, subpart 3, if applicable.

(b) In addition to paragraph (a), before having unsupervised direct contact with a child, the director and staff persons within the first 90 days of employment, and substitutes and unsupervised volunteers within 90 days after the first date of direct contact with a child, must complete:

(1) pediatric first aid, in accordance with subdivision 3; and

(2) pediatric cardiopulmonary resuscitation, in accordance with subdivision 4.

(c) In addition to paragraph (b), the director and staff persons within the first 90 days of employment, and substitutes and unsupervised volunteers within 90 days from the first date of direct contact with a child, must complete training in child development, in accordance with subdivision 2.

(d) The license holder must ensure that documentation, as required in subdivision 10, identifies the number of hours completed for each topic with a minimum training time identified, if applicable, and that all required content is included.

(e) Training in this subdivision must not be used to meet in-service training requirements in subdivision 7.

(f) Training completed within the previous 12 months under paragraphs (a), clauses (7) and (8), and (c) are transferable to another child care center.

Sec. 50. Minnesota Statutes 2018, section 245C.05, subdivision 6, is amended to read:

Subd. 6. **Applicant, license holder, other entities, and agencies.** (a) The applicant, license holder, other entities as provided in this chapter, Bureau of Criminal Apprehension, law enforcement agencies, commissioner of health, and county agencies shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors substantiated under ~~section 626.556~~ chapter 260A.

(b) If a background study is initiated by an applicant, license holder, or other entities as provided in this chapter, and the applicant, license holder, or other entity receives information

about the possible criminal or maltreatment history of an individual who is the subject of the background study, the applicant, license holder, or other entity must immediately provide the information to the commissioner.

(c) The program or county or other agency must provide written notice to the individual who is the subject of the background study of the requirements under this subdivision.

Sec. 51. Minnesota Statutes 2018, section 245C.15, subdivision 4, is amended to read:

Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (fraud); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.293 (harmful materials; dissemination and display to minors prohibited); or Minnesota Statutes 2012, section 609.21; or violation of an order for protection under section 518B.01 (Domestic Abuse Act).

(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section ~~626.556, subdivision 3~~, 260A.23 or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section ~~626.556~~ or 626.557 or chapter 260A was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) substantiated serious or recurring maltreatment of a minor under ~~section 626.556~~ chapter 260A, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under section ~~626.556~~ or 626.557 or chapter 260A for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

(c) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes.

(d) An individual is disqualified under section 245C.14 if less than seven years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraphs (a) and (b).

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

(f) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual was disqualified under section 256.98, subdivision 8.

Sec. 52. Minnesota Statutes 2018, section 245C.16, subdivision 1, is amended to read:

Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people receiving services.

(b) The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm:

(1) the recency of the disqualifying characteristic;

(2) the recency of discharge from probation for the crimes;

(3) the number of disqualifying characteristics;

(4) the intrusiveness or violence of the disqualifying characteristic;

(5) the vulnerability of the victim involved in the disqualifying characteristic;

(6) the similarity of the victim to the persons served by the program where the individual studied will have direct contact;

(7) whether the individual has a disqualification from a previous background study that has not been set aside; and

(8) if the individual has a disqualification which may not be set aside because it is a permanent bar under section 245C.24, subdivision 1, or the individual is a child care background study subject who has a felony-level conviction for a drug-related offense in the last five years, the commissioner may order the immediate removal of the individual from any position allowing direct contact with, or access to, persons receiving services from the program.

(c) This section does not apply when the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the subject is determined to be responsible for substantiated maltreatment under section ~~626.556~~ or 626.557 or chapter 260A.

(d) This section does not apply to a background study related to an initial application for a child foster care license.

(e) Except for paragraph (f), this section does not apply to a background study that is also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for a personal care assistant or a qualified professional as defined in section 256B.0659, subdivision 1.

(f) If the commissioner has reason to believe, based on arrest information or an active maltreatment investigation, that an individual poses an imminent risk of harm to persons receiving services, the commissioner may order that the person be continuously supervised or immediately removed pending the conclusion of the maltreatment investigation or criminal proceedings.

Sec. 53. Minnesota Statutes 2018, section 245C.17, subdivision 3, is amended to read:

Subd. 3. Disqualification notification. (a) The commissioner shall notify an applicant, license holder, or other entity as provided in this chapter who is not the subject of the study:

(1) that the commissioner has found information that disqualifies the individual studied from being in a position allowing direct contact with, or access to, people served by the program; and

(2) the commissioner's determination of the individual's risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people served by the program, the commissioner shall order the license holder to immediately remove the individual studied from any position allowing direct contact with, or access to, people served by the program.

(c) If the commissioner determines under section 245C.16 that an individual studied poses a risk of harm that requires continuous, direct supervision, the commissioner shall order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from any position allowing direct contact with, or access to, people receiving services; or

(2) before allowing the disqualified individual to be in a position allowing direct contact with, or access to, people receiving services, the applicant, license holder, or other entity, as provided in this chapter, must:

(i) obtain from the disqualified individual a copy of the individual's notice of disqualification from the commissioner that explains the reason for disqualification;

(ii) ensure that the individual studied is under continuous, direct supervision when in a position allowing direct contact with, or access to, people receiving services during the period in which the individual may request a reconsideration of the disqualification under section 245C.21; and

(iii) ensure that the disqualified individual requests reconsideration within 30 days of receipt of the notice of disqualification.

(d) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires continuous, direct supervision, the commissioner shall order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from any position allowing direct contact with, or access to, people receiving services; or

(2) before allowing the disqualified individual to be in any position allowing direct contact with, or access to, people receiving services, the applicant, license holder, or other entity as provided in this chapter must:

(i) obtain from the disqualified individual a copy of the individual's notice of disqualification from the commissioner that explains the reason for disqualification; and

(ii) ensure that the disqualified individual requests reconsideration within 15 days of receipt of the notice of disqualification.

(e) The commissioner shall not notify the applicant, license holder, or other entity as provided in this chapter of the information contained in the subject's background study unless:

(1) the basis for the disqualification is failure to cooperate with the background study or substantiated maltreatment under section ~~626.556~~ or 626.557 or chapter 260A;

(2) the Data Practices Act under chapter 13 provides for release of the information; or

(3) the individual studied authorizes the release of the information.

Sec. 54. Minnesota Statutes 2018, section 245C.21, subdivision 2, is amended to read:

Subd. 2. Time frame for requesting reconsideration. (a) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (1) or (2), the disqualified individual must submit the request for a reconsideration within 30 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 30 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 30 calendar days after the individual's receipt of the notice of disqualification. Upon showing that the information under subdivision 3 cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain the information.

(b) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (3), the disqualified individual must submit the request for reconsideration within 15 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 15 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal

102.1 service, it must be received by the commissioner within 15 calendar days after the individual's
102.2 receipt of the notice of disqualification.

102.3 (c) An individual who was determined to have maltreated a child under ~~section 626.556~~
102.4 chapter 260A or a vulnerable adult under section 626.557, and who is disqualified on the
102.5 basis of serious or recurring maltreatment, may request a reconsideration of both the
102.6 maltreatment and the disqualification determinations. The request must be submitted within
102.7 30 calendar days of the individual's receipt of the notice of disqualification. If mailed, the
102.8 request for reconsideration must be postmarked and sent to the commissioner within 30
102.9 calendar days of the individual's receipt of the notice of disqualification. If a request for
102.10 reconsideration is made by personal service, it must be received by the commissioner within
102.11 30 calendar days after the individual's receipt of the notice of disqualification.

102.12 (d) Except for family child care and child foster care, reconsideration of a maltreatment
102.13 determination under sections ~~626.556, subdivision 10i,~~ 260A.85 and 626.557, subdivision
102.14 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted
102.15 when:

102.16 (1) a denial of a license under section 245A.05, or a licensing sanction under section
102.17 245A.07, is based on a determination that the license holder is responsible for maltreatment
102.18 or the disqualification of a license holder based on serious or recurring maltreatment;

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

102.21 (3) the license holder appeals the maltreatment determination, disqualification, and
102.22 denial of a license or licensing sanction. In such cases, a fair hearing under section 256.045
102.23 must not be conducted under sections 245C.27, ~~626.556, subdivision 10i,~~ 260A.85, and
102.24 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the
102.25 consolidated contested case hearing must include the maltreatment determination,
102.26 disqualification, and denial of a license or licensing sanction.

102.27 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
102.28 determination or disqualification, but does not appeal the denial of a license or a licensing
102.29 sanction, reconsideration of the maltreatment determination shall be conducted under sections
102.30 ~~626.556, subdivision 10i,~~ 260A.85 and 626.557, subdivision 9d, and reconsideration of the
102.31 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall
102.32 also be conducted as provided under sections 245C.27, ~~626.556, subdivision 10i,~~ 260A.85,
102.33 and 626.557, subdivision 9d.

103.1 Sec. 55. Minnesota Statutes 2018, section 245C.24, subdivision 4, is amended to read:

103.2 Subd. 4. **Seven-year bar to set aside disqualification.** The commissioner may not set
103.3 aside the disqualification of an individual in connection with a license to provide family
103.4 child care for children, foster care for children in the provider's home, or foster care or day
103.5 care services for adults in the provider's home if within seven years preceding the study:

103.6 (1) the individual committed an act that constitutes maltreatment of a child under ~~section~~
103.7 ~~626.556, subdivision 10e,~~ sections 260A.43, subdivisions 1, 2, and 3, and 260A.52,
103.8 subdivisions 1, 2, and 4, and the maltreatment resulted in substantial bodily harm as defined
103.9 in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by
103.10 competent psychological or psychiatric evidence; or

103.11 (2) the individual was determined under section 626.557 to be the perpetrator of a
103.12 substantiated incident of maltreatment of a vulnerable adult that resulted in substantial
103.13 bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional
103.14 harm as supported by competent psychological or psychiatric evidence.

103.15 Sec. 56. Minnesota Statutes 2018, section 245C.25, is amended to read:

103.16 **245C.25 CONSOLIDATED RECONSIDERATION OF MALTREATMENT**
103.17 **DETERMINATION AND DISQUALIFICATION.**

103.18 If an individual is disqualified on the basis of a determination of maltreatment under
103.19 section ~~626.556 or 626.557~~ or chapter 260A, which was serious or recurring, and the
103.20 individual requests reconsideration of the maltreatment determination under section ~~626.556,~~
103.21 ~~subdivision 10i,~~ 260A.85 or 626.557, subdivision 9d, and also requests reconsideration of
103.22 the disqualification under section 245C.21, the commissioner shall consolidate the
103.23 reconsideration of the maltreatment determination and the disqualification into a single
103.24 reconsideration.

103.25 Sec. 57. Minnesota Statutes 2018, section 245C.27, subdivision 1, is amended to read:

103.26 Subdivision 1. **Fair hearing following a reconsideration decision.** (a) An individual
103.27 who is disqualified on the basis of a preponderance of evidence that the individual committed
103.28 an act or acts that meet the definition of any of the crimes listed in section 245C.15; for a
103.29 determination under section ~~626.556 or 626.557~~ or chapter 260A of substantiated
103.30 maltreatment that was serious or recurring under section 245C.15; or for failure to make
103.31 required reports under section ~~626.556, subdivision 3;~~ 260A.23, subdivision 1 or 2; 260A.28,
103.32 subdivision 1; or 626.557, subdivision 3, pursuant to section 245C.15, subdivision 4,

104.1 paragraph (b), clause (1), may request a fair hearing under section 256.045, following a
104.2 reconsideration decision issued under section 245C.23, unless the disqualification is deemed
104.3 conclusive under section 245C.29.

104.4 (b) The fair hearing is the only administrative appeal of the final agency determination
104.5 for purposes of appeal by the disqualified individual. The disqualified individual does not
104.6 have the right to challenge the accuracy and completeness of data under section 13.04.

104.7 (c) Except as provided under paragraph (e), if the individual was disqualified based on
104.8 a conviction of, admission to, or Alford Plea to any crimes listed in section 245C.15,
104.9 subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision 8, the
104.10 reconsideration decision under section 245C.22 is the final agency determination for purposes
104.11 of appeal by the disqualified individual and is not subject to a hearing under section 256.045.
104.12 If the individual was disqualified based on a judicial determination, that determination is
104.13 treated the same as a conviction for purposes of appeal.

104.14 (d) This subdivision does not apply to a public employee's appeal of a disqualification
104.15 under section 245C.28, subdivision 3.

104.16 (e) Notwithstanding paragraph (c), if the commissioner does not set aside a
104.17 disqualification of an individual who was disqualified based on both a preponderance of
104.18 evidence and a conviction or admission, the individual may request a fair hearing under
104.19 section 256.045, unless the disqualifications are deemed conclusive under section 245C.29.
104.20 The scope of the hearing conducted under section 256.045 with regard to the disqualification
104.21 based on a conviction or admission shall be limited solely to whether the individual poses
104.22 a risk of harm, according to section 256.045, subdivision 3b. In this case, the reconsideration
104.23 decision under section 245C.22 is not the final agency decision for purposes of appeal by
104.24 the disqualified individual.

104.25 Sec. 58. Minnesota Statutes 2018, section 245C.27, subdivision 2, is amended to read:

104.26 Subd. 2. **Consolidated fair hearing following a reconsideration decision.** (a) If an
104.27 individual who is disqualified on the bases of serious or recurring maltreatment requests a
104.28 fair hearing on the maltreatment determination under section ~~626.556, subdivision 10i,~~
104.29 260A.85 or 626.557, subdivision 9d, and requests a fair hearing under this section on the
104.30 disqualification following a reconsideration decision under section 245C.23, the scope of
104.31 the fair hearing under section 256.045 shall include the maltreatment determination and the
104.32 disqualification.

(b) A fair hearing is the only administrative appeal of the final agency determination. The disqualified individual does not have the right to challenge the accuracy and completeness of data under section 13.04.

(c) This subdivision does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

Sec. 59. Minnesota Statutes 2018, section 245C.28, subdivision 1, is amended to read:

Subdivision 1. License holder. (a) If a maltreatment determination or a disqualification for which reconsideration was timely requested and which was not set aside 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. The license holder must submit the appeal under section 245A.05 or 245A.07, subdivision 3.

(b) As provided under section 245A.08, subdivision 2a, if the denial of a license or licensing sanction is based on a disqualification for which reconsideration was timely requested and was not set aside, the scope of the consolidated contested case hearing must include:

(1) the disqualification, to the extent the license holder otherwise has a hearing right on the disqualification under this chapter; and

(2) the licensing sanction or denial of a license.

(c) As provided for under section 245A.08, subdivision 2a, if the denial of a license or licensing sanction is based on a determination of maltreatment under section ~~626.556 or~~ 626.557 or chapter 260A, or a disqualification for serious or recurring maltreatment which was not set aside, the scope of the contested case hearing must include:

(1) the maltreatment determination, if the maltreatment is not conclusive under section 245C.29;

(2) the disqualification, if the disqualification is not conclusive under section 245C.29; and

(3) the licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under section 256.045. If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section ~~626.556 or~~ 626.557 or chapter 260A, the appeal must be submitted under sections 245A.07, subdivision 3, ~~and~~ ~~626.556, subdivision 10i, 260A.85, or 626.557, subdivision 9d.~~

(d) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections ~~626.556, subdivision 10i,~~ 260A.85 and 626.557, subdivision 9d, 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, disqualification, and denial of a license or licensing sanction. In such cases a fair hearing under section 256.045 must not be conducted under sections 245C.27, ~~626.556, subdivision 10i,~~ 260A.85, and 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the maltreatment determination, 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 ~~626.556, subdivision 10i,~~ 260A.85 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, ~~626.556, subdivision 10i,~~ 260A.85, and 626.557, subdivision 9d.

Sec. 60. Minnesota Statutes 2018, section 245C.29, subdivision 1, is amended to read:

Subdivision 1. **Conclusive maltreatment determination or disposition.** Unless otherwise specified in statute, a maltreatment determination or disposition under section ~~626.556 or 626.557 or chapter 260A~~ is conclusive, if:

(1) the commissioner has issued a final order in an appeal of that determination or disposition under section 245A.08, subdivision 5, or 256.045;

(2) the individual did not request reconsideration of the maltreatment determination or disposition under section ~~626.556 or 626.557 or chapter 260A~~; or

(3) the individual did not request a hearing of the maltreatment determination or disposition under section 256.045.

107.1 Sec. 61. Minnesota Statutes 2018, section 245C.31, subdivision 1, is amended to read:

107.2 Subdivision 1. **Board determines disciplinary or corrective action.** (a) When the
107.3 subject of a background study is regulated by a health-related licensing board as defined in
107.4 chapter 214, and the commissioner determines that the regulated individual is responsible
107.5 for substantiated maltreatment under section ~~626.556~~ or 626.557 or chapter 260A, instead
107.6 of the commissioner making a decision regarding disqualification, the board shall make a
107.7 determination whether to impose disciplinary or corrective action under chapter 214.

107.8 (b) This section does not apply to a background study of an individual regulated by a
107.9 health-related licensing board if the individual's study is related to child foster care, adult
107.10 foster care, or family child care licensure.

107.11 Sec. 62. Minnesota Statutes 2018, section 245C.32, subdivision 2, is amended to read:

107.12 Subd. 2. **Use.** (a) The commissioner may also use these systems and records to obtain
107.13 and provide criminal history data from the Bureau of Criminal Apprehension, criminal
107.14 history data held by the commissioner, and data about substantiated maltreatment under
107.15 section ~~626.556~~ or 626.557 or chapter 260A, for other purposes, provided that:

107.16 (1) the background study is specifically authorized in statute; or

107.17 (2) the request is made with the informed consent of the subject of the study as provided
107.18 in section 13.05, subdivision 4.

107.19 (b) An individual making a request under paragraph (a), clause (2), must agree in writing
107.20 not to disclose the data to any other individual without the consent of the subject of the data.

107.21 (c) The commissioner may recover the cost of obtaining and providing background study
107.22 data by charging the individual or entity requesting the study a fee of no more than \$20 per
107.23 study. The fees collected under this paragraph are appropriated to the commissioner for the
107.24 purpose of conducting background studies.

107.25 (d) The commissioner shall recover the cost of obtaining background study data required
107.26 under section 524.5-118 through a fee of \$50 per study for an individual who has not lived
107.27 outside Minnesota for the past ten years, and a fee of \$100 for an individual who has resided
107.28 outside of Minnesota for any period during the ten years preceding the background study.
107.29 The commissioner shall recover, from the individual, any additional fees charged by other
107.30 states' licensing agencies that are associated with these data requests. Fees under subdivision
107.31 3 also apply when criminal history data from the National Criminal Records Repository is
107.32 required.

108.1 Sec. 63. Minnesota Statutes 2018, section 245D.02, subdivision 11, is amended to read:

108.2 Subd. 11. **Incident.** "Incident" means an occurrence which involves a person and requires
108.3 the program to make a response that is not a part of the program's ordinary provision of
108.4 services to that person, and includes:

108.5 (1) serious injury of a person as determined by section 245.91, subdivision 6;

108.6 (2) a person's death;

108.7 (3) any medical emergency, unexpected serious illness, or significant unexpected change
108.8 in an illness or medical condition of a person that requires the program to call 911, physician
108.9 treatment, or hospitalization;

108.10 (4) any mental health crisis that requires the program to call 911, a mental health crisis
108.11 intervention team, or a similar mental health response team or service when available and
108.12 appropriate;

108.13 (5) an act or situation involving a person that requires the program to call 911, law
108.14 enforcement, or the fire department;

108.15 (6) a person's unauthorized or unexplained absence from a program;

108.16 (7) conduct by a person receiving services against another person receiving services
108.17 that:

108.18 (i) is so severe, pervasive, or objectively offensive that it substantially interferes with a
108.19 person's opportunities to participate in or receive service or support;

108.20 (ii) places the person in actual and reasonable fear of harm;

108.21 (iii) places the person in actual and reasonable fear of damage to property of the person;
108.22 or

108.23 (iv) substantially disrupts the orderly operation of the program;

108.24 (8) any sexual activity between persons receiving services involving force or coercion
108.25 as defined under section 609.341, subdivisions 3 and 14;

108.26 (9) any emergency use of manual restraint as identified in section 245D.061 or successor
108.27 provisions; or

108.28 (10) a report of alleged or suspected child or vulnerable adult maltreatment under section
108.29 ~~626.556~~ or 626.557 or chapter 260A.

Sec. 64. Minnesota Statutes 2018, section 245D.06, subdivision 1, is amended to read:

Subdivision 1. **Incident response and reporting.** (a) The license holder must respond to incidents under section 245D.02, subdivision 11, that occur while providing services to protect the health and safety of and minimize risk of harm to the person.

(b) The license holder must maintain information about and report incidents to the person's legal representative or designated emergency contact and case manager within 24 hours of an incident occurring while services are being provided, within 24 hours of discovery or receipt of information that an incident occurred, unless the license holder has reason to know that the incident has already been reported, or as otherwise directed in a person's coordinated service and support plan or coordinated service and support plan addendum. An incident of suspected or alleged maltreatment must be reported as required under paragraph (d), and an incident of serious injury or death must be reported as required under paragraph (e).

(c) When the incident involves more than one person, the license holder must not disclose personally identifiable information about any other person when making the report to each person and case manager unless the license holder has the consent of the person.

(d) Within 24 hours of reporting maltreatment as required under section ~~626.556~~ or ~~626.557~~ or chapter 260A, the license holder must inform the case manager of the report unless there is reason to believe that the case manager is involved in the suspected maltreatment. The license holder must disclose the nature of the activity or occurrence reported and the agency that received the report.

(e) The license holder must report the death or serious injury of the person as required in paragraph (b) and to the Department of Human Services Licensing Division, and the Office of Ombudsman for Mental Health and Developmental Disabilities as required under section 245.94, subdivision 2a, within 24 hours of the death or serious injury, or receipt of information that the death or serious injury occurred, unless the license holder has reason to know that the death or serious injury has already been reported.

(f) When a death or serious injury occurs in a facility certified as an intermediate care facility for persons with developmental disabilities, the death or serious injury must be reported to the Department of Health, Office of Health Facility Complaints, and the Office of Ombudsman for Mental Health and Developmental Disabilities, as required under sections 245.91 and 245.94, subdivision 2a, unless the license holder has reason to know that the death or serious injury has already been reported.

110.1 (g) The license holder must conduct an internal review of incident reports of deaths and
110.2 serious injuries that occurred while services were being provided and that were not reported
110.3 by the program as alleged or suspected maltreatment, for identification of incident patterns,
110.4 and implementation of corrective action as necessary to reduce occurrences. The review
110.5 must include an evaluation of whether related policies and procedures were followed,
110.6 whether the policies and procedures were adequate, whether there is a need for additional
110.7 staff training, whether the reported event is similar to past events with the persons or the
110.8 services involved, and whether there is a need for corrective action by the license holder to
110.9 protect the health and safety of persons receiving services. Based on the results of this
110.10 review, the license holder must develop, document, and implement a corrective action plan
110.11 designed to correct current lapses and prevent future lapses in performance by staff or the
110.12 license holder, if any.

110.13 (h) The license holder must verbally report the emergency use of manual restraint of a
110.14 person as required in paragraph (b) within 24 hours of the occurrence. The license holder
110.15 must ensure the written report and internal review of all incident reports of the emergency
110.16 use of manual restraints are completed according to the requirements in section 245D.061
110.17 or successor provisions.

110.18 Sec. 65. Minnesota Statutes 2018, section 245D.06, subdivision 6, is amended to read:

110.19 Subd. 6. **Restricted procedures.** (a) The following procedures are allowed when the
110.20 procedures are implemented in compliance with the standards governing their use as
110.21 identified in clauses (1) to (3). Allowed but restricted procedures include:

110.22 (1) permitted actions and procedures subject to the requirements in subdivision 7;

110.23 (2) procedures identified in a positive support transition plan subject to the requirements
110.24 in subdivision 8; or

110.25 (3) emergency use of manual restraint subject to the requirements in section 245D.061.

110.26 (b) A restricted procedure identified in paragraph (a) must not:

110.27 (1) be implemented with a child in a manner that constitutes sexual abuse, neglect,
110.28 physical abuse, or mental injury, as defined in section ~~626.556, subdivision 2~~ 260A.20;

110.29 (2) be implemented with an adult in a manner that constitutes abuse or neglect as defined
110.30 in section 626.5572, subdivision 2 or 17;

110.31 (3) be implemented in a manner that violates a person's rights identified in section
110.32 245D.04;

111.1 (4) restrict a person's normal access to a nutritious diet, drinking water, adequate
111.2 ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions,
111.3 necessary clothing, or any protection required by state licensing standards or federal
111.4 regulations governing the program;

111.5 (5) deny the person visitation or ordinary contact with legal counsel, a legal representative,
111.6 or next of kin;

111.7 (6) be used for the convenience of staff, as punishment, as a substitute for adequate
111.8 staffing, or as a consequence if the person refuses to participate in the treatment or services
111.9 provided by the program;

111.10 (7) use prone restraint. For purposes of this section, "prone restraint" means use of
111.11 manual restraint that places a person in a face-down position. Prone restraint does not include
111.12 brief physical holding of a person who, during an emergency use of manual restraint, rolls
111.13 into a prone position, if the person is restored to a standing, sitting, or side-lying position
111.14 as quickly as possible;

111.15 (8) apply back or chest pressure while a person is in a prone position as identified in
111.16 clause (7), supine position, or side-lying position; or

111.17 (9) be implemented in a manner that is contraindicated for any of the person's known
111.18 medical or psychological limitations.

