

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

**S.F. No. 2260**

(SENATE AUTHORS: PRATT and Relp)

DATE  
03/11/2019

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Introduction and first reading  
Referred to E-12 Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to education; proposing a teacher code of ethics; modifying grounds for

1.3 teacher license revocation, suspension, denial, or teacher discharge; amending

1.4 Minnesota Statutes 2018, sections 122A.09, subdivision 2; 122A.18, subdivision

1.5 8; 122A.187, by adding a subdivision; 122A.20, subdivisions 1, 2; 122A.40,

1.6 subdivision 13; 122A.41, subdivision 6; 122A.42; 123B.03, subdivisions 1, 2;

1.7 299C.17; 609.095; 626.556, subdivisions 3, 10, 10e; 631.40, subdivision 1a;

1.8 proposing coding for new law in Minnesota Statutes, chapters 122A; 299C.

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

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

1.11 Subdivision 1. **Scope.** Each teacher, upon entering the teaching profession, assumes a

1.12 number of obligations, one of which is to adhere to a set of principles that defines professional

1.13 conduct. These principles are reflected in the code of ethics, which sets forth to the education

1.14 profession and the public it serves standards of professional conduct. This code applies to

1.15 all persons licensed according to rules established by the Professional Educator Licensing

1.16 and Standards Board.

1.17 Subd. 2. **Standards of professional conduct.** (a) A teacher must provide professional

1.18 education services in a nondiscriminatory manner, including not discriminating on the basis

1.19 of political, ideological, or religious beliefs.

1.20 (b) A teacher must make reasonable effort to protect students from conditions harmful

1.21 to health and safety.

1.22 (c) In accordance with state and federal laws, a teacher must disclose confidential

1.23 information about individuals only when a compelling professional purpose is served or

1.24 when required by law.

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

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

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

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

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

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

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

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

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

Sec. 2. Minnesota Statutes 2018, section 122A.09, subdivision 2, is amended to read:

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

(b) The board must develop a process for a school district to receive a written complaint about a teacher under the code of ethics and forward the complaint to the board. A school board must inform parents and guardians in the school district of their ability to submit a complaint to the school board under this section.

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

Sec. 3. Minnesota Statutes 2018, section 122A.18, subdivision 8, is amended to read:

Subd. 8. **Background checks.** (a) The Professional Educator Licensing and Standards Board and the Board of School Administrators must request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all first-time teaching applicants for licenses under their jurisdiction. Applicants must include with their licensure applications:

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

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

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

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

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

Sec. 4. Minnesota Statutes 2018, section 122A.187, is amended by adding a subdivision to read:

**Subd. 7. Background check.** The Professional Educator Licensing and Standards Board must request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on a licensed teacher applying for a license renewal who has not had a background check within the preceding five years. The board may request payment from the teacher renewing a license in an amount equal to the actual cost of the background check.

**EFFECTIVE DATE.** This section is effective July 1, 2019.

Sec. 5. Minnesota Statutes 2018, section 122A.20, subdivision 1, is amended to read:

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

- 4.1 (1) immoral character or conduct;
- 4.2 (2) failure, without justifiable cause, to teach for the term of the teacher's contract;
- 4.3 (3) gross inefficiency or willful neglect of duty;
- 4.4 (4) failure to meet licensure requirements; ~~or~~
- 4.5 (5) fraud or misrepresentation in obtaining a license; or
- 4.6 (6) intentional and inappropriate patting, touching, pinching, or other physical contact
- 4.7 with a student that is sexually motivated.

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

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

- 4.14 (1) child abuse, as defined in section 609.185;
- 4.15 (2) sex trafficking in the first degree under section 609.322, subdivision 1;
- 4.16 (3) sex trafficking in the second degree under section 609.322, subdivision 1a;
- 4.17 (4) engaging in hiring, or agreeing to hire a minor to engage in prostitution under section  
 4.18 609.324, ~~subdivision~~ subdivisions 1, 1a, and 2;
- 4.19 (5) criminal sexual abuse conduct under section 609.342, 609.343, 609.344, 609.345,  
 4.20 609.3451, ~~subdivision 3~~; or
- 4.21 (6) indecent exposure under section 617.23, subdivision 3;
- 4.22 (7) solicitation of children to engage in sexual conduct or communication of sexually  
 4.23 explicit materials to children under section 609.352;
- 4.24 (8) embezzlement of public funds under section 