111.19 Sec. 66. Minnesota Statutes 2018, section 245D.09, subdivision 4, is amended to read:

111.20 Subd. 4. **Orientation to program requirements.** Except for a license holder who does
111.21 not supervise any direct support staff, within 60 calendar days of hire, unless stated otherwise,
111.22 the license holder must provide and ensure completion of orientation sufficient to create
111.23 staff competency for direct support staff that combines supervised on-the-job training with
111.24 review of and instruction in the following areas:

111.25 (1) the job description and how to complete specific job functions, including:

111.26 (i) responding to and reporting incidents as required under section 245D.06, subdivision
111.27 1; and

111.28 (ii) following safety practices established by the license holder and as required in section
111.29 245D.06, subdivision 2;

111.30 (2) the license holder's current policies and procedures required under this chapter,
111.31 including their location and access, and staff responsibilities related to implementation of
111.32 those policies and procedures;

112.1 (3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal
112.2 Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff
112.3 responsibilities related to complying with data privacy practices;

112.4 (4) the service recipient rights and staff responsibilities related to ensuring the exercise
112.5 and protection of those rights according to the requirements in section 245D.04;

112.6 (5) sections 245A.65, 245A.66, ~~626.556~~, and 626.557 and chapter 260A, governing
112.7 maltreatment reporting and service planning for children and vulnerable adults, and staff
112.8 responsibilities related to protecting persons from maltreatment and reporting maltreatment.
112.9 This orientation must be provided within 72 hours of first providing direct contact services
112.10 and annually thereafter according to section 245A.65, subdivision 3;

112.11 (6) the principles of person-centered service planning and delivery as identified in section
112.12 245D.07, subdivision 1a, and how they apply to direct support service provided by the staff
112.13 person;

112.14 (7) the safe and correct use of manual restraint on an emergency basis according to the
112.15 requirements in section 245D.061 or successor provisions, and what constitutes the use of
112.16 restraints, time out, and seclusion, including chemical restraint;

112.17 (8) staff responsibilities related to prohibited procedures under section 245D.06,
112.18 subdivision 5, or successor provisions, why such procedures are not effective for reducing
112.19 or eliminating symptoms or undesired behavior, and why such procedures are not safe;

112.20 (9) basic first aid; and

112.21 (10) other topics as determined necessary in the person's coordinated service and support
112.22 plan by the case manager or other areas identified by the license holder.

112.23 Sec. 67. Minnesota Statutes 2018, section 245D.32, subdivision 5, is amended to read:

112.24 Subd. 5. **Investigations of alleged or suspected maltreatment.** Nothing in this section
112.25 changes the commissioner's responsibilities to investigate alleged or suspected maltreatment
112.26 of a minor under ~~section 626.556~~ chapter 260A or a vulnerable adult under section 626.557.

112.27 Sec. 68. Minnesota Statutes 2018, section 245F.04, subdivision 1, is amended to read:

112.28 Subdivision 1. **General application and license requirements.** An applicant for licensure
112.29 as a clinically managed withdrawal management program or medically monitored withdrawal
112.30 management program must meet the following requirements, except where otherwise noted.
112.31 All programs must comply with federal requirements and the general requirements in

113.1 ~~chapters 245A and 245C and sections 626.556, 626.557, and 626.5572~~ and chapters 245A,
113.2 245C, and 260A. A withdrawal management program must be located in a hospital licensed
113.3 under sections 144.50 to 144.581, or must be a supervised living facility with a class B
113.4 license from the Department of Health under Minnesota Rules, parts 4665.0100 to 4665.9900.

113.5 Sec. 69. Minnesota Statutes 2018, section 245F.15, subdivision 3, is amended to read:

113.6 Subd. 3. **Program director qualifications.** A program director must:

113.7 (1) have at least one year of work experience in direct service to individuals with
113.8 substance use disorders or one year of work experience in the management or administration
113.9 of direct service to individuals with substance use disorders;

113.10 (2) have a baccalaureate degree or three years of work experience in administration or
113.11 personnel supervision in human services; and

113.12 (3) know and understand the requirements of this chapter ~~and chapters 245A and 245C,~~
113.13 ~~and,~~ sections 253B.04, 253B.05, ~~626.556, 626.557, and 626.5572,~~ and chapters 245A, 245C,
113.14 and 260A.

113.15 Sec. 70. Minnesota Statutes 2018, section 245F.15, subdivision 5, is amended to read:

113.16 Subd. 5. **Responsible staff person qualifications.** Each responsible staff person must
113.17 know and understand the requirements of this chapter ~~and,~~ sections 245A.65, 253B.04,
113.18 253B.05, ~~626.556, 626.557, and 626.5572,~~ and chapter 260A. In a clinically managed
113.19 program, the responsible staff person must be a licensed practical nurse employed by or
113.20 under contract with the license holder. In a medically monitored program, the responsible
113.21 staff person must be a registered nurse, program director, or physician.

113.22 Sec. 71. Minnesota Statutes 2018, section 245F.16, subdivision 1, is amended to read:

113.23 Subdivision 1. **Policy requirements.** A license holder must have written personnel
113.24 policies and must make them available to staff members at all times. The personnel policies
113.25 must:

113.26 (1) ensure that a staff member's retention, promotion, job assignment, or pay are not
113.27 affected by a good-faith communication between the staff member and the Department of
113.28 Human Services, Department of Health, Ombudsman for Mental Health and Developmental
113.29 Disabilities, law enforcement, or local agencies that investigate complaints regarding patient
113.30 rights, health, or safety;

114.1 (2) include a job description for each position that specifies job responsibilities, degree
114.2 of authority to execute job responsibilities, standards of job performance related to specified
114.3 job responsibilities, and qualifications;

114.4 (3) provide for written job performance evaluations for staff members of the license
114.5 holder at least annually;

114.6 (4) describe behavior that constitutes grounds for disciplinary action, suspension, or
114.7 dismissal, including policies that address substance use problems and meet the requirements
114.8 of section 245F.15, subdivisions 1 and 2. The policies and procedures must list behaviors
114.9 or incidents that are considered substance use problems. The list must include:

114.10 (i) receiving treatment for substance use disorder within the period specified for the
114.11 position in the staff qualification requirements;

114.12 (ii) substance use that has a negative impact on the staff member's job performance;

114.13 (iii) substance use that affects the credibility of treatment services with patients, referral
114.14 sources, or other members of the community; and

114.15 (iv) symptoms of intoxication or withdrawal on the job;

114.16 (5) include policies prohibiting personal involvement with patients and policies
114.17 prohibiting patient maltreatment as specified under ~~chapter 604~~ and sections 245A.65,
114.18 ~~626.556, 626.557, and 626.5572~~ and chapters 260A and 604;

114.19 (6) include a chart or description of organizational structure indicating the lines of
114.20 authority and responsibilities;

114.21 (7) include a written plan for new staff member orientation that, at a minimum, includes
114.22 training related to the specific job functions for which the staff member was hired, program
114.23 policies and procedures, patient needs, and the areas identified in subdivision 2, paragraphs
114.24 (b) to (e); and

114.25 (8) include a policy on the confidentiality of patient information.

114.26 Sec. 72. Minnesota Statutes 2018, section 245F.16, subdivision 2, is amended to read:

114.27 Subd. 2. **Staff development.** (a) A license holder must ensure that each staff member
114.28 receives orientation training before providing direct patient care and at least 30 hours of
114.29 continuing education every two years. A written record must be kept to demonstrate
114.30 completion of training requirements.

115.1 (b) Within 72 hours of beginning employment, all staff having direct patient contact
115.2 must be provided orientation on the following:

115.3 (1) specific license holder and staff responsibilities for patient confidentiality;

115.4 (2) standards governing the use of protective procedures;

115.5 (3) patient ethical boundaries and patient rights, including the rights of patients admitted
115.6 under chapter 253B;

115.7 (4) infection control procedures;

115.8 (5) mandatory reporting under sections 245A.65, ~~626.556~~, and 626.557; and chapter
115.9 260A, including specific training covering the facility's policies concerning obtaining patient
115.10 releases of information;

115.11 (6) HIV minimum standards as required in section 245A.19;

115.12 (7) motivational counseling techniques and identifying stages of change; and

115.13 (8) eight hours of training on the program's protective procedures policy required in
115.14 section 245F.09, including:

115.15 (i) approved therapeutic holds;

115.16 (ii) protective procedures used to prevent patients from imminent danger of harming
115.17 self or others;

115.18 (iii) the emergency conditions under which the protective procedures may be used, if
115.19 any;

115.20 (iv) documentation standards for using protective procedures;

115.21 (v) how to monitor and respond to patient distress; and

115.22 (vi) person-centered planning and trauma-informed care.

115.23 (c) All staff having direct patient contact must be provided annual training on the
115.24 following:

115.25 (1) infection control procedures;

115.26 (2) mandatory reporting under sections 245A.65, ~~626.556~~, and 626.557; and chapter
115.27 260A, including specific training covering the facility's policies concerning obtaining patient
115.28 releases of information;

115.29 (3) HIV minimum standards as required in section 245A.19; and

115.30 (4) motivational counseling techniques and identifying stages of change.

116.1 (d) All staff having direct patient contact must be provided training every two years on
116.2 the following:

116.3 (1) specific license holder and staff responsibilities for patient confidentiality;

116.4 (2) standards governing use of protective procedures, including:

116.5 (i) approved therapeutic holds;

116.6 (ii) protective procedures used to prevent patients from imminent danger of harming
116.7 self or others;

116.8 (iii) the emergency conditions under which the protective procedures may be used, if
116.9 any;

116.10 (iv) documentation standards for using protective procedures;

116.11 (v) how to monitor and respond to patient distress; and

116.12 (vi) person-centered planning and trauma-informed care; and

116.13 (3) patient ethical boundaries and patient rights, including the rights of patients admitted
116.14 under chapter 253B.

116.15 (e) Continuing education that is completed in areas outside of the required topics must
116.16 provide information to the staff person that is useful to the performance of the individual
116.17 staff person's duties.

116.18 Sec. 73. Minnesota Statutes 2018, section 245F.18, is amended to read:

116.19 **245F.18 POLICY AND PROCEDURES MANUAL.**

116.20 A license holder must develop a written policy and procedures manual that is
116.21 alphabetically indexed and has a table of contents, so that staff have immediate access to
116.22 all policies and procedures, and that consumers of the services and other authorized parties
116.23 have access to all policies and procedures. The manual must contain the following materials:

116.24 (1) a description of patient education services as required in section 245F.06;

116.25 (2) personnel policies that comply with section 245F.16;

116.26 (3) admission information and referral and discharge policies that comply with section
116.27 245F.05;

116.28 (4) a health monitoring plan that complies with section 245F.12;

116.29 (5) a protective procedures policy that complies with section 245F.09, if the program
116.30 elects to use protective procedures;

117.1 (6) policies and procedures for assuring appropriate patient-to-staff ratios that comply
117.2 with section 245F.14;

117.3 (7) policies and procedures for assessing and documenting the susceptibility for risk of
117.4 abuse to the patient as the basis for the individual abuse prevention plan required by section
117.5 245A.65;

117.6 (8) procedures for mandatory reporting as required by sections 245A.65, ~~626.556~~, and
117.7 ~~626.557~~ and chapter 260A;

117.8 (9) a medication control plan that complies with section 245F.13; and

117.9 (10) policies and procedures regarding HIV that meet the minimum standards under
117.10 section 245A.19.

117.11 Sec. 74. Minnesota Statutes 2018, section 245G.03, subdivision 1, is amended to read:

117.12 Subdivision 1. **License requirements.** (a) An applicant for a license to provide substance
117.13 use disorder treatment must comply with the general requirements in ~~chapters 245A and~~
117.14 ~~245C, sections 626.556 and~~ section 626.557, chapters 245A, 245C, and 260A, and Minnesota
117.15 Rules, chapter 9544.

117.16 (b) The commissioner may grant variances to the requirements in this chapter that do
117.17 not affect the client's health or safety if the conditions in section 245A.04, subdivision 9,
117.18 are met.

117.19 Sec. 75. Minnesota Statutes 2018, section 245G.10, subdivision 3, is amended to read:

117.20 Subd. 3. **Responsible staff member.** A treatment director must designate a staff member
117.21 who, when present in the facility, is responsible for the delivery of treatment service. A
117.22 license holder must have a designated staff member during all hours of operation. A license
117.23 holder providing room and board and treatment at the same site must have a responsible
117.24 staff member on duty 24 hours a day. The designated staff member must know and understand
117.25 the implications of this chapter, ~~and~~ sections 245A.65, ~~626.556~~, 626.557, and 626.5572,
117.26 and chapter 260A.

117.27 Sec. 76. Minnesota Statutes 2018, section 245G.11, subdivision 3, is amended to read:

117.28 Subd. 3. **Treatment directors.** A treatment director must:

117.29 (1) have at least one year of work experience in direct service to an individual with
117.30 substance use disorder or one year of work experience in the management or administration
117.31 of direct service to an individual with substance use disorder;

(2) have a baccalaureate degree or three years of work experience in administration or personnel supervision in human services; and

(3) know and understand the implications of this chapter, ~~chapter 245A, and sections 626.556, 626.557, and 626.5572,~~ and chapters 245A and 260A. Demonstration of the treatment director's knowledge must be documented in the personnel record.

Sec. 77. Minnesota Statutes 2018, section 245G.11, subdivision 4, is amended to read:

Subd. 4. **Alcohol and drug counselor supervisors.** An alcohol and drug counselor supervisor must:

(1) meet the qualification requirements in subdivision 5;

(2) have three or more years of experience providing individual and group counseling to individuals with substance use disorder; and

(3) know and understand the implications of this chapter ~~and, sections 245A.65, 626.556, 626.557, and 626.5572,~~ and chapter 260A.

Sec. 78. Minnesota Statutes 2019 Supplement, section 245G.12, is amended to read:

245G.12 PROVIDER POLICIES AND PROCEDURES.

A license holder must develop a written policies and procedures manual, indexed according to section 245A.04, subdivision 14, paragraph (c), that provides staff members immediate access to all policies and procedures and provides a client and other authorized parties access to all policies and procedures. The manual must contain the following materials:

(1) assessment and treatment planning policies, including screening for mental health concerns and treatment objectives related to the client's identified mental health concerns in the client's treatment plan;

(2) policies and procedures regarding HIV according to section 245A.19;

(3) the license holder's methods and resources to provide information on tuberculosis and tuberculosis screening to each client and to report a known tuberculosis infection according to section 144.4804;

(4) personnel policies according to section 245G.13;

(5) policies and procedures that protect a client's rights according to section 245G.15;

(6) a medical services plan according to section 245G.08;

- 119.1 (7) emergency procedures according to section 245G.16;
- 119.2 (8) policies and procedures for maintaining client records according to section 245G.09;
- 119.3 (9) procedures for reporting the maltreatment of minors according to ~~section 626.556~~
- 119.4 chapter 260A, and vulnerable adults according to sections 245A.65, 626.557, and 626.5572;
- 119.5 (10) a description of treatment services that: (i) includes the amount and type of services
- 119.6 provided; (ii) identifies which services meet the definition of group counseling under section
- 119.7 245G.01, subdivision 13a; and (iii) defines the program's treatment week;
- 119.8 (11) the methods used to achieve desired client outcomes;
- 119.9 (12) the hours of operation; and
- 119.10 (13) the target population served.

119.11 Sec. 79. Minnesota Statutes 2019 Supplement, section 245G.13, subdivision 1, is amended

119.12 to read:

119.13 Subdivision 1. **Personnel policy requirements.** A license holder must have written

119.14 personnel policies that are available to each staff member. The personnel policies must:

- 119.15 (1) ensure that staff member retention, promotion, job assignment, or pay are not affected
- 119.16 by a good faith communication between a staff member and the department, the Department
- 119.17 of Health, the ombudsman for mental health and developmental disabilities, law enforcement,
- 119.18 or a local agency for the investigation of a complaint regarding a client's rights, health, or
- 119.19 safety;
- 119.20 (2) contain a job description for each staff member position specifying responsibilities,
- 119.21 degree of authority to execute job responsibilities, and qualification requirements;
- 119.22 (3) provide for a job performance evaluation based on standards of job performance
- 119.23 conducted on a regular and continuing basis, including a written annual review;
- 119.24 (4) describe behavior that constitutes grounds for disciplinary action, suspension, or
- 119.25 dismissal, including policies that address staff member problematic substance use and the
- 119.26 requirements of section 245G.11, subdivision 1, policies prohibiting personal involvement
- 119.27 with a client in violation of chapter 604, and policies prohibiting client abuse described in
- 119.28 sections 245A.65, ~~626.556~~, 626.557, and 626.5572, and chapter 260A;
- 119.29 (5) identify how the program will identify whether behaviors or incidents are problematic
- 119.30 substance use, including a description of how the facility must address:

120.1 (i) receiving treatment for substance use within the period specified for the position in
120.2 the staff qualification requirements, including medication-assisted treatment;

120.3 (ii) substance use that negatively impacts the staff member's job performance;

120.4 (iii) substance use that affects the credibility of treatment services with a client, referral
120.5 source, or other member of the community;

120.6 (iv) symptoms of intoxication or withdrawal on the job; and

120.7 (v) the circumstances under which an individual who participates in monitoring by the
120.8 health professional services program for a substance use or mental health disorder is able
120.9 to provide services to the program's clients;

120.10 (6) include a chart or description of the organizational structure indicating lines of
120.11 authority and responsibilities;

120.12 (7) include orientation within 24 working hours of starting for each new staff member
120.13 based on a written plan that, at a minimum, must provide training related to the staff member's
120.14 specific job responsibilities, policies and procedures, client confidentiality, HIV minimum
120.15 standards, and client needs; and

120.16 (8) include policies outlining the license holder's response to a staff member with a
120.17 behavior problem that interferes with the provision of treatment service.

120.18 Sec. 80. Minnesota Statutes 2018, section 245G.13, subdivision 2, is amended to read:

120.19 Subd. 2. **Staff development.** (a) A license holder must ensure that each staff member
120.20 has the training described in this subdivision.

120.21 (b) Each staff member must be trained every two years in:

120.22 (1) client confidentiality rules and regulations and client ethical boundaries; and

120.23 (2) emergency procedures and client rights as specified in sections 144.651, 148F.165,
120.24 and 253B.03.

120.25 (c) Annually each staff member with direct contact must be trained on mandatory
120.26 reporting as specified in sections 245A.65, ~~626.556, 626.5561,~~ 626.557, and 626.5572, and
120.27 chapter 260A, including specific training covering the license holder's policies for obtaining
120.28 a release of client information.

120.29 (d) Upon employment and annually thereafter, each staff member with direct contact
120.30 must receive training on HIV minimum standards according to section 245A.19.

121.1 (e) A treatment director, supervisor, nurse, or counselor must have a minimum of 12
121.2 hours of training in co-occurring disorders that includes competencies related to philosophy,
121.3 trauma-informed care, screening, assessment, diagnosis and person-centered treatment
121.4 planning, documentation, programming, medication, collaboration, mental health
121.5 consultation, and discharge planning. A new staff member who has not obtained the training
121.6 must complete the training within six months of employment. A staff member may request,
121.7 and the license holder may grant, credit for relevant training obtained before employment,
121.8 which must be documented in the staff member's personnel file.

121.9 Sec. 81. Minnesota Statutes 2019 Supplement, section 245H.11, is amended to read:

121.10 **245H.11 REPORTING.**

121.11 (a) The certification holder must comply and must have written policies for staff to
121.12 comply with the reporting requirements for abuse and neglect specified in ~~section 626.556~~
121.13 chapter 260A. A person mandated to report physical or sexual child abuse or neglect
121.14 occurring within a certified center shall report the information to the commissioner.

121.15 (b) The certification holder must inform the commissioner within 24 hours of:

121.16 (1) the death of a child in the program; and

121.17 (2) any injury to a child in the program that required treatment by a physician.

121.18 Sec. 82. Minnesota Statutes 2018, section 254A.09, is amended to read:

121.19 **254A.09 CONFIDENTIALITY OF RECORDS.**

121.20 The Department of Human Services shall assure confidentiality to individuals who are
121.21 the subject of research by the state authority or are recipients of substance misuse or substance
121.22 use disorder information, assessment, or treatment from a licensed or approved program.
121.23 The commissioner shall withhold from all persons not connected with the conduct of the
121.24 research the names or other identifying characteristics of a subject of research unless the
121.25 individual gives written permission that information relative to treatment and recovery may
121.26 be released. Persons authorized to protect the privacy of subjects of research may not be
121.27 compelled in any federal, state or local, civil, criminal, administrative or other proceeding
121.28 to identify or disclose other confidential information about the individuals. Identifying
121.29 information and other confidential information related to substance misuse or substance use
121.30 disorder information, assessment, treatment, or aftercare services may be ordered to be
121.31 released by the court for the purpose of civil or criminal investigations or proceedings if,
121.32 after review of the records considered for disclosure, the court determines that the information

122.1 is relevant to the purpose for which disclosure is requested. The court shall order disclosure
122.2 of only that information which is determined relevant. In determining whether to compel
122.3 disclosure, the court shall weigh the public interest and the need for disclosure against the
122.4 injury to the patient, to the treatment relationship in the program affected and in other
122.5 programs similarly situated, and the actual or potential harm to the ability of programs to
122.6 attract and retain patients if disclosure occurs. This section does not exempt any person
122.7 from the reporting obligations under ~~section 626.556~~ chapter 260A, nor limit the use of
122.8 information reported in any proceeding arising out of the abuse or neglect of a child.
122.9 Identifying information and other confidential information related to substance misuse or
122.10 substance use disorder, assessment, treatment, or aftercare services may be ordered to be
122.11 released by the court for the purpose of civil or criminal investigations or proceedings. No
122.12 information may be released pursuant to this section that would not be released pursuant to
122.13 section 595.02, subdivision 2.

122.14 Sec. 83. Minnesota Statutes 2019 Supplement, section 254B.04, subdivision 1, is amended
122.15 to read:

122.16 Subdivision 1. **Eligibility.** (a) Persons eligible for benefits under Code of Federal
122.17 Regulations, title 25, part 20, who meet the income standards of section 256B.056,
122.18 subdivision 4, and are not enrolled in medical assistance, are entitled to chemical dependency
122.19 fund services. State money appropriated for this paragraph must be placed in a separate
122.20 account established for this purpose.

122.21 (b) Persons with dependent children who are determined to be in need of chemical
122.22 dependency treatment pursuant to an assessment under ~~section 626.556, subdivision 10~~
122.23 260A.39, subdivision 1, or a case plan under section 260C.201, subdivision 6, or 260C.212,
122.24 shall be assisted by the local agency to access needed treatment services. Treatment services
122.25 must be appropriate for the individual or family, which may include long-term care treatment
122.26 or treatment in a facility that allows the dependent children to stay in the treatment facility.
122.27 The county shall pay for out-of-home placement costs, if applicable.

122.28 (c) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible
122.29 for room and board services under section 254B.05, subdivision 5, paragraph (b), clause
122.30 (12).

122.31 Sec. 84. Minnesota Statutes 2018, section 256.01, subdivision 12, is amended to read:

122.32 Subd. 12. **Child mortality review panel.** (a) The commissioner shall establish a child
122.33 mortality review panel to review deaths of children in Minnesota, including deaths attributed

123.1 to maltreatment or in which maltreatment may be a contributing cause and to review near
123.2 fatalities as defined in section ~~626.556, subdivision 114~~ 260A.87. The commissioners of
123.3 health, education, and public safety and the attorney general shall each designate a
123.4 representative to the child mortality review panel. Other panel members shall be appointed
123.5 by the commissioner, including a board-certified pathologist and a physician who is a coroner
123.6 or a medical examiner. The purpose of the panel shall be to make recommendations to the
123.7 state and to county agencies for improving the child protection system, including
123.8 modifications in statute, rule, policy, and procedure.

123.9 (b) The commissioner may require a county agency to establish a local child mortality
123.10 review panel. The commissioner may establish procedures for conducting local reviews
123.11 and may require that all professionals with knowledge of a child mortality case participate
123.12 in the local review. In this section, "professional" means a person licensed to perform or a
123.13 person performing a specific service in the child protective service system. "Professional"
123.14 includes law enforcement personnel, social service agency attorneys, educators, and social
123.15 service, health care, and mental health care providers.

123.16 (c) If the commissioner of human services has reason to believe that a child's death was
123.17 caused by maltreatment or that maltreatment was a contributing cause, the commissioner
123.18 has access to not public data under chapter 13 maintained by state agencies, statewide
123.19 systems, or political subdivisions that are related to the child's death or circumstances
123.20 surrounding the care of the child. The commissioner shall also have access to records of
123.21 private hospitals as necessary to carry out the duties prescribed by this section. Access to
123.22 data under this paragraph is limited to police investigative data; autopsy records and coroner
123.23 or medical examiner investigative data; hospital, public health, or other medical records of
123.24 the child; hospital and other medical records of the child's parent that relate to prenatal care;
123.25 and records created by social service agencies that provided services to the child or family
123.26 within three years preceding the child's death. A state agency, statewide system, or political
123.27 subdivision shall provide the data upon request of the commissioner. Not public data may
123.28 be shared with members of the state or local child mortality review panel in connection with
123.29 an individual case.

123.30 (d) Notwithstanding the data's classification in the possession of any other agency, data
123.31 acquired by a local or state child mortality review panel in the exercise of its duties is
123.32 protected nonpublic or confidential data as defined in section 13.02, but may be disclosed
123.33 as necessary to carry out the purposes of the review panel. The data is not subject to subpoena
123.34 or discovery. The commissioner may disclose conclusions of the review panel, but shall
123.35 not disclose data that was classified as confidential or private data on decedents, under

124.1 section 13.10, or private, confidential, or protected nonpublic data in the disseminating
124.2 agency, except that the commissioner may disclose local social service agency data as
124.3 provided in section 626.556, subdivision 11d, on individual cases involving a fatality or
124.4 near fatality of a person served by the local social service agency prior to the date of death.

124.5 (e) A person attending a child mortality review panel meeting shall not disclose what
124.6 transpired at the meeting, except to carry out the purposes of the mortality review panel.
124.7 The proceedings and records of the mortality review panel are protected nonpublic data as
124.8 defined in section 13.02, subdivision 13, and are not subject to discovery or introduction
124.9 into evidence in a civil or criminal action against a professional, the state or a county agency,
124.10 arising out of the matters the panel is reviewing. Information, documents, and records
124.11 otherwise available from other sources are not immune from discovery or use in a civil or
124.12 criminal action solely because they were presented during proceedings of the review panel.
124.13 A person who presented information before the review panel or who is a member of the
124.14 panel shall not be prevented from testifying about matters within the person's knowledge.
124.15 However, in a civil or criminal proceeding a person shall not be questioned about the person's
124.16 presentation of information to the review panel or opinions formed by the person as a result
124.17 of the review meetings.

124.18 Sec. 85. Minnesota Statutes 2019 Supplement, section 256.01, subdivision 14b, is amended
124.19 to read:

124.20 Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of human
124.21 services may authorize projects to initiate tribal delivery of child welfare services to American
124.22 Indian children and their parents and custodians living on the reservation. The commissioner
124.23 has authority to solicit and determine which tribes may participate in a project. Grants may
124.24 be issued to Minnesota Indian tribes to support the projects. The commissioner may waive
124.25 existing state rules as needed to accomplish the projects. The commissioner may authorize
124.26 projects to use alternative methods of (1) screening, investigating, and assessing reports of
124.27 child maltreatment, and (2) administrative reconsideration, administrative appeal, and
124.28 judicial appeal of maltreatment determinations, provided the alternative methods used by
124.29 the projects comply with the provisions of ~~sections~~ section 256.045 and ~~626.556 chapter~~
124.30 260A that deal with the rights of individuals who are the subjects of reports or investigations,
124.31 including notice and appeal rights and data practices requirements. The commissioner shall
124.32 only authorize alternative methods that comply with the public policy under section 626.556,
124.33 subdivision 1. The commissioner may seek any federal approvals necessary to carry out the
124.34 projects as well as seek and use any funds available to the commissioner, including use of
124.35 federal funds, foundation funds, existing grant funds, and other funds. The commissioner

125.1 is authorized to advance state funds as necessary to operate the projects. Federal
125.2 reimbursement applicable to the projects is appropriated to the commissioner for the purposes
125.3 of the projects. The projects must be required to address responsibility for safety, permanency,
125.4 and well-being of children.

125.5 (b) For the purposes of this section, "American Indian child" means a person under 21
125.6 years old and who is a tribal member or eligible for membership in one of the tribes chosen
125.7 for a project under this subdivision and who is residing on the reservation of that tribe.

125.8 (c) In order to qualify for an American Indian child welfare project, a tribe must:

125.9 (1) be one of the existing tribes with reservation land in Minnesota;

125.10 (2) have a tribal court with jurisdiction over child custody proceedings;

125.11 (3) have a substantial number of children for whom determinations of maltreatment have
125.12 occurred;

125.13 (4)(i) have capacity to respond to reports of abuse and neglect under ~~section 626.556~~
125.14 chapter 260A; or (ii) have codified the tribe's screening, investigation, and assessment of
125.15 reports of child maltreatment procedures, if authorized to use an alternative method by the
125.16 commissioner under paragraph (a);

125.17 (5) provide a wide range of services to families in need of child welfare services; and

125.18 (6) have a tribal-state title IV-E agreement in effect.

125.19 (d) Grants awarded under this section may be used for the nonfederal costs of providing
125.20 child welfare services to American Indian children on the tribe's reservation, including costs
125.21 associated with:

125.22 (1) assessment and prevention of child abuse and neglect;

125.23 (2) family preservation;

125.24 (3) facilitative, supportive, and reunification services;

125.25 (4) out-of-home placement for children removed from the home for child protective
125.26 purposes; and

125.27 (5) other activities and services approved by the commissioner that further the goals of
125.28 providing safety, permanency, and well-being of American Indian children.

125.29 (e) When a tribe has initiated a project and has been approved by the commissioner to
125.30 assume child welfare responsibilities for American Indian children of that tribe under this
125.31 section, the affected county social service agency is relieved of responsibility for responding

126.1 to reports of abuse and neglect under ~~section 626.556~~ chapter 260A for those children during
126.2 the time within which the tribal project is in effect and funded. The commissioner shall
126.3 work with tribes and affected counties to develop procedures for data collection, evaluation,
126.4 and clarification of ongoing role and financial responsibilities of the county and tribe for
126.5 child welfare services prior to initiation of the project. Children who have not been identified
126.6 by the tribe as participating in the project shall remain the responsibility of the county.
126.7 Nothing in this section shall alter responsibilities of the county for law enforcement or court
126.8 services.

126.9 (f) Participating tribes may conduct children's mental health screenings under section
126.10 245.4874, subdivision 1, paragraph (a), clause (12), for children who are eligible for the
126.11 initiative and living on the reservation and who meet one of the following criteria:

126.12 (1) the child must be receiving child protective services;

126.13 (2) the child must be in foster care; or

126.14 (3) the child's parents must have had parental rights suspended or terminated.

126.15 Tribes may access reimbursement from available state funds for conducting the screenings.
126.16 Nothing in this section shall alter responsibilities of the county for providing services under
126.17 section 245.487.

126.18 (g) Participating tribes may establish a local child mortality review panel. In establishing
126.19 a local child mortality review panel, the tribe agrees to conduct local child mortality reviews
126.20 for child deaths or near-fatalities occurring on the reservation under subdivision 12. Tribes
126.21 with established child mortality review panels shall have access to nonpublic data and shall
126.22 protect nonpublic data under subdivision 12, paragraphs (c) to (e). The tribe shall provide
126.23 written notice to the commissioner and affected counties when a local child mortality review
126.24 panel has been established and shall provide data upon request of the commissioner for
126.25 purposes of sharing nonpublic data with members of the state child mortality review panel
126.26 in connection to an individual case.

126.27 (h) The commissioner shall collect information on outcomes relating to child safety,
126.28 permanency, and well-being of American Indian children who are served in the projects.
126.29 Participating tribes must provide information to the state in a format and completeness
126.30 deemed acceptable by the state to meet state and federal reporting requirements.

126.31 (i) In consultation with the White Earth Band, the commissioner shall develop and submit
126.32 to the chairs and ranking minority members of the legislative committees with jurisdiction
126.33 over health and human services a plan to transfer legal responsibility for providing child

127.1 protective services to White Earth Band member children residing in Hennepin County to
127.2 the White Earth Band. The plan shall include a financing proposal, definitions of key terms,
127.3 statutory amendments required, and other provisions required to implement the plan. The
127.4 commissioner shall submit the plan by January 15, 2012.

127.5 Sec. 86. Minnesota Statutes 2018, section 256.01, subdivision 15, is amended to read:

127.6 Subd. 15. **Citizen review panels.** (a) The commissioner shall establish a minimum of
127.7 three citizen review panels to examine the policies and procedures of state and local welfare
127.8 agencies to evaluate the extent to which the agencies are effectively discharging their child
127.9 protection responsibilities. Local social service agencies shall cooperate and work with the
127.10 citizen review panels. Where appropriate, the panels may examine specific cases to evaluate
127.11 the effectiveness of child protection activities. The panels must examine the extent to which
127.12 the state and local agencies are meeting the requirements of the federal Child Abuse
127.13 Prevention and Treatment Act and the Reporting of Maltreatment of Minors Act. The
127.14 commissioner may authorize mortality review panels or child protection teams to carry out
127.15 the duties of a citizen review panel if membership meets or is expanded to meet the
127.16 requirements of this section.

127.17 (b) The panel membership must include volunteers who broadly represent the community
127.18 in which the panel is established, including members who have expertise in the prevention
127.19 and treatment of child abuse and neglect, child protection advocates, and representatives of
127.20 the councils of color and ombudsperson for families.

127.21 (c) A citizen review panel has access to the following data for specific case review under
127.22 this paragraph: police investigative data; autopsy records and coroner or medical examiner
127.23 investigative data; hospital, public health, or other medical records of the child; hospital
127.24 and other medical records of the child's parent that relate to prenatal care; records created
127.25 by social service agencies that provided services to the child or family; and personnel data
127.26 related to an employee's performance in discharging child protection responsibilities. A
127.27 state agency, statewide system, or political subdivision shall provide the data upon request
127.28 of the commissioner. Not public data may be shared with members of the state or local
127.29 citizen review panel in connection with an individual case.

127.30 (d) Notwithstanding the data's classification in the possession of any other agency, data
127.31 acquired by a local or state citizen review panel in the exercise of its duties are protected
127.32 nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary
127.33 to carry out the purposes of the review panel. The data are not subject to subpoena or
127.34 discovery. The commissioner may disclose conclusions of the review panel, but may not

128.1 disclose data on individuals that were classified as confidential or private data on individuals
128.2 in the possession of the state agency, statewide system, or political subdivision from which
128.3 the data were received, except that the commissioner may disclose local social service
128.4 agency data as provided in section ~~626.556, subdivision 11d~~ 260A.87, on individual cases
128.5 involving a fatality or near fatality of a person served by the local social service agency
128.6 prior to the date of death.

128.7 (e) A person attending a citizen review panel meeting may not disclose what transpired
128.8 at the meeting, except to carry out the purposes of the review panel. The proceedings and
128.9 records of the review panel are protected nonpublic data as defined in section 13.02,
128.10 subdivision 13, and are not subject to discovery or introduction into evidence in a civil or
128.11 criminal action against a professional, the state, or county agency arising out of the matters
128.12 the panel is reviewing. Information, documents, and records otherwise available from other
128.13 sources are not immune from discovery or use in a civil or criminal action solely because
128.14 they were presented during proceedings of the review panel. A person who presented
128.15 information before the review panel or who is a member of the panel is not prevented from
128.16 testifying about matters within the person's knowledge. However, in a civil or criminal
128.17 proceeding, a person must not be questioned about the person's presentation of information
128.18 to the review panel or opinions formed by the person as a result of the review panel meetings.

128.19 Sec. 87. Minnesota Statutes 2018, section 256.045, subdivision 3, is amended to read:

128.20 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

128.21 (1) any person applying for, receiving or having received public assistance, medical
128.22 care, or a program of social services granted by the state agency or a county agency or the
128.23 federal Food Stamp Act whose application for assistance is denied, not acted upon with
128.24 reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed
128.25 to have been incorrectly paid;

128.26 (2) any patient or relative aggrieved by an order of the commissioner under section
128.27 252.27;

128.28 (3) a party aggrieved by a ruling of a prepaid health plan;

128.29 (4) except as provided under chapter 245C, any individual or facility determined by a
128.30 lead investigative agency to have maltreated a vulnerable adult under section 626.557 after
128.31 they have exercised their right to administrative reconsideration under section 626.557;

129.1 (5) any person whose claim for foster care payment according to a placement of the
129.2 child resulting from a child protection assessment under ~~section 626.556~~ chapter 260A is
129.3 denied or not acted upon with reasonable promptness, regardless of funding source;

129.4 (6) any person to whom a right of appeal according to this section is given by other
129.5 provision of law;

129.6 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
129.7 under section 256B.15;

129.8 (8) an applicant aggrieved by an adverse decision to an application or redetermination
129.9 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

129.10 (9) except as provided under chapter 245A, an individual or facility determined to have
129.11 maltreated a minor under ~~section 626.556~~ chapter 260A, after the individual or facility has
129.12 exercised the right to administrative reconsideration under ~~section 626.556~~ chapter 260A;

129.13 (10) except as provided under chapter 245C, an individual disqualified under sections
129.14 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
129.15 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
129.16 individual has committed an act or acts that meet the definition of any of the crimes listed
129.17 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
129.18 ~~626.556, subdivision 3,~~ 260A.23, subdivision 1, or 626.557, subdivision 3. Hearings
129.19 regarding a maltreatment determination under clause (4) or (9) and a disqualification under
129.20 this clause in which the basis for a disqualification is serious or recurring maltreatment,
129.21 shall be consolidated into a single fair hearing. In such cases, the scope of review by the
129.22 human services judge shall include both the maltreatment determination and the
129.23 disqualification. The failure to exercise the right to an administrative reconsideration shall
129.24 not be a bar to a hearing under this section if federal law provides an individual the right to
129.25 a hearing to dispute a finding of maltreatment;

129.26 (11) any person with an outstanding debt resulting from receipt of public assistance,
129.27 medical care, or the federal Food Stamp Act who is contesting a setoff claim by the
129.28 Department of Human Services or a county agency. The scope of the appeal is the validity
129.29 of the claimant agency's intention to request a setoff of a refund under chapter 270A against
129.30 the debt;

129.31 (12) a person issued a notice of service termination under section 245D.10, subdivision
129.32 3a, from residential supports and services as defined in section 245D.03, subdivision 1,
129.33 paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a;

130.1 (13) an individual disability waiver recipient based on a denial of a request for a rate
130.2 exception under section 256B.4914; or

130.3 (14) a person issued a notice of service termination under section 245A.11, subdivision
130.4 11, that is not otherwise subject to appeal under subdivision 4a.

130.5 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10),
130.6 is the only administrative appeal to the final agency determination specifically, including
130.7 a challenge to the accuracy and completeness of data under section 13.04. Hearings requested
130.8 under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or
130.9 after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged
130.10 to have maltreated a resident prior to October 1, 1995, shall be held as a contested case
130.11 proceeding under the provisions of chapter 14. Hearings requested under paragraph (a),
130.12 clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A
130.13 hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only
130.14 available when there is no district court action pending. If such action is filed in district
130.15 court while an administrative review is pending that arises out of some or all of the events
130.16 or circumstances on which the appeal is based, the administrative review must be suspended
130.17 until the judicial actions are completed. If the district court proceedings are completed,
130.18 dismissed, or overturned, the matter may be considered in an administrative hearing.

130.19 (c) For purposes of this section, bargaining unit grievance procedures are not an
130.20 administrative appeal.

130.21 (d) The scope of hearings involving claims to foster care payments under paragraph (a),
130.22 clause (5), shall be limited to the issue of whether the county is legally responsible for a
130.23 child's placement under court order or voluntary placement agreement and, if so, the correct
130.24 amount of foster care payment to be made on the child's behalf and shall not include review
130.25 of the propriety of the county's child protection determination or child placement decision.

130.26 (e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to
130.27 whether the proposed termination of services is authorized under section 245D.10,
130.28 subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements
130.29 of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a,
130.30 paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of
130.31 termination of services, the scope of the hearing shall also include whether the case
130.32 management provider has finalized arrangements for a residential facility, a program, or
130.33 services that will meet the assessed needs of the recipient by the effective date of the service
130.34 termination.

131.1 (f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor
131.2 under contract with a county agency to provide social services is not a party and may not
131.3 request a hearing under this section, except if assisting a recipient as provided in subdivision
131.4 4.

131.5 (g) An applicant or recipient is not entitled to receive social services beyond the services
131.6 prescribed under chapter 256M or other social services the person is eligible for under state
131.7 law.

131.8 (h) The commissioner may summarily affirm the county or state agency's proposed
131.9 action without a hearing when the sole issue is an automatic change due to a change in state
131.10 or federal law.

131.11 (i) Unless federal or Minnesota law specifies a different time frame in which to file an
131.12 appeal, an individual or organization specified in this section may contest the specified
131.13 action, decision, or final disposition before the state agency by submitting a written request
131.14 for a hearing to the state agency within 30 days after receiving written notice of the action,
131.15 decision, or final disposition, or within 90 days of such written notice if the applicant,
131.16 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision
131.17 13, why the request was not submitted within the 30-day time limit. The individual filing
131.18 the appeal has the burden of proving good cause by a preponderance of the evidence.

131.19 Sec. 88. Minnesota Statutes 2018, section 256.045, subdivision 3b, is amended to read:

131.20 Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.** (a)
131.21 The state human services judge shall determine that maltreatment has occurred if a
131.22 preponderance of evidence exists to support the final disposition under ~~sections 626.556~~
131.23 ~~and section 626.557 and chapter 260A~~. For purposes of hearings regarding disqualification,
131.24 the state human services judge shall affirm the proposed disqualification in an appeal under
131.25 subdivision 3, paragraph (a), clause (10), if a preponderance of the evidence shows the
131.26 individual has:

131.27 (1) committed maltreatment under section ~~626.556 or 626.557 or chapter 260A~~, which
131.28 is serious or recurring;

131.29 (2) committed an act or acts meeting the definition of any of the crimes listed in section
131.30 245C.15, subdivisions 1 to 4; or

131.31 (3) failed to make required reports under section ~~626.556 or 626.557 or chapter 260A~~,
131.32 for incidents in which the final disposition under section ~~626.556 or 626.557 or chapter~~
131.33 ~~260A~~ was substantiated maltreatment that was serious or recurring.

(b) If the disqualification is affirmed, the state human services judge shall determine whether the individual poses a risk of harm in accordance with the requirements of section 245C.22, and whether the disqualification should be set aside or not set aside. In determining whether the disqualification should be set aside, the human services judge shall consider all of the characteristics that cause the individual to be disqualified, including those characteristics that were not subject to review under paragraph (a), in order to determine whether the individual poses a risk of harm. A decision to set aside a disqualification that is the subject of the hearing constitutes a determination that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside.

(c) If a disqualification is based solely on a conviction or is conclusive for any reason under section 245C.29, the disqualified individual does not have a right to a hearing under this section.

(d) The state human services judge shall recommend an order to the commissioner of health, education, or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.482, the commissioner's determination as to maltreatment is conclusive, as provided under section 245C.29.

Sec. 89. Minnesota Statutes 2018, section 256.045, subdivision 4, is amended to read:

Subd. 4. Conduct of hearings. (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services judge may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, former recipient, person, or facility contesting maltreatment objects. A human services judge may grant a request for a hearing in person by holding the hearing by interactive video technology or in person. The human services judge must hear the case in person if the person asserts that

133.1 either the person or a witness has a physical or mental disability that would impair the
133.2 person's or witness's ability to fully participate in a hearing held by interactive video
133.3 technology. The hearing shall not be held earlier than five days after filing of the required
133.4 notice with the county or state agency. The state human services judge shall notify all
133.5 interested persons of the time, date, and location of the hearing at least five days before the
133.6 date of the hearing. Interested persons may be represented by legal counsel or other
133.7 representative of their choice, including a provider of therapy services, at the hearing and
133.8 may appear personally, testify and offer evidence, and examine and cross-examine witnesses.
133.9 The applicant, recipient, former recipient, person, or facility contesting maltreatment shall
133.10 have the opportunity to examine the contents of the case file and all documents and records
133.11 to be used by the county or state agency at the hearing at a reasonable time before the date
133.12 of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses
133.13 (4), (9), and (10), either party may subpoena the private data relating to the investigation
133.14 prepared by the agency under section ~~626.556~~ or 626.557 or chapter 260A that is not
133.15 otherwise accessible under section 13.04, provided the identity of the reporter may not be
133.16 disclosed.

133.17 (b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph
133.18 (a), clause (4), (9), or (10), must be subject to a protective order which prohibits its disclosure
133.19 for any other purpose outside the hearing provided for in this section without prior order of
133.20 the district court. Disclosure without court order is punishable by a sentence of not more
133.21 than 90 days imprisonment or a fine of not more than \$1,000, or both. These restrictions on
133.22 the use of private data do not prohibit access to the data under section 13.03, subdivision
133.23 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), (9), and (10), upon
133.24 request, the county agency shall provide reimbursement for transportation, child care,
133.25 photocopying, medical assessment, witness fee, and other necessary and reasonable costs
133.26 incurred by the applicant, recipient, or former recipient in connection with the appeal. All
133.27 evidence, except that privileged by law, commonly accepted by reasonable people in the
133.28 conduct of their affairs as having probative value with respect to the issues shall be submitted
133.29 at the hearing and such hearing shall not be "a contested case" within the meaning of section
133.30 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and
133.31 may not submit evidence after the hearing except by agreement of the parties at the hearing,
133.32 provided the petitioner has the opportunity to respond.

133.33 (c) In hearings under subdivision 3, paragraph (a), clauses (4), (9), and (10), involving
133.34 determinations of maltreatment or disqualification made by more than one county agency,
133.35 by a county agency and a state agency, or by more than one state agency, the hearings may

134.1 be consolidated into a single fair hearing upon the consent of all parties and the state human
134.2 services judge.

134.3 (d) For hearings under subdivision 3, paragraph (a), clause (4) or (10), involving a
134.4 vulnerable adult, the human services judge shall notify the vulnerable adult who is the
134.5 subject of the maltreatment determination and, if known, a guardian of the vulnerable adult
134.6 appointed under section 524.5-310, or a health care agent designated by the vulnerable adult
134.7 in a health care directive that is currently effective under section 145C.06 and whose authority
134.8 to make health care decisions is not suspended under section 524.5-310, of the hearing. The
134.9 notice must be sent by certified mail and inform the vulnerable adult of the right to file a
134.10 signed written statement in the proceedings. A guardian or health care agent who prepares
134.11 or files a written statement for the vulnerable adult must indicate in the statement that the
134.12 person is the vulnerable adult's guardian or health care agent and sign the statement in that
134.13 capacity. The vulnerable adult, the guardian, or the health care agent may file a written
134.14 statement with the human services judge hearing the case no later than five business days
134.15 before commencement of the hearing. The human services judge shall include the written
134.16 statement in the hearing record and consider the statement in deciding the appeal. This
134.17 subdivision does not limit, prevent, or excuse the vulnerable adult from being called as a
134.18 witness testifying at the hearing or grant the vulnerable adult, the guardian, or health care
134.19 agent a right to participate in the proceedings or appeal the human services judge's decision
134.20 in the case. The lead investigative agency must consider including the vulnerable adult
134.21 victim of maltreatment as a witness in the hearing. If the lead investigative agency determines
134.22 that participation in the hearing would endanger the well-being of the vulnerable adult or
134.23 not be in the best interests of the vulnerable adult, the lead investigative agency shall inform
134.24 the human services judge of the basis for this determination, which must be included in the
134.25 final order. If the human services judge is not reasonably able to determine the address of
134.26 the vulnerable adult, the guardian, or the health care agent, the human services judge is not
134.27 required to send a hearing notice under this subdivision.

134.28 Sec. 90. Minnesota Statutes 2018, section 256B.0621, subdivision 4, is amended to read:

134.29 Subd. 4. **Relocation targeted county case management provider qualifications.** (a)
134.30 A relocation targeted county case management provider is an enrolled medical assistance
134.31 provider who is determined by the commissioner to have all of the following characteristics:

134.32 (1) the legal authority to provide public welfare under sections 393.01, subdivision 7;
134.33 and 393.07; or a federally recognized Indian tribe;

(2) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;

(3) the administrative capacity and experience to serve the target population for whom it will provide services and ensure quality of services under state and federal requirements;

(4) the legal authority to provide complete investigative and protective services under section ~~626.556, subdivision 10~~ 260A.33; and child welfare and foster care services under section 393.07, subdivisions 1 and 2; or a federally recognized Indian tribe;

(5) a financial management system that provides accurate documentation of services and costs under state and federal requirements; and

(6) the capacity to document and maintain individual case records under state and federal requirements.

(b) A provider of targeted case management under section 256B.0625, subdivision 20, may be deemed a certified provider of relocation targeted case management.

(c) A relocation targeted county case management provider may subcontract with another provider to deliver relocation targeted case management services. Subcontracted providers must demonstrate the ability to provide the services outlined in subdivision 6, and have a procedure in place that notifies the recipient and the recipient's legal representative of any conflict of interest if the contracted targeted case management provider also provides, or will provide, the recipient's services and supports. Counties must require that contracted providers must provide information on all conflicts of interest and obtain the recipient's informed consent or provide the recipient with alternatives.

Sec. 91. Minnesota Statutes 2018, section 256B.0625, subdivision 33, is amended to read:

Subd. 33. **Child welfare targeted case management.** Medical assistance, subject to federal approval, covers child welfare targeted case management services as defined in section 256B.094 to children under age 21 who have been assessed and determined in accordance with section 256F.10 to be:

(1) at risk of placement or in placement as defined in section 260C.212, subdivision 1;

(2) at risk of maltreatment or experiencing maltreatment as defined in section ~~626.556, subdivision 10~~ 260A.20, subdivision 12; or

(3) in need of protection or services as defined in section 260C.007, subdivision 6.

136.1 Sec. 92. Minnesota Statutes 2018, section 256B.0945, subdivision 1, is amended to read:

136.2 Subdivision 1. **Residential services; provider qualifications.** (a) Counties must arrange
136.3 to provide residential services for children with severe emotional disturbance according to
136.4 sections 245.4882, 245.4885, and this section.

136.5 (b) Services must be provided by a facility that is licensed according to section 245.4882
136.6 and administrative rules promulgated thereunder, and under contract with the county.

136.7 (c) Eligible service costs may be claimed for a facility that is located in a state that
136.8 borders Minnesota if:

136.9 (1) the facility is the closest facility to the child's home, providing the appropriate level
136.10 of care; and

136.11 (2) the commissioner of human services has completed an inspection of the out-of-state
136.12 program according to the interagency agreement with the commissioner of corrections under
136.13 section 260B.198, subdivision 11, paragraph (b), and the program has been certified by the
136.14 commissioner of corrections under section 260B.198, subdivision 11, paragraph (a), to
136.15 substantially meet the standards applicable to children's residential mental health treatment
136.16 programs under Minnesota Rules, chapter 2960. Nothing in this section requires the
136.17 commissioner of human services to enforce the background study requirements under chapter
136.18 245C or the requirements related to prevention and investigation of alleged maltreatment
136.19 under section ~~626.556~~ or 626.557 or chapter 260A. Complaints received by the commissioner
136.20 of human services must be referred to the out-of-state licensing authority for possible
136.21 follow-up.

136.22 (d) Notwithstanding paragraph (b), eligible service costs may be claimed for an
136.23 out-of-state inpatient treatment facility if:

136.24 (1) the facility specializes in providing mental health services to children who are deaf,
136.25 deafblind, or hard-of-hearing and who use American Sign Language as their first language;

136.26 (2) the facility is licensed by the state in which it is located; and

136.27 (3) the state in which the facility is located is a member state of the Interstate Compact
136.28 on Mental Health.

136.29 Sec. 93. Minnesota Statutes 2018, section 256B.0949, subdivision 16, is amended to read:

136.30 Subd. 16. **Agency duties.** (a) An agency delivering an EIDBI service under this section
136.31 must:

- 137.1 (1) enroll as a medical assistance Minnesota health care program provider according to
137.2 Minnesota Rules, part 9505.0195, and section 256B.04, subdivision 21, and meet all
137.3 applicable provider standards and requirements;
- 137.4 (2) demonstrate compliance with federal and state laws for EIDBI service;
- 137.5 (3) verify and maintain records of a service provided to the person or the person's legal
137.6 representative as required under Minnesota Rules, parts 9505.2175 and 9505.2197;
- 137.7 (4) demonstrate that while enrolled or seeking enrollment as a Minnesota health care
137.8 program provider the agency did not have a lead agency contract or provider agreement
137.9 discontinued because of a conviction of fraud; or did not have an owner, board member, or
137.10 manager fail a state or federal criminal background check or appear on the list of excluded
137.11 individuals or entities maintained by the federal Department of Human Services Office of
137.12 Inspector General;
- 137.13 (5) have established business practices including written policies and procedures, internal
137.14 controls, and a system that demonstrates the organization's ability to deliver quality EIDBI
137.15 services;
- 137.16 (6) have an office located in Minnesota;
- 137.17 (7) conduct a criminal background check on an individual who has direct contact with
137.18 the person or the person's legal representative;
- 137.19 (8) report maltreatment according to ~~sections 626.556 and~~ section 626.557 and chapter
137.20 260A;
- 137.21 (9) comply with any data requests consistent with the Minnesota Government Data
137.22 Practices Act, sections 256B.064 and 256B.27;
- 137.23 (10) provide training for all agency staff on the requirements and responsibilities listed
137.24 in the Maltreatment of Minors Act, ~~section 626.556~~ chapter 260A, and the Vulnerable Adult
137.25 Protection Act, section 626.557, including mandated and voluntary reporting, nonretaliation,
137.26 and the agency's policy for all staff on how to report suspected abuse and neglect;
- 137.27 (11) have a written policy to resolve issues collaboratively with the person and the
137.28 person's legal representative when possible. The policy must include a timeline for when
137.29 the person and the person's legal representative will be notified about issues that arise in
137.30 the provision of services;
- 137.31 (12) provide the person's legal representative with prompt notification if the person is
137.32 injured while being served by the agency. An incident report must be completed by the

138.1 agency staff member in charge of the person. A copy of all incident and injury reports must
138.2 remain on file at the agency for at least five years from the report of the incident; and

138.3 (13) before starting a service, provide the person or the person's legal representative a
138.4 description of the treatment modality that the person shall receive, including the staffing
138.5 certification levels and training of the staff who shall provide a treatment.

138.6 (b) When delivering the ITP, and annually thereafter, an agency must provide the person
138.7 or the person's legal representative with:

138.8 (1) a written copy and a verbal explanation of the person's or person's legal
138.9 representative's rights and the agency's responsibilities;

138.10 (2) documentation in the person's file the date that the person or the person's legal
138.11 representative received a copy and explanation of the person's or person's legal
138.12 representative's rights and the agency's responsibilities; and

138.13 (3) reasonable accommodations to provide the information in another format or language
138.14 as needed to facilitate understanding of the person's or person's legal representative's rights
138.15 and the agency's responsibilities.

138.16 Sec. 94. Minnesota Statutes 2018, section 256B.0951, subdivision 5, is amended to read:

138.17 Subd. 5. **Variance of certain standards prohibited.** The safety standards, rights, or
138.18 procedural protections under ~~chapter 245C~~ and sections 245.825; 245.91 to 245.97; 245A.09,
138.19 subdivision 2, paragraph (c), clauses (2) and (5); 245A.12; 245A.13; 252.41, subdivision
138.20 9; 256B.092, subdivisions 1b, clause (7), and 10; ~~626.556; and 626.557; and chapters 245C~~
138.21 ~~and 260A~~, and procedures for the monitoring of psychotropic medications shall not be varied
138.22 under the alternative quality assurance licensing system. The commission may make
138.23 recommendations to the commissioners of human services and health or to the legislature
138.24 regarding alternatives to or modifications of the rules and procedures referenced in this
138.25 subdivision.

138.26 Sec. 95. Minnesota Statutes 2018, section 256B.0954, is amended to read:

138.27 **256B.0954 CERTAIN PERSONS DEFINED AS MANDATED REPORTERS.**

138.28 Members of the Quality Assurance Commission established under section 256B.0951,
138.29 members of quality assurance review councils established under section 256B.0952, quality
138.30 assurance managers appointed under section 256B.0952, and members of quality assurance
138.31 teams established under section 256B.0952 are mandated reporters as that term is defined
138.32 in sections ~~626.556, subdivision 3~~ 260A.23, subdivision 1, and 626.5572, subdivision 16.

139.1 Sec. 96. Minnesota Statutes 2018, section 256B.097, subdivision 4, is amended to read:

139.2 Subd. 4. **Regional quality councils.** (a) The commissioner shall establish, as selected
139.3 by the State Quality Council, regional quality councils of key stakeholders, including regional
139.4 representatives of:

139.5 (1) disability service recipients and their family members;

139.6 (2) disability service providers;

139.7 (3) disability advocacy groups; and

139.8 (4) county human services agencies and staff from the Department of Human Services
139.9 and Ombudsman for Mental Health and Developmental Disabilities.

139.10 (b) Each regional quality council shall:

139.11 (1) direct and monitor the community-based, person-directed quality assurance system
139.12 in this section;

139.13 (2) approve a training program for quality assurance team members under clause (13);

139.14 (3) review summary reports from quality assurance team reviews and make
139.15 recommendations to the State Quality Council regarding program licensure;

139.16 (4) make recommendations to the State Quality Council regarding the system;

139.17 (5) resolve complaints between the quality assurance teams, counties, providers, persons
139.18 receiving services, their families, and legal representatives;

139.19 (6) analyze and review quality outcomes and critical incident data reporting incidents
139.20 of life safety concerns immediately to the Department of Human Services licensing division;

139.21 (7) provide information and training programs for persons with disabilities and their
139.22 families and legal representatives on service options and quality expectations;

139.23 (8) disseminate information and resources developed to other regional quality councils;

139.24 (9) respond to state-level priorities;

139.25 (10) establish regional priorities for quality improvement;

139.26 (11) submit an annual report to the State Quality Council on the status, outcomes,
139.27 improvement priorities, and activities in the region;

139.28 (12) choose a representative to participate on the State Quality Council and assume other
139.29 responsibilities consistent with the priorities of the State Quality Council; and

140.1 (13) recruit, train, and assign duties to members of quality assurance teams, taking into
140.2 account the size of the service provider, the number of services to be reviewed, the skills
140.3 necessary for the team members to complete the process, and ensure that no team member
140.4 has a financial, personal, or family relationship with the facility, program, or service being
140.5 reviewed or with anyone served at the facility, program, or service. Quality assurance teams
140.6 must be comprised of county staff, persons receiving services or the person's families, legal
140.7 representatives, members of advocacy organizations, providers, and other involved
140.8 community members. Team members must complete the training program approved by the
140.9 regional quality council and must demonstrate performance-based competency. Team
140.10 members may be paid a per diem and reimbursed for expenses related to their participation
140.11 in the quality assurance process.

140.12 (c) The commissioner shall monitor the safety standards, rights, and procedural
140.13 protections for the monitoring of psychotropic medications and those identified under
140.14 sections 245.825; 245.91 to 245.97; 245A.09, subdivision 2, paragraph (c), clauses (2) and
140.15 (5); 245A.12; 245A.13; 252.41, subdivision 9; 256B.092, subdivision 1b, clause (7); ~~626.556;~~
140.16 and ~~626.557;~~ and chapter 260A.

140.17 (d) The regional quality councils may hire staff to perform the duties assigned in this
140.18 subdivision.

140.19 (e) The regional quality councils may charge fees for their services.

140.20 (f) The quality assurance process undertaken by a regional quality council consists of
140.21 an evaluation by a quality assurance team of the facility, program, or service. The process
140.22 must include an evaluation of a random sample of persons served. The sample must be
140.23 representative of each service provided. The sample size must be at least five percent but
140.24 not less than two persons served. All persons must be given the opportunity to be included
140.25 in the quality assurance process in addition to those chosen for the random sample.

140.26 (g) A facility, program, or service may contest a licensing decision of the regional quality
140.27 council as permitted under chapter 245A.

140.28 Sec. 97. Minnesota Statutes 2018, section 256B.097, subdivision 6, is amended to read:

140.29 Subd. 6. **Mandated reporters.** Members of the State Quality Council under subdivision
140.30 3, the regional quality councils under subdivision 4, and quality assurance team members
140.31 under subdivision 4, paragraph (b), clause (13), are mandated reporters as defined in sections
140.32 ~~626.556, subdivision 3~~ 260A.23, subdivision 1, and 626.5572, subdivision 16.

141.1 Sec. 98. Minnesota Statutes 2018, section 256B.77, subdivision 17, is amended to read:

141.2 Subd. 17. **Approval of alternatives.** The commissioner may approve alternatives to
141.3 administrative rules if the commissioner determines that appropriate alternative measures
141.4 are in place to protect the health, safety, and rights of enrollees and to assure that services
141.5 are of sufficient quality to produce the outcomes described in the personal support plans.
141.6 Prior approved waivers, if needed by the demonstration project, shall be extended. The
141.7 commissioner shall not waive the rights or procedural protections under sections 245.825;
141.8 245.91 to 245.97; 252.41, subdivision 9; 256B.092, subdivision 10; ~~626.556~~; and 626.557;
141.9 and chapter 260A or procedures for the monitoring of psychotropic medications. Prohibited
141.10 practices as defined in statutes and rules governing service delivery to eligible individuals
141.11 are applicable to services delivered under this demonstration project.

141.12 Sec. 99. Minnesota Statutes 2019 Supplement, section 256B.85, subdivision 10, is amended
141.13 to read:

141.14 Subd. 10. **Agency-provider and FMS provider qualifications and duties.** (a)
141.15 Agency-providers identified in subdivision 11 and FMS providers identified in subdivision
141.16 13a shall:

141.17 (1) enroll as a medical assistance Minnesota health care programs provider and meet all
141.18 applicable provider standards and requirements;

141.19 (2) demonstrate compliance with federal and state laws and policies for CFSS as
141.20 determined by the commissioner;

141.21 (3) comply with background study requirements under chapter 245C and maintain
141.22 documentation of background study requests and results;

141.23 (4) verify and maintain records of all services and expenditures by the participant,
141.24 including hours worked by support workers;

141.25 (5) not engage in any agency-initiated direct contact or marketing in person, by telephone,
141.26 or other electronic means to potential participants, guardians, family members, or participants'
141.27 representatives;

141.28 (6) directly provide services and not use a subcontractor or reporting agent;

141.29 (7) meet the financial requirements established by the commissioner for financial
141.30 solvency;

141.31 (8) have never had a lead agency contract or provider agreement discontinued due to
141.32 fraud, or have never had an owner, board member, or manager fail a state or FBI-based

142.1 criminal background check while enrolled or seeking enrollment as a Minnesota health care
142.2 programs provider; and

142.3 (9) have an office located in Minnesota.

142.4 (b) In conducting general duties, agency-providers and FMS providers shall:

142.5 (1) pay support workers based upon actual hours of services provided;

142.6 (2) pay for worker training and development services based upon actual hours of services
142.7 provided or the unit cost of the training session purchased;

142.8 (3) withhold and pay all applicable federal and state payroll taxes;

142.9 (4) make arrangements and pay unemployment insurance, taxes, workers' compensation,
142.10 liability insurance, and other benefits, if any;

142.11 (5) enter into a written agreement with the participant, participant's representative, or
142.12 legal representative that assigns roles and responsibilities to be performed before services,
142.13 supports, or goods are provided;

142.14 (6) report maltreatment as required under ~~sections 626.556 and~~ section 626.557 and
142.15 chapter 260A;

142.16 (7) comply with the labor market reporting requirements described in section 256B.4912,
142.17 subdivision 1a;

142.18 (8) comply with any data requests from the department consistent with the Minnesota
142.19 Government Data Practices Act under chapter 13; and

142.20 (9) maintain documentation for the requirements under subdivision 16, paragraph (e),
142.21 clause (2), to qualify for an enhanced rate under this section.

142.22 Sec. 100. Minnesota Statutes 2018, section 256B.85, subdivision 12a, is amended to read:

142.23 Subd. 12a. **CFSS agency-provider requirements; policies for complaint process and**
142.24 **incident response.** (a) The CFSS agency-provider must establish policies and procedures
142.25 that promote service recipient rights by providing a simple complaint process for participants
142.26 served by the program and their authorized representatives to bring a grievance. The
142.27 complaint process must:

142.28 (1) provide staff assistance with the complaint process when requested;

142.29 (2) allow the participant to bring the complaint to the highest level of authority in the
142.30 program if the grievance cannot be resolved by other staff members, and provide the name,
142.31 address, and telephone number of that person;

143.1 (3) provide the addresses and telephone numbers of outside agencies to assist the
143.2 participant;

143.3 (4) require a prompt response to all complaints affecting a participant's health and safety
143.4 and a timely response to all other complaints;

143.5 (5) require an evaluation of whether:

143.6 (i) related policies and procedures were followed and adequate;

143.7 (ii) there is a need for additional staff training;

143.8 (iii) the complaint is similar to past complaints with the persons, staff, or services
143.9 involved; and

143.10 (iv) there is a need for corrective action by the agency-provider to protect the health and
143.11 safety of participants receiving services;

143.12 (6) provide a written summary of the complaint and a notice of the complaint resolution
143.13 to the participant and, if applicable, case manager or care coordinator; and

143.14 (7) require that the complaint summary and resolution notice be maintained in the
143.15 participant's service record.

143.16 (b) The CFSS agency-provider must establish policies and procedures for responding
143.17 to incidents that occur while services are being provided. When a participant has a legal
143.18 representative or a participant's representative, incidents must be reported to these
143.19 representatives. For the purposes of this paragraph, "incident" means an occurrence that
143.20 involves a participant and requires a response that is not a part of the ordinary provision of
143.21 the services to that participant, and includes:

143.22 (1) serious injury of a participant as determined by section 245.91, subdivision 6;

143.23 (2) a participant's death;

143.24 (3) any medical emergency, unexpected serious illness, or significant unexpected change
143.25 in a participant's illness or medical condition that requires a call to 911, physician treatment,
143.26 or hospitalization;

143.27 (4) any mental health crisis that requires a call to 911 or a mental health crisis intervention
143.28 team;

143.29 (5) an act or situation involving a participant that requires a call to 911, law enforcement,
143.30 or the fire department;

143.31 (6) a participant's unexplained absence;

(7) behavior that creates an imminent risk of harm to the participant or another; and

(8) a report of alleged or suspected child or vulnerable adult maltreatment under section

~~626.556 or 626.557~~ or chapter 260A.

Sec. 101. Minnesota Statutes 2018, section 256E.21, subdivision 5, is amended to read:

Subd. 5. **Child abuse.** "Child abuse" means sexual abuse, neglect, or physical abuse as defined in section ~~626.556, subdivision 2, paragraphs (g), (k), and (n)~~ 260A.20, subdivisions 15, 18, and 20.

Sec. 102. Minnesota Statutes 2018, section 256F.10, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** Persons under 21 years of age who are eligible to receive medical assistance are eligible for child welfare targeted case management services under section 256B.094 and this section if they have received an assessment and have been determined by the local county or tribal social services agency to be:

(1) at risk of placement or in placement as described in section 260C.212, subdivision 1;

(2) at risk of maltreatment or experiencing maltreatment as defined in section ~~626.556, subdivision 10~~ 260A.20, subdivision 12; or

(3) in need of protection or services as defined in section 260C.007, subdivision 6.

Sec. 103. Minnesota Statutes 2018, section 256F.10, subdivision 4, is amended to read:

Subd. 4. **Provider qualifications and certification standards.** The commissioner must certify each provider before enrolling it as a child welfare targeted case management provider of services under section 256B.094 and this section. The certification process shall examine the provider's ability to meet the qualification requirements and certification standards in this subdivision and other federal and state requirements of this service. A certified child welfare targeted case management provider is an enrolled medical assistance provider who is determined by the commissioner to have all of the following:

(1) the legal authority to provide public welfare under sections 393.01, subdivision 7, and 393.07 or a federally recognized Indian tribe;

(2) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;

(3) administrative capacity and experience in serving the target population for whom it will provide services and in ensuring quality of services under state and federal requirements;

(4) the legal authority to provide complete investigative and protective services under section ~~626.556, subdivision 10~~ 260A.39, and child welfare and foster care services under section 393.07, subdivisions 1 and 2, or a federally recognized Indian tribe;

(5) a financial management system that provides accurate documentation of services and costs under state and federal requirements; and

(6) the capacity to document and maintain individual case records under state and federal requirements.

Sec. 104. Minnesota Statutes 2018, section 256L.07, subdivision 4, is amended to read:

Subd. 4. **Families with children in need of chemical dependency treatment.** Premiums for families with children when a parent has been determined to be in need of chemical dependency treatment pursuant to an assessment conducted by the county under section ~~626.556, subdivision 10~~ 260A.39, subdivision 1, paragraph (g), or a case plan under section 260C.201, subdivision 6, or 260C.212, who are eligible for MinnesotaCare under section 256L.04, subdivision 1, may be paid by the county of residence of the person in need of treatment for one year from the date the family is determined to be eligible or if the family is currently enrolled in MinnesotaCare from the date the person is determined to be in need of chemical dependency treatment. Upon renewal, the family is responsible for any premiums owed under section 256L.15. If the family is not currently enrolled in MinnesotaCare, the local county human services agency shall determine whether the family appears to meet the eligibility requirements and shall assist the family in applying for the MinnesotaCare program.

Sec. 105. Minnesota Statutes 2018, section 256M.10, subdivision 2, is amended to read:

Subd. 2. **Vulnerable children and adults services.** (a) "Vulnerable children and adults services" means services provided or arranged for by county boards for vulnerable children under ~~chapter~~ chapters 260C and 260A, and ~~sections 626.556 and 626.5561~~, and adults under section 626.557 who experience dependency, abuse, or neglect, as well as services for family members to support those individuals. These services may be provided by professionals or nonprofessionals, including the person's natural supports in the community. For the purpose of this chapter, "vulnerable children" means children and adolescents.

146.1 (b) Vulnerable children and adults services do not include services under the public
146.2 assistance programs known as the Minnesota family investment program, Minnesota
146.3 supplemental aid, medical assistance, general assistance, MinnesotaCare, or community
146.4 health services.

146.5 Sec. 106. Minnesota Statutes 2018, section 256M.40, subdivision 1, is amended to read:

146.6 Subdivision 1. **Formula.** The commissioner shall allocate state funds appropriated under
146.7 this chapter to each county board on a calendar year basis in an amount determined according
146.8 to the formula in paragraphs (a) to (e).

146.9 (a) For calendar years 2011 and 2012, the commissioner shall allocate available funds
146.10 to each county in proportion to that county's share in calendar year 2010.

146.11 (b) For calendar year 2013 and each calendar year thereafter, the commissioner shall
146.12 allocate available funds to each county as follows:

146.13 (1) 75 percent must be distributed on the basis of the county share in calendar year 2012;

146.14 (2) five percent must be distributed on the basis of the number of persons residing in
146.15 the county as determined by the most recent data of the state demographer;

146.16 (3) ten percent must be distributed on the basis of the number of vulnerable children
146.17 that are subjects of reports under ~~chapter chapters 260C and sections 626.556 and 626.5561~~
146.18 and 260A, and in the county as determined by the most recent data of the commissioner;
146.19 and

146.20 (4) ten percent must be distributed on the basis of the number of vulnerable adults that
146.21 are subjects of reports under section 626.557 in the county as determined by the most recent
146.22 data of the commissioner.

146.23 (c) The commissioner is precluded from changing the formula under this subdivision or
146.24 recommending a change to the legislature without public review and input.

146.25 Sec. 107. Minnesota Statutes 2018, section 256M.41, subdivision 1, is amended to read:

146.26 Subdivision 1. **Formula for county staffing funds.** (a) The commissioner shall allocate
146.27 state funds appropriated under this section to each county board on a calendar year basis in
146.28 an amount determined according to the following formula:

146.29 (1) 50 percent must be distributed on the basis of the child population residing in the
146.30 county as determined by the most recent data of the state demographer;

(2) 25 percent must be distributed on the basis of the number of screened-in reports of child maltreatment under ~~sections 626.556 and 626.5561~~ chapter 260A, and in the county as determined by the most recent data of the commissioner; and

(3) 25 percent must be distributed on the basis of the number of open child protection case management cases in the county as determined by the most recent data of the commissioner.

(b) Notwithstanding this subdivision, no county shall be awarded an allocation of less than \$75,000.

Sec. 108. Minnesota Statutes 2018, section 257.0764, is amended to read:

257.0764 COMPLAINTS.

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section ~~626.556, subdivision 4a,~~ 260A.24, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

Sec. 109. Minnesota Statutes 2018, section 260.012, is amended to read:

260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate services, by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, and the court must ensure that the responsible social services agency makes reasonable efforts to finalize an alternative permanent plan for the child as provided in paragraph (e). In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's best interests, health, and safety must be of paramount concern. Reasonable efforts to prevent placement and for rehabilitation and reunification are always required except upon a determination by the court that a petition has been filed stating a prima facie case that:

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

- 148.1 (2) the parental rights of the parent to another child have been terminated involuntarily;
- 148.2 (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph
- 148.3 (a), clause (2);
- 148.4 (4) the parent's custodial rights to another child have been involuntarily transferred to a
- 148.5 relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d),
- 148.6 clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction;
- 148.7 (5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~
- 148.8 260A.20, against the child or another child of the parent;
- 148.9 (6) the parent has committed an offense that requires registration as a predatory offender
- 148.10 under section 243.166, subdivision 1b, paragraph (a) or (b); or
- 148.11 (7) the provision of services or further services for the purpose of reunification is futile
- 148.12 and therefore unreasonable under the circumstances.
- 148.13 (b) When the court makes one of the prima facie determinations under paragraph (a),
- 148.14 either permanency pleadings under section 260C.505, or a termination of parental rights
- 148.15 petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under
- 148.16 sections 260C.503 to 260C.521 must be held within 30 days of this determination.
- 148.17 (c) In the case of an Indian child, in proceedings under sections 260B.178, 260C.178,
- 148.18 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, the juvenile court
- 148.19 must make findings and conclusions consistent with the Indian Child Welfare Act of 1978,
- 148.20 United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In
- 148.21 cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section
- 148.22 1901, the responsible social services agency must provide active efforts as required under
- 148.23 United States Code, title 25, section 1911(d).
- 148.24 (d) "Reasonable efforts to prevent placement" means:
- 148.25 (1) the agency has made reasonable efforts to prevent the placement of the child in foster
- 148.26 care by working with the family to develop and implement a safety plan; or
- 148.27 (2) given the particular circumstances of the child and family at the time of the child's
- 148.28 removal, there are no services or efforts available which could allow the child to safely
- 148.29 remain in the home.
- 148.30 (e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence
- 148.31 by the responsible social services agency to:
- 148.32 (1) reunify the child with the parent or guardian from whom the child was removed;

(2) assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by section 260C.219;

(3) conduct a relative search to identify and provide notice to adult relatives as required under section 260C.221;

(4) place siblings removed from their home in the same home for foster care or adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with section 260C.212, subdivision 2; and

(5) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and considers permanent alternative homes for the child inside or outside of the state, preferably through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) it has made reasonable efforts to prevent placement of the child in foster care;

(2) it has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) it has made reasonable efforts to finalize an alternative permanent home for the child, and considers permanent alternative homes for the child inside or outside of the state; or

(4) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the

150.1 court may only require reasonable efforts for reunification after a hearing according to
150.2 section 260C.163, where the court finds there is not clear and convincing evidence of the
150.3 facts upon which the court based its prima facie determination. In this case when there is
150.4 clear and convincing evidence that the child is in need of protection or services, the court
150.5 may find the child in need of protection or services and order any of the dispositions available
150.6 under section 260C.201, subdivision 1. Reunification of a child with a parent is not required
150.7 if the parent has been convicted of:

150.8 (1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185
150.9 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

150.10 (2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the child;

150.11 (3) a violation of, or an attempt or conspiracy to commit a violation of, United States
150.12 Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

150.13 (4) committing sexual abuse as defined in section ~~626.556, subdivision 2~~ 260A.20,
150.14 against the child or another child of the parent; or

150.15 (5) an offense that requires registration as a predatory offender under section 243.166,
150.16 subdivision 1b, paragraph (a) or (b).

150.17 (h) The juvenile court, in proceedings under sections 260B.178, 260C.178, 260C.201,
150.18 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, shall make findings and
150.19 conclusions as to the provision of reasonable efforts. When determining whether reasonable
150.20 efforts have been made, the court shall consider whether services to the child and family
150.21 were:

150.22 (1) relevant to the safety and protection of the child;

150.23 (2) adequate to meet the needs of the child and family;

150.24 (3) culturally appropriate;

150.25 (4) available and accessible;

150.26 (5) consistent and timely; and

150.27 (6) realistic under the circumstances.

150.28 In the alternative, the court may determine that provision of services or further services
150.29 for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances
150.30 or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

Sec. 110. Minnesota Statutes 2018, section 260.761, subdivision 2, is amended to read:

Subd. 2. **Agency and court notice to tribes.** (a) When a local social services agency has information that a family assessment or investigation being conducted may involve an Indian child, the local social services agency shall notify the Indian child's tribe of the family assessment or investigation according to section ~~626.556, subdivision 10, paragraph (a), clause (5)~~ 260A.37. Initial notice shall be provided by telephone and by e-mail or facsimile. The local social services agency shall request that the tribe or a designated tribal representative participate in evaluating the family circumstances, identifying family and tribal community resources, and developing case plans.

(b) When a local social services agency has information that a child receiving services may be an Indian child, the local social services agency shall notify the tribe by telephone and by e-mail or facsimile of the child's full name and date of birth, the full names and dates

152.1 of birth of the child's biological parents, and, if known, the full names and dates of birth of
152.2 the child's grandparents and of the child's Indian custodian. This notification must be provided
152.3 so the tribe can determine if the child is enrolled in the tribe or eligible for membership,
152.4 and must be provided within seven days. If information regarding the child's grandparents
152.5 or Indian custodian is not available within the seven-day period, the local social services
152.6 agency shall continue to request this information and shall notify the tribe when it is received.
152.7 Notice shall be provided to all tribes to which the child may have any tribal lineage. If the
152.8 identity or location of the child's parent or Indian custodian and tribe cannot be determined,
152.9 the local social services agency shall provide the notice required in this paragraph to the
152.10 United States secretary of the interior.

152.11 (c) In accordance with sections 260C.151 and 260C.152, when a court has reason to
152.12 believe that a child placed in emergency protective care is an Indian child, the court
152.13 administrator or a designee shall, as soon as possible and before a hearing takes place, notify
152.14 the tribal social services agency by telephone and by e-mail or facsimile of the date, time,
152.15 and location of the emergency protective case hearing. The court shall make efforts to allow
152.16 appearances by telephone for tribal representatives, parents, and Indian custodians.

152.17 (d) A local social services agency must provide the notices required under this subdivision
152.18 at the earliest possible time to facilitate involvement of the Indian child's tribe. Nothing in
152.19 this subdivision is intended to hinder the ability of the local social services agency and the
152.20 court to respond to an emergency situation. Lack of participation by a tribe shall not prevent
152.21 the tribe from intervening in services and proceedings at a later date. A tribe may participate
152.22 at any time. At any stage of the local social services agency's involvement with an Indian
152.23 child, the agency shall provide full cooperation to the tribal social services agency, including
152.24 disclosure of all data concerning the Indian child. Nothing in this subdivision relieves the
152.25 local social services agency of satisfying the notice requirements in the Indian Child Welfare
152.26 Act.

152.27 Sec. 111. Minnesota Statutes 2018, section 260B.171, subdivision 6, is amended to read:

152.28 Subd. 6. **Attorney access to records.** An attorney representing a child, parent, or guardian
152.29 ad litem in a proceeding under this chapter shall be given access to records, local social
152.30 services agency files, and reports which form the basis of any recommendation made to the
152.31 court. An attorney does not have access under this subdivision to the identity of a person
152.32 who made a report under ~~section 626.556~~ chapter 260A. The court may issue protective
152.33 orders to prohibit an attorney from sharing a specified record or portion of a record with a
152.34 client other than a guardian ad litem.

153.1 Sec. 112. Minnesota Statutes 2019 Supplement, section 260B.198, subdivision 1, is
153.2 amended to read:

153.3 Subdivision 1. **Court order, findings, remedies, treatment.** (a) If the court finds that
153.4 the child is delinquent, it shall enter an order making any of the following dispositions of
153.5 the case which are deemed necessary to the rehabilitation of the child:

153.6 (1) counsel the child or the parents, guardian, or custodian;

153.7 (2) place the child under the supervision of a probation officer or other suitable person
153.8 in the child's own home under conditions prescribed by the court including reasonable rules
153.9 for the child's conduct and the conduct of the child's parents, guardian, or custodian, designed
153.10 for the physical, mental, and moral well-being and behavior of the child, or with the consent
153.11 of the commissioner of corrections, in a group foster care facility which is under the
153.12 management and supervision of said commissioner;

153.13 (3) if the court determines that the child is a danger to self or others, subject to the
153.14 supervision of the court, transfer legal custody of the child to one of the following:

153.15 (i) a child-placing agency;

153.16 (ii) the local social services agency;

153.17 (iii) a reputable individual of good moral character. No person may receive custody of
153.18 two or more unrelated children unless licensed as a residential facility pursuant to sections
153.19 245A.01 to 245A.16;

153.20 (iv) a county home school, if the county maintains a home school or enters into an
153.21 agreement with a county home school; or

153.22 (v) a county probation officer for placement in a group foster home established under
153.23 the direction of the juvenile court and licensed pursuant to section 241.021;

153.24 (4) transfer legal custody by commitment to the commissioner of corrections;

153.25 (5) if the child is found to have violated a state or local law or ordinance which has
153.26 resulted in damage to the person or property of another, the court may order the child to
153.27 make reasonable restitution for such damage;

153.28 (6) require the child to pay a fine of up to \$1,000. The court shall order payment of the
153.29 fine in accordance with a time payment schedule which shall not impose an undue financial
153.30 hardship on the child;

153.31 (7) if the child is in need of special treatment and care for reasons of physical or mental
153.32 health, the court may order the child's parent, guardian, or custodian to provide it. If the

154.1 parent, guardian, or custodian fails to provide this treatment or care, the court may order it
154.2 provided;

154.3 (8) if the court believes that it is in the best interests of the child and of public safety
154.4 that the driver's license of the child be canceled until the child's 18th birthday, the court
154.5 may recommend to the commissioner of public safety the cancellation of the child's license
154.6 for any period up to the child's 18th birthday, and the commissioner is hereby authorized
154.7 to cancel such license without a hearing. At any time before the termination of the period
154.8 of cancellation, the court may, for good cause, recommend to the commissioner of public
154.9 safety that the child be authorized to apply for a new license, and the commissioner may so
154.10 authorize;

154.11 (9) if the court believes that it is in the best interest of the child and of public safety that
154.12 the child is enrolled in school, the court may require the child to remain enrolled in a public
154.13 school until the child reaches the age of 18 or completes all requirements needed to graduate
154.14 from high school. Any child enrolled in a public school under this clause is subject to the
154.15 provisions of the Pupil Fair Dismissal Act in chapter 127;

154.16 (10) if the child is petitioned and found by the court to have committed a controlled
154.17 substance offense under sections 152.021 to 152.027, the court shall determine whether the
154.18 child unlawfully possessed or sold the controlled substance while driving a motor vehicle.
154.19 If so, the court shall notify the commissioner of public safety of its determination and order
154.20 the commissioner to revoke the child's driver's license for the applicable time period specified
154.21 in section 152.0271. If the child does not have a driver's license or if the child's driver's
154.22 license is suspended or revoked at the time of the delinquency finding, the commissioner
154.23 shall, upon the child's application for driver's license issuance or reinstatement, delay the
154.24 issuance or reinstatement of the child's driver's license for the applicable time period specified
154.25 in section 152.0271. Upon receipt of the court's order, the commissioner is authorized to
154.26 take the licensing action without a hearing;

154.27 (11) if the child is petitioned and found by the court to have committed or attempted to
154.28 commit an act in violation of section 609.342; 609.343; 609.344; 609.345; 609.3451;
154.29 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a delinquency
154.30 petition based on one or more of those sections, the court shall order an independent
154.31 professional assessment of the child's need for sex offender treatment. An assessor providing
154.32 an assessment for the court must be experienced in the evaluation and treatment of juvenile
154.33 sex offenders. If the assessment indicates that the child is in need of and amenable to sex
154.34 offender treatment, the court shall include in its disposition order a requirement that the
154.35 child undergo treatment. Notwithstanding ~~sections~~ section 13.384, 13.85, 144.291 to 144.298,

155.1 ~~or 260B.171, or 626.556~~ or chapter 260A, the assessor has access to the following private
155.2 or confidential data on the child if access is relevant and necessary for the assessment:

155.3 (i) medical data under section 13.384;

155.4 (ii) corrections and detention data under section 13.85;

155.5 (iii) health records under sections 144.291 to 144.298;

155.6 (iv) juvenile court records under section 260B.171; and

155.7 (v) local welfare agency records under ~~section 626.556~~ chapter 260A.

155.8 Data disclosed under this clause may be used only for purposes of the assessment and
155.9 may not be further disclosed to any other person, except as authorized by law; or

155.10 (12) if the child is found delinquent due to the commission of an offense that would be
155.11 a felony if committed by an adult, the court shall make a specific finding on the record
155.12 regarding the juvenile's mental health and chemical dependency treatment needs.

155.13 (b) Any order for a disposition authorized under this section shall contain written findings
155.14 of fact to support the disposition ordered and shall also set forth in writing the following
155.15 information:

155.16 (1) why the best interests of the child are served by the disposition ordered; and

155.17 (2) what alternative dispositions were considered by the court and why such dispositions
155.18 were not appropriate in the instant case. Clause (1) does not apply to a disposition under
155.19 subdivision 1a.

155.20 Sec. 113. Minnesota Statutes 2018, section 260C.007, subdivision 3, is amended to read:

155.21 Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child
155.22 and parent or guardian, or, when reunification is not required, the child alone, that is
155.23 developed according to the requirements of section 245.4871, subdivision 19 or 21; 245.492,
155.24 subdivision 16; 256B.092; 260C.212, subdivision 1; or ~~626.556, subdivision 10~~ 260A.45.

155.25 Sec. 114. Minnesota Statutes 2018, section 260C.007, subdivision 5, is amended to read:

155.26 Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim that
155.27 constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322,
155.28 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or that is physical
155.29 or sexual abuse as defined in section ~~626.556, subdivision 2~~ 260A.20, or an act committed

156.1 in another state that involves a minor victim and would constitute a violation of one of these
156.2 sections if committed in this state.

156.3 Sec. 115. Minnesota Statutes 2018, section 260C.007, subdivision 6, is amended to read:

156.4 Subd. 6. **Child in need of protection or services.** "Child in need of protection or
156.5 services" means a child who is in need of protection or services because the child:

156.6 (1) is abandoned or without parent, guardian, or custodian;

156.7 (2)(i) has been a victim of physical or sexual abuse as defined in section ~~626.556,~~
156.8 ~~subdivision 2~~ 260A.20, subdivision 18 or 20, (ii) resides with or has resided with a victim
156.9 of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision
156.10 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined
156.11 in subdivision 13 or child abuse as defined in subdivision 5 or 13, or (iv) is a victim of
156.12 emotional maltreatment as defined in subdivision 15;

156.13 (3) is without necessary food, clothing, shelter, education, or other required care for the
156.14 child's physical or mental health or morals because the child's parent, guardian, or custodian
156.15 is unable or unwilling to provide that care;

156.16 (4) is without the special care made necessary by a physical, mental, or emotional
156.17 condition because the child's parent, guardian, or custodian is unable or unwilling to provide
156.18 that care;

156.19 (5) is medically neglected, which includes, but is not limited to, the withholding of
156.20 medically indicated treatment from an infant with a disability with a life-threatening
156.21 condition. The term "withholding of medically indicated treatment" means the failure to
156.22 respond to the infant's life-threatening conditions by providing treatment, including
156.23 appropriate nutrition, hydration, and medication which, in the treating physician's or advanced
156.24 practice registered nurse's reasonable medical judgment, will be most likely to be effective
156.25 in ameliorating or correcting all conditions, except that the term does not include the failure
156.26 to provide treatment other than appropriate nutrition, hydration, or medication to an infant
156.27 when, in the treating physician's or advanced practice registered nurse's reasonable medical
156.28 judgment:

156.29 (i) the infant is chronically and irreversibly comatose;

156.30 (ii) the provision of the treatment would merely prolong dying, not be effective in
156.31 ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be
156.32 futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, including a child who entered foster care under a voluntary placement agreement between the parent and the responsible social services agency under section 260C.227;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) is a sexually exploited youth;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is a habitual truant;

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense; or

(16) has a parent whose parental rights to one or more other children were involuntarily terminated or whose custodial rights to another child have been involuntarily transferred to a relative and there is a case plan prepared by the responsible social services agency documenting a compelling reason why filing the termination of parental rights petition under section 260C.503, subdivision 2, is not in the best interests of the child.

Sec. 116. Minnesota Statutes 2018, section 260C.007, subdivision 13, is amended to read:

Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

158.1 (1) any physical injury to a minor family or household member inflicted by an adult
158.2 family or household member other than by accidental means;

158.3 (2) subjection of a minor family or household member by an adult family or household
158.4 member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342,
158.5 609.343, 609.344, 609.345, or 617.246; or

158.6 (3) physical or sexual abuse as defined in section ~~626.556, subdivision 2~~ 260A.20,
158.7 subdivision 18 or 20.

158.8 Sec. 117. Minnesota Statutes 2019 Supplement, section 260C.139, subdivision 3, is
158.9 amended to read:

158.10 Subd. 3. **Status of child.** For purposes of proceedings under this chapter and adoption
158.11 proceedings, a newborn left at a safe place, pursuant to subdivision 4 and section 145.902,
158.12 is considered an abandoned child under section ~~626.556, subdivision 2, paragraph (o), clause~~
158.13 ~~(2)~~ 260A.20, subdivision 22, clause (2). The child is abandoned under sections 260C.007,
158.14 subdivision 6, clause (1), and 260C.301, subdivision 1, paragraph (b), clause (1).

158.15 Sec. 118. Minnesota Statutes 2018, section 260C.150, subdivision 3, is amended to read:

158.16 Subd. 3. **Identifying parents of child; diligent efforts; data.** (a) The responsible social
158.17 services agency shall make diligent efforts to identify and locate both parents of any child
158.18 who is the subject of proceedings under this chapter. Diligent efforts include:

158.19 (1) asking the custodial or known parent to identify any nonresident parent of the child
158.20 and provide information that can be used to verify the nonresident parent's identity including
158.21 the dates and locations of marriages and divorces; dates and locations of any legal
158.22 proceedings regarding paternity; date and place of the child's birth; nonresident parent's full
158.23 legal name; nonresident parent's date of birth, or if the nonresident parent's date of birth is
158.24 unknown, an approximate age; the nonresident parent's Social Security number; the
158.25 nonresident parent's whereabouts including last known whereabouts; and the whereabouts
158.26 of relatives of the nonresident parent. For purposes of this subdivision, "nonresident parent"
158.27 means a parent who does not reside in the same household as the child or did not reside in
158.28 the same household as the child at the time the child was removed when the child is in foster
158.29 care;

158.30 (2) obtaining information that will identify and locate the nonresident parent from the
158.31 county and state of Minnesota child support enforcement information system;

(3) requesting a search of the Minnesota Fathers' Adoption Registry 30 days after the child's birth; and

(4) using any other reasonable means to identify and locate the nonresident parent.

(b) The agency may disclose data which is otherwise private under section 13.46 or ~~626.556~~ chapter 260A in order to carry out its duties under this subdivision.

(c) Upon the filing of a petition alleging the child to be in need of protection or services, the responsible social services agency may contact a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth. The social service agency may consider a putative father for the day-to-day care of the child under section 260C.219 if the putative father cooperates with genetic testing and there is a positive test result under section 257.62, subdivision 5. Nothing in this paragraph:

(1) relieves a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth of the duty to cooperate with paternity establishment proceedings under section 260C.219;

(2) gives a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth the right to notice under section 260C.151 unless the putative father is entitled to notice under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7); or

(3) establishes a right to assert an interest in the child in a termination of parental rights proceeding contrary to section 259.52, subdivision 6, unless the putative father is entitled to notice under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7).

Sec. 119. Minnesota Statutes 2018, section 260C.171, subdivision 3, is amended to read:

Subd. 3. **Attorney access to records.** An attorney representing a child, parent, or guardian ad litem in a proceeding under this chapter shall be given access to records, responsible social services agency files, and reports which form the basis of any recommendation made to the court. An attorney does not have access under this subdivision to the identity of a person who made a report under ~~section 626.556~~ chapter 260A. The court may issue protective orders to prohibit an attorney from sharing a specified record or portion of a record with a client other than a guardian ad litem.

Sec. 120. Minnesota Statutes 2018, section 260C.177, is amended to read:

260C.177 PARENTAL AND LAW ENFORCEMENT NOTIFICATION.

An emergency shelter and its agents, employees, and volunteers must comply with court orders, ~~section 626.556~~, this chapter, chapter 260A, and all other applicable laws. In any event, unless other legal requirements require earlier or different notification or actions, an emergency shelter must attempt to notify a runaway's parent or legal guardian of the runaway's location and status within 72 hours. The notification must include a description of the runaway's physical and emotional condition and the circumstances surrounding the runaway's admission to the emergency shelter, unless there are compelling reasons not to provide the parent or legal guardian with this information. Compelling reasons may include circumstances in which the runaway is or has been exposed to domestic violence or a victim of abuse, neglect, or abandonment.

Sec. 121. Minnesota Statutes 2019 Supplement, section 260C.178, subdivision 1, is amended to read:

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

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

(c) If the court determines there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care as defined in section 260C.007, subdivision 18, under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated

the child's father. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

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

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

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

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

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

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

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

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

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

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

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

(5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~ 260A.20, against the child or another child of the parent;

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

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

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

(i) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.503, subdivision 2, paragraph (c).

(j) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the

163.1 child's father or relatives of the child, the court may order the parent to disclose the names,
163.2 addresses, telephone numbers, and other identifying information to the responsible social
163.3 services agency for the purpose of complying with sections 260C.151, 260C.212, 260C.215,
163.4 and 260C.221.

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

163.16 (l) When the court has ordered the child into foster care or into the home of a noncustodial
163.17 parent, the court may order a chemical dependency evaluation, mental health evaluation,
163.18 medical examination, and parenting assessment for the parent as necessary to support the
163.19 development of a plan for reunification required under subdivision 7 and section 260C.212,
163.20 subdivision 1, or the child protective services plan under section ~~626.556, subdivision 10~~
163.21 260A.45, and Minnesota Rules, part 9560.0228.

163.22 Sec. 122. Minnesota Statutes 2019 Supplement, section 260C.201, subdivision 6, is
163.23 amended to read:

163.24 Subd. 6. **Case plan.** (a) For each disposition ordered where the child is placed away
163.25 from a parent or guardian, the court shall order the responsible social services agency to
163.26 prepare a written out-of-home placement plan according to the requirements of section
163.27 260C.212, subdivision 1. When a foster child is colocated with a parent in a licensed
163.28 residential family-based substance use disorder treatment program under section 260C.190,
163.29 the case plan must specify the recommendation for the colocation before the child is colocated
163.30 with the parent.

163.31 (b) In cases where the child is not placed out of the home or is ordered into the home of
163.32 a noncustodial parent, the responsible social services agency shall prepare a plan for delivery
163.33 of social services to the child and custodial parent under section ~~626.556, subdivision 10~~
163.34 260A.45, or any other case plan required to meet the needs of the child. The plan shall be

164.1 designed to safely maintain the child in the home or to reunite the child with the custodial
164.2 parent.

164.3 (c) The court may approve the case plan as presented or modify it after hearing from
164.4 the parties. Once the plan is approved, the court shall order all parties to comply with it. A
164.5 copy of the approved case plan shall be attached to the court's order and incorporated into
164.6 it by reference.

164.7 (d) A party has a right to request a court review of the reasonableness of the case plan
164.8 upon a showing of a substantial change of circumstances.

164.9 Sec. 123. Minnesota Statutes 2018, section 260C.209, subdivision 2, is amended to read:

164.10 Subd. 2. **General procedures.** (a) When accessing information under subdivision 1, the
164.11 agency shall require the individual being assessed to provide sufficient information to ensure
164.12 an accurate assessment under this section, including:

164.13 (1) the individual's first, middle, and last name and all other names by which the
164.14 individual has been known;

164.15 (2) home address, zip code, city, county, and state of residence for the past five years;

164.16 (3) sex;

164.17 (4) date of birth; and

164.18 (5) driver's license number or state identification number.

164.19 (b) When notified by the responsible social services agency that it is accessing information
164.20 under subdivision 1, the Bureau of Criminal Apprehension, commissioners of health and
164.21 human services, law enforcement, and county agencies must provide the responsible social
164.22 services agency or county attorney with the following information on the individual being
164.23 assessed: criminal history data, local law enforcement data about the household, reports
164.24 about the maltreatment of adults substantiated under section 626.557, and reports of
164.25 maltreatment of minors substantiated under ~~section 626.556~~ chapter 260A.

164.26 Sec. 124. Minnesota Statutes 2018, section 260C.212, subdivision 12, is amended to read:

164.27 Subd. 12. **Fair hearing review.** Any person whose claim for foster care payment pursuant
164.28 to the placement of a child resulting from a child protection assessment under ~~section 626.556~~
164.29 chapter 260A is denied or not acted upon with reasonable promptness may appeal the
164.30 decision under section 256.045, subdivision 3.

Sec. 125. Minnesota Statutes 2018, section 260C.221, is amended to read:

260C.221 RELATIVE SEARCH.

(a) The responsible social services agency shall exercise due diligence to identify and notify adult relatives prior to placement or within 30 days after the child's removal from the parent. The county agency shall consider placement with a relative under this section without delay and whenever the child must move from or be returned to foster care. The relative search required by this section shall be comprehensive in scope. After a finding that the agency has made reasonable efforts to conduct the relative search under this paragraph, the agency has the continuing responsibility to appropriately involve relatives, who have responded to the notice required under this paragraph, in planning for the child and to continue to consider relatives according to the requirements of section 260C.212, subdivision 2. At any time during the course of juvenile protection proceedings, the court may order the agency to reopen its search for relatives when it is in the child's best interest to do so.

(b) The relative search required by this section shall include both maternal and paternal adult relatives of the child; all adult grandparents; all legal parents, guardians, or custodians of the child's siblings; and any other adult relatives suggested by the child's parents, subject to the exceptions due to family violence in paragraph (c). The search shall also include getting information from the child in an age-appropriate manner about who the child considers to be family members and important friends with whom the child has resided or had significant contact. The relative search required under this section must fulfill the agency's duties under the Indian Child Welfare Act regarding active efforts to prevent the breakup of the Indian family under United States Code, title 25, section 1912(d), and to meet placement preferences under United States Code, title 25, section 1915. The relatives must be notified:

(1) of the need for a foster home for the child, the option to become a placement resource for the child, and the possibility of the need for a permanent placement for the child;

(2) of their responsibility to keep the responsible social services agency and the court informed of their current address in order to receive notice in the event that a permanent placement is sought for the child and to receive notice of the permanency progress review hearing under section 260C.204. A relative who fails to provide a current address to the responsible social services agency and the court forfeits the right to receive notice of the possibility of permanent placement and of the permanency progress review hearing under section 260C.204. A decision by a relative not to be identified as a potential permanent placement resource or participate in planning for the child at the beginning of the case shall

166.1 not affect whether the relative is considered for placement of the child with that relative
166.2 later;

166.3 (3) that the relative may participate in the care and planning for the child, including that
166.4 the opportunity for such participation may be lost by failing to respond to the notice sent
166.5 under this subdivision. "Participate in the care and planning" includes, but is not limited to,
166.6 participation in case planning for the parent and child, identifying the strengths and needs
166.7 of the parent and child, supervising visits, providing respite and vacation visits for the child,
166.8 providing transportation to appointments, suggesting other relatives who might be able to
166.9 help support the case plan, and to the extent possible, helping to maintain the child's familiar
166.10 and regular activities and contact with friends and relatives;

166.11 (4) of the family foster care licensing requirements, including how to complete an
166.12 application and how to request a variance from licensing standards that do not present a
166.13 safety or health risk to the child in the home under section 245A.04 and supports that are
166.14 available for relatives and children who reside in a family foster home; and

166.15 (5) of the relatives' right to ask to be notified of any court proceedings regarding the
166.16 child, to attend the hearings, and of a relative's right or opportunity to be heard by the court
166.17 as required under section 260C.152, subdivision 5.

166.18 (c) A responsible social services agency may disclose private data, as defined in ~~sections~~
166.19 section 13.02 and 626.556 chapter 260A, to relatives of the child for the purpose of locating
166.20 and assessing a suitable placement and may use any reasonable means of identifying and
166.21 locating relatives including the Internet or other electronic means of conducting a search.
166.22 The agency shall disclose data that is necessary to facilitate possible placement with relatives
166.23 and to ensure that the relative is informed of the needs of the child so the relative can
166.24 participate in planning for the child and be supportive of services to the child and family.
166.25 If the child's parent refuses to give the responsible social services agency information
166.26 sufficient to identify the maternal and paternal relatives of the child, the agency shall ask
166.27 the juvenile court to order the parent to provide the necessary information. If a parent makes
166.28 an explicit request that a specific relative not be contacted or considered for placement due
166.29 to safety reasons including past family or domestic violence, the agency shall bring the
166.30 parent's request to the attention of the court to determine whether the parent's request is
166.31 consistent with the best interests of the child and the agency shall not contact the specific
166.32 relative when the juvenile court finds that contacting the specific relative would endanger
166.33 the parent, guardian, child, sibling, or any family member.

(d) At a regularly scheduled hearing not later than three months after the child's placement in foster care and as required in section 260C.202, the agency shall report to the court:

(1) its efforts to identify maternal and paternal relatives of the child and to engage the relatives in providing support for the child and family, and document that the relatives have been provided the notice required under paragraph (a); and

(2) its decision regarding placing the child with a relative as required under section 260C.212, subdivision 2, and to ask relatives to visit or maintain contact with the child in order to support family connections for the child, when placement with a relative is not possible or appropriate.

(e) Notwithstanding chapter 13, the agency shall disclose data about particular relatives identified, searched for, and contacted for the purposes of the court's review of the agency's due diligence.

(f) When the court is satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in paragraph (a), the court may find that reasonable efforts have been made to conduct a relative search to identify and provide notice to adult relatives as required under section 260.012, paragraph (e), clause (3). If the court is not satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in paragraph (a), the court may order the agency to continue its search and notice efforts and to report back to the court.

(g) When the placing agency determines that permanent placement proceedings are necessary because there is a likelihood that the child will not return to a parent's care, the agency must send the notice provided in paragraph (h), may ask the court to modify the duty of the agency to send the notice required in paragraph (h), or may ask the court to completely relieve the agency of the requirements of paragraph (h). The relative notification requirements of paragraph (h) do not apply when the child is placed with an appropriate relative or a foster home that has committed to adopting the child or taking permanent legal and physical custody of the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, permanency, and welfare of the child.

(h) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph (f), when the agency determines that it is necessary to prepare for permanent placement determination proceedings, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or

longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement.

Sec. 126. Minnesota Statutes 2018, section 260C.503, subdivision 2, is amended to read:

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

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

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

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

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

(5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~ 260A.20, against the child or another child of the parent;

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

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

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

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

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

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

(1) a petition for transfer of permanent legal and physical custody to a relative under sections 260C.505 and 260C.515, subdivision 3, 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. 127. Minnesota Statutes 2018, section 260D.01, is amended to read:

260D.01 CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.

(a) Sections 260D.01 to 260D.10, may be cited as the "child in voluntary foster care for treatment" provisions of the Juvenile Court Act.

(b) The juvenile court has original and exclusive jurisdiction over a child in voluntary foster care for treatment upon the filing of a report or petition required under this chapter. All obligations of the agency to a child and family in foster care contained in chapter 260C not inconsistent with this chapter are also obligations of the agency with regard to a child in foster care for treatment under this chapter.

(c) This chapter shall be construed consistently with the mission of the children's mental health service system as set out in section 245.487, subdivision 3, and the duties of an agency under sections 256B.092 and 260C.157 and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the needs of a child with a developmental disability or related condition. This chapter:

(1) establishes voluntary foster care through a voluntary foster care agreement as the means for an agency and a parent to provide needed treatment when the child must be in foster care to receive necessary treatment for an emotional disturbance or developmental disability or related condition;

(2) establishes court review requirements for a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or a related condition;

(3) establishes the ongoing responsibility of the parent as legal custodian to visit the child, to plan together with the agency for the child's treatment needs, to be available and accessible to the agency to make treatment decisions, and to obtain necessary medical, dental, and other care for the child; and

(4) applies to voluntary foster care when the child's parent and the agency agree that the child's treatment needs require foster care either:

(i) due to a level of care determination by the agency's screening team informed by the diagnostic and functional assessment under section 245.4885; or

(ii) due to a determination regarding the level of services needed by the responsible social services' screening team under section 256B.092, and Minnesota Rules, parts 9525.0004 to 9525.0016.

(d) This chapter does not apply when there is a current determination under ~~section 626.556~~ chapter 260A that the child requires child protective services or when the child is in foster care for any reason other than treatment for the child's emotional disturbance or developmental disability or related condition. When there is a determination under ~~section 626.556~~ chapter 260A that the child requires child protective services based on an assessment that there are safety and risk issues for the child that have not been mitigated through the parent's engagement in services or otherwise, or when the child is in foster care for any reason other than the child's emotional disturbance or developmental disability or related condition, the provisions of chapter 260C apply.

(e) The paramount consideration in all proceedings concerning a child in voluntary foster care for treatment is the safety, health, and the best interests of the child. The purpose of this chapter is:

(1) to ensure a child with a disability is provided the services necessary to treat or ameliorate the symptoms of the child's disability;

(2) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, approving the child's placement away from the child's parents only when the child's need for care or treatment requires it and the child cannot be maintained in the home of the parent; and

(3) to ensure the child's parent retains legal custody of the child and associated decision-making authority unless the child's parent willfully fails or is unable to make

171.1 decisions that meet the child's safety, health, and best interests. The court may not find that
171.2 the parent willfully fails or is unable to make decisions that meet the child's needs solely
171.3 because the parent disagrees with the agency's choice of foster care facility, unless the
171.4 agency files a petition under chapter 260C, and establishes by clear and convincing evidence
171.5 that the child is in need of protection or services.

171.6 (f) The legal parent-child relationship shall be supported under this chapter by maintaining
171.7 the parent's legal authority and responsibility for ongoing planning for the child and by the
171.8 agency's assisting the parent, where necessary, to exercise the parent's ongoing right and
171.9 obligation to visit or to have reasonable contact with the child. Ongoing planning means:

171.10 (1) actively participating in the planning and provision of educational services, medical,
171.11 and dental care for the child;

171.12 (2) actively planning and participating with the agency and the foster care facility for
171.13 the child's treatment needs; and

171.14 (3) planning to meet the child's need for safety, stability, and permanency, and the child's
171.15 need to stay connected to the child's family and community.

171.16 (g) The provisions of section 260.012 to ensure placement prevention, family
171.17 reunification, and all active and reasonable effort requirements of that section apply. This
171.18 chapter shall be construed consistently with the requirements of the Indian Child Welfare
171.19 Act of 1978, United States Code, title 25, section 1901, et al., and the provisions of the
171.20 Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

171.21 Sec. 128. Minnesota Statutes 2018, section 260D.02, subdivision 3, is amended to read:

171.22 Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child
171.23 and parent, or when reunification is not required, the child alone, that is developed according
171.24 to the requirements of sections 245.4871, subdivision 19 or 21; 245.492, subdivision 16;
171.25 256B.092; and 260C.212, subdivision 1; ~~626.556, subdivision 10;~~ and Minnesota Rules,
171.26 parts 9525.0004 to 9525.0016.

171.27 Sec. 129. Minnesota Statutes 2018, section 260D.02, subdivision 5, is amended to read:

171.28 Subd. 5. **Child in voluntary foster care for treatment.** "Child in voluntary foster care
171.29 for treatment" means a child who is emotionally disturbed or developmentally disabled or
171.30 has a related condition and is in foster care under a voluntary foster care agreement between
171.31 the child's parent and the agency due to concurrence between the agency and the parent
171.32 when it is determined that foster care is medically necessary:

(1) due to a determination by the agency's screening team based on its review of the diagnostic and functional assessment under section 245.4885; or

(2) due to a determination by the agency's screening team under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016.

A child is not in voluntary foster care for treatment under this chapter when there is a current determination under ~~section 626.556~~ chapter 260A that the child requires child protective services or when the child is in foster care for any reason other than the child's emotional or developmental disability or related condition.

Sec. 130. Minnesota Statutes 2019 Supplement, section 299C.093, is amended to read:

299C.093 DATABASE OF REGISTERED PREDATORY OFFENDERS.

The superintendent of the Bureau of Criminal Apprehension shall maintain a computerized data system relating to individuals required to register as predatory offenders under section 243.166. To the degree feasible, the system must include the data required to be provided under section 243.166, subdivisions 4, 4a, and 4b, and indicate the time period that the person is required to register. The superintendent shall maintain this data in a manner that ensures that it is readily available to law enforcement agencies. This data is private data on individuals under section 13.02, subdivision 12, but may be used for law enforcement and corrections purposes. Law enforcement or a corrections agent may disclose the status of an individual as a predatory offender to a child protection worker with a local welfare agency for purposes of doing a family assessment under ~~section 626.556~~ chapter 260A. A corrections agent may also disclose the status of an individual as a predatory offender to comply with section 244.057. The commissioner of human services has access to the data for state-operated services, as defined in section 246.014, for the purposes described in section 246.13, subdivision 2, paragraph (b), and for purposes of conducting background studies under chapter 245C.

Sec. 131. Minnesota Statutes 2018, section 388.051, subdivision 2, is amended to read:

Subd. 2. **Special provisions.** (a) In Anoka, Carver, Dakota, Hennepin, Scott, and Washington Counties, only the county attorney shall prosecute gross misdemeanor violations of sections 289A.63, subdivisions 1, 2, 4, and 6; 297B.10; 609.255, subdivision 3; 609.377; 609.378; 609.41; and 617.247.

(b) In Ramsey County, only the county attorney shall prosecute gross misdemeanor violations of sections 609.255, subdivision 3; 609.377; and 609.378.

(c) The county attorney shall prosecute failure to report physical or sexual child abuse or neglect as provided under section ~~626.556, subdivision 6~~, 260A.25, paragraphs (a), (b), and (c), violations of fifth-degree criminal sexual conduct under section 609.3451, and environmental law violations under sections 115.071, 299F.098, and 609.671.

(d) Except in Hennepin and Ramsey Counties, only the county attorney shall prosecute gross misdemeanor violations of section 152.025.

Sec. 132. Minnesota Statutes 2018, section 518.165, subdivision 2, is amended to read:

Subd. 2. Required appointment of guardian ad litem. In all proceedings for child custody or for marriage dissolution or legal separation in which custody or parenting time with a minor child is an issue, if the court has reason to believe that the minor child is a victim of domestic child abuse or neglect, as those terms are defined in ~~sections~~ section 260C.007 and ~~626.556~~ chapter 260A, respectively, the court shall appoint a guardian ad litem. The guardian ad litem shall represent the interests of the child and advise the court with respect to custody and parenting time. If the child is represented by a guardian ad litem in any other pending proceeding, the court may appoint that guardian to represent the child in the custody or parenting time proceeding. No guardian ad litem need be appointed if the alleged domestic child abuse or neglect is before the court on a juvenile dependency and neglect petition. Nothing in this subdivision requires the court to appoint a guardian ad litem in any proceeding for child custody, marriage dissolution, or legal separation in which an allegation of domestic child abuse or neglect has not been made.

Sec. 133. Minnesota Statutes 2018, section 518.165, subdivision 5, is amended to read:

Subd. 5. Procedure, criminal history, and maltreatment records background study. (a) When the court requests a background study under subdivision 4, paragraph (a), the request shall be submitted to the Department of Human Services through the department's electronic online background study system.

(b) When the court requests a search of the National Criminal Records Repository, the court must provide a set of classifiable fingerprints of the subject of the study on a fingerprint card provided by the commissioner of human services.

(c) The commissioner of human services shall provide the court with criminal history data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department of Public Safety, other criminal history data held by the commissioner of human services, and data regarding substantiated maltreatment of a minor under ~~section 626.556~~ chapter 260A, and substantiated maltreatment of a vulnerable adult under section 626.557, within

174.1 15 working days of receipt of a request. If the subject of the study has been determined by
174.2 the Department of Human Services or the Department of Health to be the perpetrator of
174.3 substantiated maltreatment of a minor or vulnerable adult in a licensed facility, the response
174.4 must include a copy of the public portion of the investigation memorandum under section
174.5 ~~626.556, subdivision 10f~~ 260A.52, or the public portion of the investigation memorandum
174.6 under section 626.557, subdivision 12b. When the background study shows that the subject
174.7 has been determined by a county adult protection or child protection agency to have been
174.8 responsible for maltreatment, the court shall be informed of the county, the date of the
174.9 finding, and the nature of the maltreatment that was substantiated. The commissioner shall
174.10 provide the court with information from the National Criminal Records Repository within
174.11 three working days of the commissioner's receipt of the data. When the commissioner finds
174.12 no criminal history or substantiated maltreatment on a background study subject, the
174.13 commissioner shall make these results available to the court electronically through the
174.14 secure online background study system.

174.15 (d) Notwithstanding section ~~626.556, subdivision 10f~~, 260A.52 or 626.557, subdivision
174.16 12b, if the commissioner or county lead agency or lead investigative agency has information
174.17 that a person on whom a background study was previously done under this section has been
174.18 determined to be a perpetrator of maltreatment of a minor or vulnerable adult, the
174.19 commissioner or the county may provide this information to the court that requested the
174.20 background study.

174.21 Sec. 134. Minnesota Statutes 2018, section 524.5-118, subdivision 2, is amended to read:

174.22 Subd. 2. **Procedure; criminal history and maltreatment records background**
174.23 **check.** (a) The court shall request the commissioner of human services to complete a
174.24 background study under section 245C.32. The request must be accompanied by the applicable
174.25 fee and the signed consent of the subject of the study authorizing the release of the data
174.26 obtained to the court. If the court is requesting a search of the National Criminal Records
174.27 Repository, the request must be accompanied by a set of classifiable fingerprints of the
174.28 subject of the study. The fingerprints must be recorded on a fingerprint card provided by
174.29 the commissioner of human services.

174.30 (b) The commissioner of human services shall provide the court with criminal history
174.31 data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department
174.32 of Public Safety, other criminal history data held by the commissioner of human services,
174.33 and data regarding substantiated maltreatment of vulnerable adults under section 626.557
174.34 and substantiated maltreatment of minors under section ~~626.556~~ chapter 260A within 15

175.1 working days of receipt of a request. If the subject of the study has been the perpetrator of
175.2 substantiated maltreatment of a vulnerable adult or minor, the response must include a copy
175.3 of the public portion of the investigation memorandum under section 626.557, subdivision
175.4 12b, or the public portion of the investigation memorandum under section ~~626.556,~~
175.5 ~~subdivision 10f~~ 260A.52. If the court did not request a search of the National Criminal
175.6 Records Repository and information from the Bureau of Criminal Apprehension indicates
175.7 that the subject is a multistate offender or that multistate offender status is undetermined,
175.8 the response must include this information. The commissioner shall provide the court with
175.9 information from the National Criminal Records Repository within three working days of
175.10 the commissioner's receipt of the data.

175.11 (c) Notwithstanding section 260A.52 or 626.557, subdivision 12b, ~~or 626.556, subdivision~~
175.12 ~~10f~~, if the commissioner of human services or a county lead agency or lead investigative
175.13 agency has information that a person on whom a background study was previously done
175.14 under this section has been determined to be a perpetrator of maltreatment of a vulnerable
175.15 adult or minor, the commissioner or the county may provide this information to the court
175.16 that requested the background study. The commissioner may also provide the court with
175.17 additional criminal history or substantiated maltreatment information that becomes available
175.18 after the background study is done.

175.19 Sec. 135. Minnesota Statutes 2018, section 595.02, subdivision 1, is amended to read:

175.20 Subdivision 1. **Competency of witnesses.** Every person of sufficient understanding,
175.21 including a party, may testify in any action or proceeding, civil or criminal, in court or
175.22 before any person who has authority to receive evidence, except as provided in this
175.23 subdivision:

175.24 (a) A husband cannot be examined for or against his wife without her consent, nor a
175.25 wife for or against her husband without his consent, nor can either, during the marriage or
175.26 afterwards, without the consent of the other, be examined as to any communication made
175.27 by one to the other during the marriage. This exception does not apply to a civil action or
175.28 proceeding by one against the other, nor to a criminal action or proceeding for a crime
175.29 committed by one against the other or against a child of either or against a child under the
175.30 care of either spouse, nor to a criminal action or proceeding in which one is charged with
175.31 homicide or an attempt to commit homicide and the date of the marriage of the defendant
175.32 is subsequent to the date of the offense, nor to an action or proceeding for nonsupport,
175.33 neglect, dependency, or termination of parental rights.

(b) An attorney cannot, without the consent of the attorney's client, be examined as to any communication made by the client to the attorney or the attorney's advice given thereon in the course of professional duty; nor can any employee of the attorney be examined as to the communication or advice, without the client's consent.

(c) A member of the clergy or other minister of any religion shall not, without the consent of the party making the confession, be allowed to disclose a confession made to the member of the clergy or other minister in a professional character, in the course of discipline enjoined by the rules or practice of the religious body to which the member of the clergy or other minister belongs; nor shall a member of the clergy or other minister of any religion be examined as to any communication made to the member of the clergy or other minister by any person seeking religious or spiritual advice, aid, or comfort or advice given thereon in the course of the member of the clergy's or other minister's professional character, without the consent of the person.

(d) A licensed physician or surgeon, dentist, or chiropractor shall not, without the consent of the patient, be allowed to disclose any information or any opinion based thereon which the professional acquired in attending the patient in a professional capacity, and which was necessary to enable the professional to act in that capacity; after the decease of the patient, in an action to recover insurance benefits, where the insurance has been in existence two years or more, the beneficiaries shall be deemed to be the personal representatives of the deceased person for the purpose of waiving this privilege, and no oral or written waiver of the privilege shall have any binding force or effect except when made upon the trial or examination where the evidence is offered or received.

(e) A public officer shall not be allowed to disclose communications made to the officer in official confidence when the public interest would suffer by the disclosure.

(f) Persons of unsound mind and persons intoxicated at the time of their production for examination are not competent witnesses if they lack capacity to remember or to relate truthfully facts respecting which they are examined.

(g) A registered nurse, psychologist, consulting psychologist, or licensed social worker engaged in a psychological or social assessment or treatment of an individual at the individual's request shall not, without the consent of the professional's client, be allowed to disclose any information or opinion based thereon which the professional has acquired in attending the client in a professional capacity, and which was necessary to enable the professional to act in that capacity. Nothing in this clause exempts licensed social workers

177.1 from compliance with the provisions of ~~sections 626.556 and~~ section 626.557 and chapter
177.2 260A.

177.3 (h) An interpreter for a person disabled in communication shall not, without the consent
177.4 of the person, be allowed to disclose any communication if the communication would, if
177.5 the interpreter were not present, be privileged. For purposes of this section, a "person disabled
177.6 in communication" means a person who, because of a hearing, speech or other communication
177.7 disorder, or because of the inability to speak or comprehend the English language, is unable
177.8 to understand the proceedings in which the person is required to participate. The presence
177.9 of an interpreter as an aid to communication does not destroy an otherwise existing privilege.

177.10 (i) Licensed chemical dependency counselors shall not disclose information or an opinion
177.11 based on the information which they acquire from persons consulting them in their
177.12 professional capacities, and which was necessary to enable them to act in that capacity,
177.13 except that they may do so:

177.14 (1) when informed consent has been obtained in writing, except in those circumstances
177.15 in which not to do so would violate the law or would result in clear and imminent danger
177.16 to the client or others;

177.17 (2) when the communications reveal the contemplation or ongoing commission of a
177.18 crime; or

177.19 (3) when the consulting person waives the privilege by bringing suit or filing charges
177.20 against the licensed professional whom that person consulted.

177.21 (j) A parent or the parent's minor child may not be examined as to any communication
177.22 made in confidence by the minor to the minor's parent. A communication is confidential if
177.23 made out of the presence of persons not members of the child's immediate family living in
177.24 the same household. This exception may be waived by express consent to disclosure by a
177.25 parent entitled to claim the privilege or by the child who made the communication or by
177.26 failure of the child or parent to object when the contents of a communication are demanded.
177.27 This exception does not apply to a civil action or proceeding by one spouse against the other
177.28 or by a parent or child against the other, nor to a proceeding to commit either the child or
177.29 parent to whom the communication was made or to place the person or property or either
177.30 under the control of another because of an alleged mental or physical condition, nor to a
177.31 criminal action or proceeding in which the parent is charged with a crime committed against
177.32 the person or property of the communicating child, the parent's spouse, or a child of either
177.33 the parent or the parent's spouse, or in which a child is charged with a crime or act of
177.34 delinquency committed against the person or property of a parent or a child of a parent, nor

178.1 to an action or proceeding for termination of parental rights, nor any other action or
178.2 proceeding on a petition alleging child abuse, child neglect, abandonment or nonsupport
178.3 by a parent.

178.4 (k) Sexual assault counselors may not be allowed to disclose any opinion or information
178.5 received from or about the victim without the consent of the victim. However, a counselor
178.6 may be compelled to identify or disclose information in investigations or proceedings related
178.7 to neglect or termination of parental rights if the court determines good cause exists. In
178.8 determining whether to compel disclosure, the court shall weigh the public interest and need
178.9 for disclosure against the effect on the victim, the treatment relationship, and the treatment
178.10 services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from
178.11 compliance with the provisions of ~~sections 626.556 and~~ section 626.557 and chapter 260A.

178.12 "Sexual assault counselor" for the purpose of this section means a person who has
178.13 undergone at least 40 hours of crisis counseling training and works under the direction of
178.14 a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or
178.15 assistance to victims of sexual assault.

178.16 (l) A domestic abuse advocate may not be compelled to disclose any opinion or
178.17 information received from or about the victim without the consent of the victim unless
178.18 ordered by the court. In determining whether to compel disclosure, the court shall weigh
178.19 the public interest and need for disclosure against the effect on the victim, the relationship
178.20 between the victim and domestic abuse advocate, and the services if disclosure occurs.
178.21 Nothing in this paragraph exempts domestic abuse advocates from compliance with the
178.22 provisions of ~~sections 626.556 and~~ section 626.557 and chapter 260A.

178.23 For the purposes of this section, "domestic abuse advocate" means an employee or
178.24 supervised volunteer from a community-based battered women's shelter and domestic abuse
178.25 program eligible to receive grants under section 611A.32; that provides information,
178.26 advocacy, crisis intervention, emergency shelter, or support to victims of domestic abuse
178.27 and who is not employed by or under the direct supervision of a law enforcement agency,
178.28 a prosecutor's office, or by a city, county, or state agency.

178.29 (m) A person cannot be examined as to any communication or document, including
178.30 work notes, made or used in the course of or because of mediation pursuant to an agreement
178.31 to mediate or a collaborative law process pursuant to an agreement to participate in
178.32 collaborative law. This does not apply to the parties in the dispute in an application to a
178.33 court by a party to have a mediated settlement agreement or a stipulated agreement resulting
178.34 from the collaborative law process set aside or reformed. A communication or document

otherwise not privileged does not become privileged because of this paragraph. This paragraph is not intended to limit the privilege accorded to communication during mediation or collaborative law by the common law.

(n) A child under ten years of age is a competent witness unless the court finds that the child lacks the capacity to remember or to relate truthfully facts respecting which the child is examined. A child describing any act or event may use language appropriate for a child of that age.

(o) A communication assistant for a telecommunications relay system for persons who have communication disabilities shall not, without the consent of the person making the communication, be allowed to disclose communications made to the communication assistant for the purpose of relaying.

Sec. 136. Minnesota Statutes 2018, section 595.02, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** (a) The exception provided by paragraphs (d) and (g) of subdivision 1 shall not apply to any testimony, records, or other evidence relating to the abuse or neglect of a minor in any proceeding under chapter 260 or any proceeding under section 245A.08, to revoke a day care or foster care license, arising out of the neglect or physical or sexual abuse of a minor, as defined in section ~~626.556, subdivision 2~~ 260A.20.

(b) The exception provided by paragraphs (d) and (g) of subdivision 1 shall not apply to criminal proceedings arising out of the neglect or physical or sexual abuse of a minor, as defined in section ~~626.556, subdivision 2~~ 260A.20, if the court finds that:

(1) there is a reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution; and

(2) there is no other practicable way of obtaining the information or evidence. This clause shall not be construed to prohibit disclosure of the patient record when it supports the otherwise uncorroborated statements of any material fact by a minor alleged to have been abused or neglected by the patient; and

(3) the actual or potential injury to the patient-health professional relationship in the treatment program affected, and the actual or potential harm to the ability of the program to attract and retain patients, is outweighed by the public interest in authorizing the disclosure sought.

No records may be disclosed under this paragraph other than the records of the specific patient suspected of the neglect or abuse of a minor. Disclosure and dissemination of any

180.1 information from a patient record shall be limited under the terms of the order to assure that
180.2 no information will be disclosed unnecessarily and that dissemination will be no wider than
180.3 necessary for purposes of the investigation or prosecution.

180.4 Sec. 137. Minnesota Statutes 2018, section 609.26, subdivision 7, is amended to read:

180.5 Subd. 7. **Reporting of deprivation of parental rights.** Any violation of this section
180.6 shall be reported pursuant to section ~~626.556, subdivision 3a~~ 260A.28, subdivision 2.

180.7 Sec. 138. Minnesota Statutes 2018, section 609.3457, subdivision 2, is amended to read:

180.8 Subd. 2. **Access to data.** Notwithstanding sections 13.384, 13.85, 144.291 to 144.298,
180.9 260B.171, 260C.171, or 626.556, the assessor has access to the following private or
180.10 confidential data on the person if access is relevant and necessary for the assessment:

180.11 (1) medical data under section 13.384;

180.12 (2) corrections and detention data under section 13.85;

180.13 (3) health records under sections 144.291 to 144.298;

180.14 (4) juvenile court records under sections 260B.171 and 260C.171; and

180.15 (5) local welfare agency records under ~~section 626.556~~ chapter 260A.

180.16 Data disclosed under this section may be used only for purposes of the assessment and
180.17 may not be further disclosed to any other person, except as authorized by law.

180.18 Sec. 139. Minnesota Statutes 2018, section 609.379, subdivision 2, is amended to read:

180.19 Subd. 2. **Applicability.** This section applies to sections 260B.425, 260C.425, 609.255,
180.20 609.376, and 609.378, ~~and 626.556~~ and chapter 260A.

180.21 Sec. 140. Minnesota Statutes 2018, section 609.507, is amended to read:

180.22 **609.507 FALSELY REPORTING CHILD ABUSE.**

180.23 A person is guilty of a misdemeanor who:

180.24 (1) informs another person that a person has committed sexual abuse, physical abuse,
180.25 or neglect of a child, as defined in section ~~626.556, subdivision 2~~ 260A.20;

180.26 (2) knows that the allegation is false or is without reason to believe that the alleged
180.27 abuser committed the abuse or neglect; and

180.28 (3) has the intent that the information influence a child custody hearing.

Sec. 141. Minnesota Statutes 2018, section 609.7495, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them.

(a) "Facility" means any of the following:

(1) a hospital or other health institution licensed under sections 144.50 to 144.56;

(2) a medical facility as defined in section 144.561;

(3) an agency, clinic, or office operated under the direction of or under contract with the commissioner of health or a community health board, as defined in section 145A.02;

(4) a facility providing counseling regarding options for medical services or recovery from an addiction;

(5) a facility providing emergency shelter services for battered women, as defined in section 611A.31, subdivision 3, or a facility providing transitional housing for battered women and their children;

(6) a facility as defined in section ~~626.556, subdivision 2, paragraph (e)~~ 260A.20, subdivision 6;

(7) a facility as defined in section 626.5572, subdivision 6, where the services described in that paragraph are provided;

(8) a place to or from which ambulance service, as defined in section 144E.001, is provided or sought to be provided; and

(9) a hospice provider licensed under section 144A.753.

(b) "Aggrieved party" means a person whose access to or egress from a facility is obstructed in violation of subdivision 2, or the facility.

Sec. 142. Minnesota Statutes 2018, section 611A.203, subdivision 4, is amended to read:

Subd. 4. **Duties; access to data.** (a) The domestic fatality review team shall collect, review, and analyze death certificates and death data, including investigative reports, medical and counseling records, victim service records, employment records, child abuse reports, or other information concerning domestic violence deaths, survivor interviews and surveys, and other information deemed by the team as necessary and appropriate concerning the causes and manner of domestic violence deaths.

(b) The review team has access to the following not public data, as defined in section 13.02, subdivision 8a, relating to a case being reviewed by the team: inactive law enforcement

182.1 investigative data under section 13.82; autopsy records and coroner or medical examiner
182.2 investigative data under section 13.83; hospital, public health, or other medical records of
182.3 the victim under section 13.384; records under section 13.46, created by social service
182.4 agencies that provided services to the victim, the alleged perpetrator, or another victim who
182.5 experienced or was threatened with domestic abuse by the perpetrator; and child maltreatment
182.6 records under ~~section 626.556~~ chapter 260A, relating to the victim or a family or household
182.7 member of the victim. Access to medical records under this paragraph also includes records
182.8 governed by sections 144.291 to 144.298. The review team has access to corrections and
182.9 detention data as provided in section 13.85.

182.10 (c) As part of any review, the domestic fatality review team may compel the production
182.11 of other records by applying to the district court for a subpoena, which will be effective
182.12 throughout the state according to the Rules of Civil Procedure.

182.13 Sec. 143. Minnesota Statutes 2018, section 611A.90, subdivision 1, is amended to read:

182.14 Subdivision 1. **Definition.** For purposes of this section, "physical abuse" and "sexual
182.15 abuse" have the meanings given in section ~~626.556, subdivision 2~~ 260A.20, except that
182.16 abuse is not limited to acts by a person responsible for the child's care or in a significant
182.17 relationship with the child or position of authority.

182.18 Sec. 144. Minnesota Statutes 2018, section 626.557, subdivision 9d, is amended to read:

182.19 Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under
182.20 paragraph (e), any individual or facility which a lead investigative agency determines has
182.21 maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf
182.22 of the vulnerable adult, regardless of the lead investigative agency's determination, who
182.23 contests the lead investigative agency's final disposition of an allegation of maltreatment,
182.24 may request the lead investigative agency to reconsider its final disposition. The request
182.25 for reconsideration must be submitted in writing to the lead investigative agency within 15
182.26 calendar days after receipt of notice of final disposition or, if the request is made by an
182.27 interested person who is not entitled to notice, within 15 days after receipt of the notice by
182.28 the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the
182.29 request for reconsideration must be postmarked and sent to the lead investigative agency
182.30 within 15 calendar days of the individual's or facility's receipt of the final disposition. If the
182.31 request for reconsideration is made by personal service, it must be received by the lead
182.32 investigative agency within 15 calendar days of the individual's or facility's receipt of the
182.33 final disposition. An individual who was determined to have maltreated a vulnerable adult

183.1 under this section and who was disqualified on the basis of serious or recurring maltreatment
183.2 under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment
183.3 determination and the disqualification. The request for reconsideration of the maltreatment
183.4 determination and the disqualification must be submitted in writing within 30 calendar days
183.5 of the individual's receipt of the notice of disqualification under sections 245C.16 and
183.6 245C.17. If mailed, the request for reconsideration of the maltreatment determination and
183.7 the disqualification must be postmarked and sent to the lead investigative agency within 30
183.8 calendar days of the individual's receipt of the notice of disqualification. If the request for
183.9 reconsideration is made by personal service, it must be received by the lead investigative
183.10 agency within 30 calendar days after the individual's receipt of the notice of disqualification.

183.11 (b) Except as provided under paragraphs (e) and (f), if the lead investigative agency
183.12 denies the request or fails to act upon the request within 15 working days after receiving
183.13 the request for reconsideration, the person or facility entitled to a fair hearing under section
183.14 256.045, may submit to the commissioner of human services a written request for a hearing
183.15 under that statute. The vulnerable adult, or an interested person acting on behalf of the
183.16 vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel
183.17 under section 256.021 if the lead investigative agency denies the request or fails to act upon
183.18 the request, or if the vulnerable adult or interested person contests a reconsidered disposition.
183.19 The lead investigative agency shall notify persons who request reconsideration of their
183.20 rights under this paragraph. The request must be submitted in writing to the review panel
183.21 and a copy sent to the lead investigative agency within 30 calendar days of receipt of notice
183.22 of a denial of a request for reconsideration or of a reconsidered disposition. The request
183.23 must specifically identify the aspects of the lead investigative agency determination with
183.24 which the person is dissatisfied.

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

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

183.32 (e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis
183.33 of a determination of maltreatment, which was serious or recurring, and the individual has
183.34 requested reconsideration of the maltreatment determination under paragraph (a) and
183.35 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 ~~626.556, subdivision 10i,~~ 260A.85 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, ~~626.556, subdivision 10i,~~ 260A.85, 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. 145. **REVISOR INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, sections 260A.01 to 260A.07, as Minnesota Statutes, sections 260E.01 to 260E.07, and shall make necessary cross-reference changes in Minnesota Statutes consistent with the renumbering.

626.556 REPORTING OF MALTREATMENT OF MINORS.

Subdivision 1. **Public policy.** (a) The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through physical abuse, neglect, or sexual abuse. While it is recognized that most parents want to keep their children safe, sometimes circumstances or conditions interfere with their ability to do so. When this occurs, the health and safety of the children must be of paramount concern. Intervention and prevention efforts must address immediate concerns for child safety and the ongoing risk of abuse or neglect and should engage the protective capacities of families. In furtherance of this public policy, it is the intent of the legislature under this section to:

- (1) protect children and promote child safety;
- (2) strengthen the family;
- (3) make the home, school, and community safe for children by promoting responsible child care in all settings; and
- (4) provide, when necessary, a safe temporary or permanent home environment for physically or sexually abused or neglected children.

(b) In addition, it is the policy of this state to:

- (1) require the reporting of neglect or physical or sexual abuse of children in the home, school, and community settings;
- (2) provide for the voluntary reporting of abuse or neglect of children;
- (3) require an investigation when the report alleges sexual abuse or substantial child endangerment;
- (4) provide a family assessment, if appropriate, when the report does not allege sexual abuse or substantial child endangerment; and
- (5) provide protective, family support, and family preservation services when needed in appropriate cases.

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

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

- (1) is not likely to occur and could not have been prevented by exercise of due care; and
- (2) if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

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

(c) "Facility" means:

- (1) a licensed or unlicensed day care facility, certified license-exempt child care center, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 144H, 245D, or 245H;
- (2) a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or
- (3) a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a.

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

(e) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve sexual abuse or substantial child endangerment, and for reports of maltreatment in facilities required to be licensed

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or certified under chapter 245A, 245D, or 245H; under sections 144.50 to 144.58 and 241.021; in a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E; or in a nonlicensed personal care provider association as defined in section 256B.0625, subdivision 19a.

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

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

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

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

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

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

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

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

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

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

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

(h) "Nonmaltreatment mistake" means:

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

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

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

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

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

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

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

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

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

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

- (1) throwing, kicking, burning, biting, or cutting a child;
- (2) striking a child with a closed fist;
- (3) shaking a child under age three;
- (4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;
- (5) unreasonable interference with a child's breathing;
- (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- (7) striking a child under age one on the face or head;
- (8) striking a child who is at least age one but under age four on the face or head, which results in an injury;
- (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
- (10) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or
- (11) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

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

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

(n) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a current or recent position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), 609.3451 (criminal

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sexual conduct in the fifth degree), or 609.352 (solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

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

- (1) egregious harm as defined in section 260C.007, subdivision 14;
- (2) abandonment under section 260C.301, subdivision 2;
- (3) neglect as defined in paragraph (g), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
- (5) manslaughter in the first or second degree under section 609.20 or 609.205;
- (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (7) solicitation, inducement, and promotion of prostitution under section 609.322;
- (8) criminal sexual conduct under sections 609.342 to 609.3451;
- (9) solicitation of children to engage in sexual conduct under section 609.352;
- (10) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
- (11) use of a minor in sexual performance under section 617.246; or
- (12) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.503, subdivision 2.

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

- (1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;
- (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph (b), clause (4), or a similar law of another jurisdiction;
- (3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or
- (4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction.

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

(q) Upon receiving data under section 144.225, subdivision 2b, contained in a birth record or recognition of parentage identifying a child who is subject to threatened injury under paragraph (p), the Department of Human Services shall send the data to the responsible social services agency. The data is known as "birth match" data. Unless the responsible social services agency has already begun an investigation or assessment of the report due to the birth of the child or execution of the recognition of parentage and the parent's previous history with child protection, the agency shall accept the birth match data as a report under this section. The agency may use either a family

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assessment or investigation to determine whether the child is safe. All of the provisions of this section apply. If the child is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is determined not to be safe, the agency and the county attorney shall take appropriate action as required under section 260C.503, subdivision 2.

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

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

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

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

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

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

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

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

Subd. 3a. Report of deprivation of parental rights or kidnapping. A person mandated to report under subdivision 3, who knows or has reason to know of a violation of section 609.25 or 609.26, shall report the information to the local police department or the county sheriff. Receipt by a local welfare agency of a report or notification of a report of a violation of section 609.25 or 609.26 shall not be construed to invoke the duties of subdivision 10, 10a, or 10b.

Subd. 3b. Agency responsible for assessing or investigating reports of maltreatment. The Department of Education is the agency responsible for assessing or investigating allegations of child maltreatment in schools as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E. The Department of Education's responsibility to assess and investigate includes allegations of maltreatment involving students 18 to 21 years of age, including students receiving special education services, up to and until graduation and the issuance of a secondary or high school diploma.

Subd. 3c. Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment. (a) The local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, legally nonlicensed child care, and reports involving children served by an unlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.

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(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in juvenile correctional facilities listed under section 241.021 located in the local welfare agency's county and in facilities licensed or certified under chapters 245A, 245D, and 245H, except for child foster care and family child care.

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

Subd. 3d. **Authority to interview.** The agency responsible for assessing or investigating reports of child maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing safety and risk to the child, and formulating a plan.

Subd. 3e. **Agency responsible for assessing or investigating reports of sexual abuse.** The local welfare agency is the agency responsible for investigating allegations of sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual functioning within the family unit as a person responsible for the child's care, or a person with a significant relationship to the child if that person resides in the child's household. The local welfare agency is also responsible for investigating when a child is identified as a victim of sex trafficking.

Subd. 3f. **Law enforcement agency responsible for investigating maltreatment.** The local law enforcement agency has responsibility for investigating any report of child maltreatment if a violation of a criminal statute is alleged. Law enforcement and the responsible agency must coordinate their investigations or assessments as required under subdivision 10.

Subd. 4. **Immunity from liability.** (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;

(2) any person with responsibility for performing duties under this section or supervisor employed by a local welfare agency, the commissioner of an agency responsible for operating or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed or certified under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B or 245H; or a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a, complying with subdivision 10d; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency, the Department of Education, or a local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626.5561.

(b) A person who is a supervisor or person with responsibility for performing duties under this section employed by a local welfare agency, the commissioner of human services, or the commissioner of education complying with subdivisions 10 and 11 or section 626.5561 or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j).

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Subd. 4a. **Retaliation prohibited.** (a) An employer of any person required to make reports under subdivision 3 shall not retaliate against the person for reporting in good faith abuse or neglect pursuant to this section, or against a child with respect to whom a report is made, because of the report.

(b) The employer of any person required to report under subdivision 3 who retaliates against the person because of a report of abuse or neglect is liable to that person for actual damages and, in addition, a penalty up to \$10,000.

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(c) There shall be a rebuttable presumption that any adverse action within 90 days of a report is retaliatory. For purposes of this paragraph, the term "adverse action" refers to action taken by an employer of a person required to report under subdivision 3 which is involved in a report against the person making the report or the child with respect to whom the report was made because of the report, and includes, but is not limited to:

- (1) discharge, suspension, termination, or transfer from the facility, institution, school, or agency;
- (2) discharge from or termination of employment;
- (3) demotion or reduction in remuneration for services; or
- (4) restriction or prohibition of access to the facility, institution, school, agency, or persons affiliated with it.

Subd. 5. Malicious and reckless reports. Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees.

Subd. 6. Failure to report. (a) A person mandated by this section to report who knows or has reason to believe that a child is neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor.

(b) A person mandated by this section to report who knows or has reason to believe that two or more children not related to the perpetrator have been physically or sexually abused, as defined in subdivision 2, by the same perpetrator within the preceding ten years, and fails to report is guilty of a gross misdemeanor.

(c) A parent, guardian, or caretaker who knows or reasonably should know that the child's health is in serious danger and who fails to report as required by subdivision 2, paragraph (g), is guilty of a gross misdemeanor if the child suffers substantial or great bodily harm because of the lack of medical care. If the child dies because of the lack of medical care, the person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both. The provision in section 609.378, subdivision 1, paragraph (a), clause (1), providing that a parent, guardian, or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report under this subdivision.

Subd. 6a. Failure to notify. If a local welfare agency receives a report under subdivision 3, paragraph (a) or (b), and fails to notify the local police department or county sheriff as required by subdivision 10, the person within the agency who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees. If a local police department or a county sheriff receives a report under subdivision 3, paragraph (a) or (b), and fails to notify the local welfare agency as required by subdivision 10, the person within the police department or county sheriff's office who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees.

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

(b) The local welfare agency shall determine if the report is to be screened in or out as soon as possible but in no event longer than 24 hours after the report is received. When determining whether a report will be screened in or out, the agency receiving the report must consider, when relevant, all previous history, including reports that were screened out. The agency may communicate with treating professionals and individuals specified under subdivision 10, paragraph (i), clause (3), item (iii).

(c) Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. The local welfare agency or agency responsible for assessing or investigating the report shall accept a report made under subdivision

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3 notwithstanding refusal by a reporter to provide the reporter's name or address as long as the report is otherwise sufficient under this paragraph. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

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

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

(f) A local welfare agency or agency responsible for investigating or assessing a report may use a screened-out report for making an offer of social services to the subjects of the screened-out report. A local welfare agency or agency responsible for evaluating a report alleging maltreatment of a child shall consider prior reports, including screened-out reports, to determine whether an investigation or family assessment must be conducted.

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

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

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

Subd. 7a. Guidance for screening reports. (a) Child protection staff, supervisors, and others involved in child protection screening shall follow the guidance provided in the child maltreatment screening guidelines issued by the commissioner of human services and, when notified by the commissioner, shall immediately implement updated procedures and protocols.

(b) Any modifications to the screening guidelines must be preapproved by the commissioner of human services and must not be less protective of children than is mandated by statute. The county agency must consult with the county attorney before proposing modifications to the commissioner. The guidelines may provide additional protections for children but must not limit reports that are screened in or provide additional limits on consideration of reports that were screened out in making screening determinations.

Subd. 8. Evidence not privileged. No evidence relating to the neglect or abuse of a child or to any prior incidents of neglect or abuse involving any of the same persons accused of neglect or abuse shall be excluded in any proceeding arising out of the alleged neglect or physical or sexual abuse on the grounds of privilege set forth in section 595.02, subdivision 1, paragraph (a), (d), or (g).

Subd. 9. Mandatory reporting to medical examiner or coroner. When a person required to report under the provisions of subdivision 3 knows or has reason to believe a child has died as a result of neglect or physical or sexual abuse, the person shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department, or county sheriff. Medical examiners or coroners shall notify the local welfare agency or police department or county sheriff in instances in which they believe that the child has died as a result of neglect or

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physical or sexual abuse. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local welfare agency. If the child was receiving services or treatment for mental illness, developmentally disabled, chemical dependency, or emotional disturbance from an agency, facility, or program as defined in section 245.91, the medical examiner or coroner shall also notify and report findings to the ombudsman established under sections 245.91 to 245.97.

Subd. 10. Duties of local welfare agency and local law enforcement agency upon receipt of report; mandatory notification between police or sheriff and agency. (a) The police department or the county sheriff shall immediately notify the local welfare agency or agency responsible for child protection reports under this section orally and in writing when a report is received. The local welfare agency or agency responsible for child protection reports shall immediately notify the local police department or the county sheriff orally and in writing when a report is received. The county sheriff and the head of every local welfare agency, agency responsible for child protection reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph are carried out. When the alleged maltreatment occurred on tribal land, the local welfare agency or agency responsible for child protection reports and the local police department or the county sheriff shall immediately notify the tribe's social services agency and tribal law enforcement orally and in writing when a report is received. When a police department or county sheriff determines that a child has been the subject of physical abuse, sexual abuse, or neglect by a person licensed by the Professional Educator Licensing and Standards Board or the Board of School Administrators, the department or sheriff shall, in addition to its other duties under this section, immediately inform the licensing board.

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

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

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

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

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

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

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

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the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant

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

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

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

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

- (1) audio recordings of all interviews with witnesses and collateral sources; and
- (2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

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

Subd. 10a. Law enforcement agency responsibility for investigation; welfare agency reliance on law enforcement fact-finding; welfare agency offer of services. (a) If the report alleges neglect, physical abuse, or sexual abuse by a person who is not a parent, guardian, sibling, person responsible for the child's care functioning within the family unit, or a person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.

(b) The local agency may rely on the fact-finding efforts of the law enforcement investigation conducted under this subdivision to make a determination whether or not threatened injury or other maltreatment has occurred under subdivision 2 if an alleged offender has minor children or lives with minors.

(c) If a child is the victim of an alleged crime under paragraph (a), the law enforcement agency shall immediately notify the local welfare agency, which shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

Subd. 10b. Duties of commissioner; neglect or abuse in facility. (a) This section applies to the commissioners of human services, health, and education. The commissioner of the agency

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responsible for assessing or investigating the report shall immediately assess or investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in that facility, or has been so neglected or abused, or been the victim of maltreatment in a facility by an individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner of the agency responsible for assessing or investigating the report shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner of the agency responsible for assessing or investigating the report or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j). In conducting assessments or investigations under this subdivision, the commissioner of education shall obtain access to reports and investigative data that are relevant to a report of maltreatment and are in the possession of a school facility as defined in subdivision 2, paragraph (c), notwithstanding the classification of the data as educational or personnel data under chapter 13. This includes, but is not limited to, school investigative reports, information concerning the conduct of school personnel alleged to have committed maltreatment of students, information about witnesses, and any protective or corrective action taken by the school facility regarding the school personnel alleged to have committed maltreatment.

(d) The commissioner may request assistance from the local social services agency.

Subd. 10c. Duties of local social service agency upon receipt of report of medical neglect. If the report alleges medical neglect as defined in section 260C.007, subdivision 6, clause (5), the local welfare agency shall, in addition to its other duties under this section, immediately consult with designated hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration, and medication are being provided; and shall immediately secure an independent medical review of the infant's medical charts and records and, if necessary, seek a court order for an independent medical examination of the infant. If the review or examination leads to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by initiating legal proceedings under section 260C.141 and by filing an expedited motion to prevent the withholding of medically indicated treatment.

Subd. 10d. Notification of neglect or abuse in facility. (a) When a report is received that alleges neglect, physical abuse, sexual abuse, or maltreatment of a child while in the care of a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed or certified according to sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 144H, 245D, or 245H, or a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, sexually abused, or the victim of maltreatment of a child

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in the facility: the name of the facility; the fact that a report alleging neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has been received; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; that the agency is conducting an assessment or investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

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

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

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

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

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

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

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as defined in paragraph (f), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

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

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

- (1) physical abuse as defined in subdivision 2, paragraph (k);
- (2) neglect as defined in subdivision 2, paragraph (g);
- (3) sexual abuse as defined in subdivision 2, paragraph (n);
- (4) mental injury as defined in subdivision 2, paragraph (f); or
- (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (c).

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

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

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

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

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

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

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

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

Subd. 10f. Notice of determinations. Within ten working days of the conclusion of a family assessment, the local welfare agency shall notify the parent or guardian of the child of the need for services to address child safety concerns or significant risk of subsequent child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation

services are needed. Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for investigating the report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and, if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. When the investigation involves a child foster care setting that is monitored by a private licensing agency under section 245A.16, the local welfare agency responsible for investigating the report shall notify the private licensing agency of the determination and shall provide a summary of the specific reasons for the determination. The notice to the private licensing agency must include identifying private data, but not the identity of the reporter of maltreatment. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section. The notice must also state that a finding of maltreatment may result in denial of a license or certification application or background study disqualification under chapter 245C related to employment or services that are licensed or certified by the Department of Human Services under chapter 245A or 245H, the Department of Health under chapter 144 or 144A, the Department of Corrections under section 241.021, and from providing services related to an unlicensed personal care provider organization under chapter 256B.

Subd. 10g. **Interstate data exchange.** All reports and records created, collected, or maintained under this section by a local social service agency or law enforcement agency may be disclosed to a local social service or other child welfare agency of another state when the agency certifies that:

(1) the reports and records are necessary in order to conduct an investigation of actions that would qualify as sexual abuse, physical abuse, or neglect under this section; and

(2) the reports and records will be used only for purposes of a child protection assessment or investigation and will not be further disclosed to any other person or agency.

The local social service agency or law enforcement agency in this state shall keep a record of all records or reports disclosed pursuant to this subdivision and of any agency to which the records or reports are disclosed. If in any case records or reports are disclosed before a determination is made under subdivision 10e, or a disposition of any criminal proceedings is reached, the local social service agency or law enforcement agency in this state shall forward the determination or disposition to any agency that has received any report or record under this subdivision.

Subd. 10h. **Child abuse data; release to family court services.** The responsible authority or its designee of a local welfare agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under this section to a court services agency if:

(1) the court services agency has an active case involving a common client or clients who are the subject of the data; and

(2) the data are necessary for the court services agency to effectively process the court services' case, including investigating or performing other duties relating to the case required by law.

The data disclosed under this subdivision may be used only for purposes of the active court services case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative reconsideration is not applicable in family assessments since no determination concerning maltreatment is made. For investigations, except as provided under paragraph (e), an individual or facility that the commissioner of human services, a local social service agency, or the commissioner of education determines has maltreated a child, an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment 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 parent or guardian of the child. If mailed, the request for reconsideration must be postmarked and sent to the investigating agency within 15 calendar days of the individual's or facility's receipt of the final determination. If the request for reconsideration is made by personal

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service, it must be received by the investigating agency within 15 calendar days after the individual's or facility's receipt of the final determination. Effective January 1, 2002, an individual who was determined to have maltreated a child 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 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 investigating agency within 30 calendar days of the individual's receipt of the maltreatment determination and notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the investigating 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 investigating 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 or the commissioner of education a written request for a hearing under that section. Section 256.045 also governs hearings requested to contest a final determination of the commissioner of education. The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The hearings specified under this section are the only administrative appeal of a decision issued under paragraph (a). Determinations under this section are not subject to accuracy and completeness challenges under section 13.04.

(c) If, as a result of a reconsideration or review, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) Except as provided under paragraph (f), if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

(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 requested reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and 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, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination and disqualification shall not be conducted under section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination as provided under this subdivision, and reconsideration of a disqualification as provided under section 245C.22, shall also 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.

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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 626.556, subdivision 10i, 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, 626.556, subdivision 10i, 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) For purposes of this subdivision, "interested person acting on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been determined to be the perpetrator of the maltreatment.

(h) If a maltreatment determination is the basis for a correction order under section 245H.06 or decertification under section 245H.07, the certification holder has the right to request reconsideration under sections 245H.06 and 245H.07. If the certification holder appeals the maltreatment determination or disqualification, but does not appeal the correction order or decertification, reconsideration of the maltreatment determination shall be conducted under section 626.556, subdivision 10i, and reconsideration of the disqualification shall be conducted under section 245C.22.

Subd. 10j. Release of data to mandated reporters. (a) A local social services or child protection agency, or the agency responsible for assessing or investigating the report of maltreatment, shall provide relevant private data on individuals obtained under this section to a mandated reporter who made the report and who has an ongoing responsibility for the health, education, or welfare of a child affected by the data, unless the agency determines that providing the data would not be in the best interests of the child. The agency may provide the data to other mandated reporters with ongoing responsibility for the health, education, or welfare of the child. Mandated reporters with ongoing responsibility for the health, education, or welfare of a child affected by the data include the child's teachers or other appropriate school personnel, foster parents, health care providers, respite care workers, therapists, social workers, child care providers, residential care staff, crisis nursery staff, probation officers, and court services personnel. Under this section, a mandated reporter need not have made the report to be considered a person with ongoing responsibility for the health, education, or welfare of a child affected by the data. Data provided under this section must be limited to data pertinent to the individual's responsibility for caring for the child.

(b) A reporter who receives private data on individuals under this subdivision must treat the data according to that classification, regardless of whether the reporter is an employee of a government entity. The remedies and penalties under sections 13.08 and 13.09 apply if a reporter releases data in violation of this section or other law.

Subd. 10k. Release of certain assessment or investigative records to other counties. Records maintained under subdivision 11c, paragraph (a), may be shared with another local welfare agency that requests the information because it is conducting an assessment or investigation under this section of the subject of the records.

Subd. 10l. Documentation. When a case is closed that has been open for services, the local welfare agency shall document the outcome of the family assessment or investigation, including a description of services provided and the removal or reduction of risk to the child, if it existed.

Subd. 10m. Provision of child protective services; consultation with county attorney. (a) The local welfare agency shall create a written plan, in collaboration with the family whenever possible, within 30 days of the determination that child protective services are needed or upon joint agreement of the local welfare agency and the family that family support and preservation services are needed. Child protective services for a family are voluntary unless ordered by the court.

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

- (1) the family does not accept or comply with a plan for child protective services;
- (2) voluntary child protective services may not provide sufficient protection for the child; or
- (3) the family is not cooperating with an investigation or assessment.

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Subd. 10n. **Required referral to early intervention services.** A child under age three who is involved in a substantiated case of maltreatment shall be referred for screening under the Individuals with Disabilities Education Act, part C. Parents must be informed that the evaluation and acceptance of services are voluntary. The commissioner of human services shall monitor referral rates by county and annually report the information to the legislature beginning March 15, 2014. Refusal to have a child screened is not a basis for a child in need of protection or services petition under chapter 260C.

Subd. 11. **Records.** (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. All records concerning determinations of maltreatment by a facility are nonpublic data as maintained by the Department of Education, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data other than the reports. The local social services agency or agency responsible for assessing or investigating the report shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall 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 the court that the report was false and that 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.

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

(c) The commissioner of education must be provided with all requested data that are relevant to a report of maltreatment and are in possession of a school facility as defined in subdivision 2, paragraph (c), when the data is requested pursuant to an assessment or investigation of a maltreatment report of a student in a school. If the commissioner of education makes a determination of maltreatment involving an individual performing work within a school facility who is licensed by a board or other agency, the commissioner shall provide a copy of its offender maltreatment determination report to the licensing entity, with all student identifying information removed. The offender maltreatment determination report shall include but is not limited to the following sections: report of alleged maltreatment; legal standard; investigation; summary of findings; determination; corrective action by a school; reconsideration process; and a listing of records related to the investigation. Notwithstanding section 13.03, subdivision 4, data received by a licensing entity under this paragraph are governed by section 13.41 or other applicable law governing data of the receiving entity, except that this section applies to the classification of and access to data on the reporter of the maltreatment.

Subd. 11a. **Disclosure of information not required in certain cases.** When interviewing a minor under subdivision 10, an individual does not include the parent or guardian of the minor for purposes of section 13.04, subdivision 2, when the parent or guardian is the alleged perpetrator of the abuse or neglect.

Subd. 11b. **Data received from law enforcement.** Active law enforcement investigative data received by a local welfare agency or agency responsible for assessing or investigating the report

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under this section are confidential data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals.

Subd. 11c. **Welfare, court services agency, and school records maintained.** Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, agencies responsible for assessing or investigating the report, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority.

(a) For reports alleging child maltreatment that were not accepted for assessment or investigation, family assessment cases, and cases where an investigation results in no determination of maltreatment or the need for child protective services, the records must be maintained for a period of five years after the date the report was not accepted for assessment or investigation or of the final entry in the case record. Records of reports that were not accepted must contain sufficient information to identify the subjects of the report, the nature of the alleged maltreatment, and the reasons as to why the report was not accepted. Records under this paragraph may not be used for employment, background checks, or purposes other than to assist in future screening decisions and risk and safety assessments.

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

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

(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency or agency responsible for assessing or investigating the report shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

Subd. 11d. **Disclosure in child fatality or near-fatality cases.** (a) The definitions in this paragraph apply to this section.

(1) "Child fatality" means the death of a child from child abuse or neglect.

(2) "Near fatality" means a case in which a physician, advanced practice registered nurse, or physician assistant determines that a child is in serious or critical condition as the result of sickness or injury caused by child abuse or neglect.

(3) "Findings and information" means a written summary described in paragraph (c) of actions taken or services rendered by a local social services agency following receipt of a report.

(b) Notwithstanding any other provision of law and subject to this subdivision, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

(1) a person is criminally charged with having caused the child fatality or near fatality;

(2) a county attorney certifies that a person would have been charged with having caused the child fatality or near fatality but for that person's death; or

(3) a child protection investigation resulted in a determination of child abuse or neglect.

(c) Findings and information disclosed under this subdivision consist of a written summary that includes any of the following information the agency is able to provide:

(1) the cause and circumstances regarding the child fatality or near fatality;

(2) the age and gender of the child;

(3) information on any previous reports of child abuse or neglect that are pertinent to the abuse or neglect that led to the child fatality or near fatality;

(4) information on any previous investigations that are pertinent to the abuse or neglect that led to the child fatality or near fatality;

(5) the results of any investigations described in clause (4);

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(6) actions of and services provided by the local social services agency on behalf of a child that are pertinent to the child abuse or neglect that led to the child fatality or near fatality; and

(7) the results of any review of the state child mortality review panel, a local child mortality review panel, a local community child protection team, or any public agency.

(d) Nothing in this subdivision authorizes access to the private data in the custody of a local social services agency, or the disclosure to the public of the records or content of any psychiatric, psychological, or therapeutic evaluations, or the disclosure of information that would reveal the identities of persons who provided information related to abuse or neglect of the child.

(e) A person whose request is denied may apply to the appropriate court for an order compelling disclosure of all or part of the findings and information of the public agency. The application must set forth, with reasonable particularity, factors supporting the application. The court has jurisdiction to issue these orders. Actions under this section must be set down for immediate hearing, and subsequent proceedings in those actions must be given priority by the appellate courts.

(f) A public agency or its employees acting in good faith in disclosing or declining to disclose information under this section are immune from criminal or civil liability that might otherwise be incurred or imposed for that action.

Subd. 12. Duties of facility operators. Any operator, employee, or volunteer worker at any facility who intentionally neglects, physically abuses, or sexually abuses any child in the care of that facility may be charged with a violation of section 609.255, 609.377, or 609.378. Any operator of a facility who knowingly permits conditions to exist which result in neglect, physical abuse, sexual abuse, or maltreatment of a child in a facility while in the care of that facility may be charged with a violation of section 609.378. The facility operator shall inform all mandated reporters employed by or otherwise associated with the facility of the duties required of mandated reporters and shall inform all mandatory reporters of the prohibition against retaliation for reports made in good faith under this section.

Subd. 14. Conflict of interest. (a) A potential conflict of interest related to assisting in an assessment under this section resulting in a direct or shared financial interest with a child abuse and neglect treatment provider or resulting from a personal or family relationship with a party in the investigation must be considered by the local welfare agency in an effort to prevent unethical relationships.

(b) A person who conducts an assessment under this section or section 626.5561 may not have:

(1) any direct or shared financial interest or referral relationship resulting in a direct shared financial gain with a child abuse and neglect treatment provider; or

(2) a personal or family relationship with a party in the investigation.

If an independent assessor is not available, the person responsible for making the determination under this section may use the services of an assessor with a financial interest, referral, or personal or family relationship.

Subd. 15. Auditing. The commissioner of human services shall regularly audit for accuracy the data reported by counties on maltreatment of minors.

Subd. 16. Commissioner's duty to provide oversight; quality assurance reviews; annual summary of reviews. (a) The commissioner shall develop a plan to perform quality assurance reviews of local welfare agency screening practices and decisions. The commissioner shall provide oversight and guidance to counties to ensure consistent application of screening guidelines, thorough and appropriate screening decisions, and correct documentation and maintenance of reports. Quality assurance reviews must begin no later than September 30, 2015.

(b) The commissioner shall produce an annual report of the summary results of the reviews. The report must only contain aggregate data and may not include any data that could be used to personally identify any subject whose data is included in the report. The report is public information and must be provided to the chairs and ranking minority members of the legislative committees having jurisdiction over child protection issues.

626.5561 REPORTING OF PRENATAL EXPOSURE TO CONTROLLED SUBSTANCES.

Subdivision 1. Reports required. (a) Except as provided in paragraph (b), a person mandated to report under section 626.556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled

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substance for a nonmedical purpose during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.

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

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

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

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

Subd. 2. **Local welfare agency.** Upon receipt of a report required under subdivision 1, the local welfare agency shall immediately conduct an appropriate assessment and offer services indicated under the circumstances. Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care. The local welfare agency may also take any appropriate action under chapter 253B, including seeking an emergency admission under section 253B.05. The local welfare agency shall seek an emergency admission under section 253B.05 if the pregnant woman refuses recommended voluntary services or fails recommended treatment.

Subd. 3. **Related provisions.** Reports under this section are governed by section 626.556, subdivisions 4, 4a, 5, 6, 8, and 11.

Subd. 4. **Controlled substances.** For purposes of this section and section 626.5562, "controlled substance" means a controlled substance listed in section 253B.02, subdivision 2.

Subd. 5. **Immunity.** (a) A person making a voluntary or mandated report under subdivision 1 or assisting in an assessment under subdivision 2 is immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith.

(b) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

626.5562 TOXICOLOGY TESTS REQUIRED.

Subdivision 1. **Test; report.** A physician shall administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within eight hours after delivery to determine whether there is evidence that she has ingested a controlled substance, if the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose. If the test results are positive, the physician shall report the results under section 626.5561. A negative test result does not eliminate the obligation to report under section 626.5561, if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

Subd. 2. **Newborns.** A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy. If the test results are positive, the physician shall report the results as neglect under section 626.556. A negative test result does not eliminate the obligation to report under section 626.556 if other medical evidence of prenatal exposure to a controlled substance is present.

Subd. 3. **Report to Department of Health.** Physicians shall report to the Department of Health the results of tests performed under subdivisions 1 and 2. A report shall be made on the certificate

of live birth medical supplement or the report of fetal death medical supplement filed on or after February 1, 1991. The reports are medical data under section 13.384.

Subd. 4. **Immunity from liability.** Any physician or other medical personnel administering a toxicology test to determine the presence of a controlled substance in a pregnant woman, in a woman within eight hours after delivery, or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test, if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice.

Subd. 5. **Reliability of tests.** A positive test result reported under this section must be obtained from a confirmatory test performed by a drug testing laboratory which meets the requirements of section 181.953, and must be performed according to the requirements for performance of confirmatory tests imposed by the licensing, accreditation, or certification program listed in section 181.953, subdivision 1, in which the laboratory participates.

626.558 MULTIDISCIPLINARY CHILD PROTECTION TEAM.

Subdivision 1. **Establishment of team.** A county shall establish a multidisciplinary child protection team that may include, but not be limited to, the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, representatives of health and education, representatives of mental health or other appropriate human service or community-based agencies, and parent groups. As used in this section, a "community-based agency" may include, but is not limited to, schools, social service agencies, family service and mental health collaboratives, children's advocacy centers, early childhood and family education programs, Head Start, or other agencies serving children and families. A member of the team must be designated as the lead person of the team responsible for the planning process to develop standards for its activities with battered women's and domestic abuse programs and services.

Subd. 2. **Duties of team.** A multidisciplinary child protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency or other interested community-based agencies. The community-based agencies may request case consultation from the multidisciplinary child protection team regarding a child or family for whom the community-based agency is providing services. As used in this section, "case consultation" means a case review process in which recommendations are made concerning services to be provided to the identified children and family. Case consultation may be performed by a committee or subcommittee of members representing human services, including mental health and chemical dependency; law enforcement, including probation and parole; the county attorney; a children's advocacy center; health care; education; community-based agencies and other necessary agencies; and persons directly involved in an individual case as designated by other members performing case consultation.

Subd. 2a. **Sexually exploited youth outreach program.** A multidisciplinary child protection team may assist the local welfare agency, local law enforcement agency, or an appropriate private organization in developing a program of outreach services for sexually exploited youth, including homeless, runaway, and truant youth who are at risk of sexual exploitation. For the purposes of this subdivision, at least one representative of a youth intervention program or, where this type of program is unavailable, one representative of a nonprofit agency serving youth in crisis, shall be appointed to and serve on the multidisciplinary child protection team in addition to the standing members of the team. These services may include counseling, medical care, short-term shelter, alternative living arrangements, and drop-in centers. A juvenile's receipt of intervention services under this subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

Subd. 3. **Information sharing.** (a) The local welfare agency may make available to the case consultation committee or subcommittee, all records collected and maintained by the agency under section 626.556 and in connection with case consultation. A case consultation committee or subcommittee member may share information acquired in the member's professional capacity with the committee or subcommittee to assist in case consultation.

(b) Case consultation committee or subcommittee members must annually sign a data sharing agreement, approved by the commissioner of human services, assuring compliance with chapter 13. Not public data, as defined by section 13.02, subdivision 8a, may be shared with members appointed to the committee or subcommittee in connection with an individual case when the members have signed the data sharing agreement.

(c) All data acquired by the case consultation committee or subcommittee in exercising case consultation duties, are confidential as defined in section 13.02, subdivision 3, and shall not be

disclosed except to the extent necessary to perform case consultation, and shall not be subject to subpoena or discovery.

(d) No members of a case consultation committee or subcommittee meeting shall disclose what transpired at a case consultation meeting, except to the extent necessary to carry out the case consultation plan. The proceedings and records of the case consultation meeting are not subject to discovery, and may not be introduced into evidence in any civil or criminal action against a professional or local welfare agency arising out of the matter or matters which are the subject of consideration of the case consultation meeting. Information, documents, or records otherwise available from original sources are not immune from discovery or use in any civil or criminal action merely because they were presented during a case consultation meeting. Any person who presented information before the consultation committee or subcommittee or who is a member shall not be prevented from testifying as to matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information before the case consultation committee or subcommittee or about opinions formed as a result of the case consultation meetings.

A person who violates this subdivision is subject to the civil remedies and penalties provided under chapter 13.

Subd. 4. **Children's advocacy center; definition.** (a) For purposes of this section, "children's advocacy center" means an organization, using a multidisciplinary team approach, whose primary purpose is to provide children who have been the victims of abuse and their nonoffending family members with:

- (1) support and advocacy;
- (2) specialized medical evaluation;
- (3) trauma-focused mental health services; and
- (4) forensic interviews.

(b) Children's advocacy centers provide multidisciplinary case review and the tracking and monitoring of case progress.

626.559 SPECIALIZED TRAINING AND EDUCATION REQUIRED.

Subdivision 1. **Job classification; continuing education.** The commissioner of human services, for employees subject to the Minnesota Merit System, and directors of county personnel systems, for counties not subject to the Minnesota Merit System, shall establish a job classification consisting exclusively of persons with the specialized knowledge, skills, and experience required to satisfactorily perform child protection duties pursuant to section 626.556, subdivisions 10, 10a, and 10b.

All child protection workers or social services staff having responsibility for child protective duties under section 626.556 shall receive 15 hours of continuing education or in-service training each year relevant to providing child protective services. The local social service agency shall maintain a record of training completed by each employee having responsibility for performing child protective duties.

Subd. 1a. **Child protection worker foundation education.** Any individual who seeks employment as a child protection worker after the commissioner of human services has implemented the foundation training program developed under section 626.5591, subdivision 2, must complete competency-based foundation training during their first six months of employment as a child protection worker.

Subd. 1b. **Background studies.** (a) County employees hired on or after July 1, 2015, who have responsibility for child protection duties or current county employees who are assigned new child protection duties on or after July 1, 2015, are required to undergo a background study. A county may complete these background studies by either:

- (1) use of the Department of Human Services NETStudy 2.0 system according to sections 245C.03 and 245C.10; or
- (2) an alternative process defined by the county.

(b) County social services agencies and local welfare agencies must initiate background studies before an individual begins a position allowing direct contact with persons served by the agency.

APPENDIX
Repealed Minnesota Statutes: S1796-1

Subd. 2. **Joint training.** The commissioners of human services and public safety shall cooperate in the development of a joint program for training child abuse services professionals in the appropriate techniques for child abuse assessment and investigation. The program shall include but need not be limited to the following areas:

(1) the public policy goals of the state as set forth in section 260C.001 and the role of the assessment or investigation in meeting these goals;

(2) the special duties of child protection workers and law enforcement officers under section 626.556;

(3) the appropriate methods for directing and managing affiliated professionals who may be utilized in providing protective services and strengthening family ties;

(4) the appropriate methods for interviewing alleged victims of child abuse and other minors in the course of performing an assessment or an investigation;

(5) the dynamics of child abuse and neglect within family systems and the appropriate methods for interviewing parents in the course of the assessment or investigation, including training in recognizing cases in which one of the parents is a victim of domestic abuse and in need of special legal or medical services;

(6) the legal, evidentiary considerations that may be relevant to the conduct of an assessment or an investigation;

(7) the circumstances under which it is appropriate to remove the alleged abuser or the alleged victim from the home;

(8) the protective social services that are available to protect alleged victims from further abuse, to prevent child abuse and domestic abuse, and to preserve the family unit, and training in the preparation of case plans to coordinate services for the alleged child abuse victim with services for any parents who are victims of domestic abuse;

(9) the methods by which child protection workers and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts; and

(10) appropriate methods for interviewing alleged victims of child abuse and conducting investigations in cases where the alleged victim is developmentally, physically, or mentally disabled.

Subd. 3. **Priority training.** The commissioners of human services and public safety shall provide the program courses described in subdivision 2 at convenient times and locations in the state. The commissioners shall give training priority in the program areas cited in subdivision 2 to persons currently performing assessments and investigations pursuant to section 626.556, subdivisions 10, 10a, and 10b.

Subd. 5. **Revenue.** The commissioner of human services shall add the following funds to the funds appropriated under section 626.5591, subdivision 2, to develop and support training:

(a) The commissioner of human services shall submit claims for federal reimbursement earned through the activities and services supported through Department of Human Services child protection or child welfare training funds. Federal revenue earned must be used to improve and expand training services by the department. The department expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds.

(b) Each year, the commissioner of human services shall withhold from funds distributed to each county under Minnesota Rules, parts 9550.0300 to 9550.0370, an amount equivalent to 1.5 percent of each county's annual title XX allocation under section 256M.50. The commissioner must use these funds to ensure decentralization of training.

(c) The federal revenue under this subdivision is available for these purposes until the funds are expended.

626.5591 CHILD PROTECTION WORKERS; TRAINING; ADVISORY COMMITTEE.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given unless the specific context indicates otherwise:

(a) "Child protection agency" means an agency authorized to receive reports, conduct assessments and investigations, and make determinations pursuant to section 626.556, subdivision 10.

(b) "Child protection services" means the receipt and assessment of reports of child maltreatment and the provision of services to families and children when maltreatment has occurred or when there is risk of maltreatment. These services include: (1) the assessment of risk to a child alleged to have been abused or neglected; (2) interviews of any person alleged to have abused or neglected a child and the child or children involved in the report, and interviews with persons having facts or knowledge necessary to assess the level of risk to a child and the need for protective intervention; (3) the gathering of written or evidentiary materials; (4) the recording of case findings and determinations; and (5) other actions required by section 626.556, administrative rule, or agency policy.

(c) "Competency-based training" means a course of instruction that provides both information and skills practice, which is based upon clearly stated and measurable instructional objectives, and which requires demonstration of the achievement of a particular standard of skills and knowledge for satisfactory completion.

(d) "Foundation training" means training provided to a local child protection worker after the person has begun to perform child protection duties, but before the expiration of six months of employment as a child protection worker. This foundation training must occur during the performance of job duties and must include an evaluation of the employee's application of skills and knowledge.

(e) "Advanced training" means training provided to a local child protection worker after the person has performed an initial six months of employment as a child protection worker.

Subd. 2. **Training program; development.** The commissioner of human services shall develop a program of competency-based foundation and advanced training for child protection workers if funds are appropriated to the commissioner for this purpose.

626.561 INTERVIEWS WITH CHILD ABUSE VICTIMS.

Subdivision 1. **Policy.** It is the policy of this state to encourage adequate and accurate documentation of the number and content of interviews conducted with alleged child abuse victims during the course of a child abuse assessment, criminal investigation, or prosecution, and to discourage interviews that are unnecessary, duplicative, or otherwise not in the best interests of the child.

Subd. 2. **Definitions.** As used in this section:

- (1) "child abuse" means physical or sexual abuse as defined in section 626.556, subdivision 2;
- (2) "government employee" means an employee of a state or local agency, and any person acting as an agent of a state or local agency;
- (3) "interview" means a statement of an alleged child abuse victim which is given or made to a government employee during the course of a child abuse assessment, criminal investigation, or prosecution; and
- (4) "record" means an audio or videotape recording of an interview, or a written record of an interview.

Subd. 3. **Record required.** Whenever an interview is conducted, the interviewer must make a record of the interview. The record must contain the following information:

- (1) the date, time, place, and duration of the interview;
- (2) the identity of the persons present at the interview; and
- (3) if the record is in writing, a summary of the information obtained during the interview.

The records shall be maintained by the interviewer in accordance with applicable provisions of section 626.556, subdivision 11 and chapter 13.

Subd. 4. **Guidelines on tape recording of interviews.** Every county attorney's office shall be responsible for developing written guidelines on the tape recording of interviews by government employees who conduct child abuse assessments, criminal investigations, or prosecutions. The guidelines are public data as defined in section 13.02, subdivision 14.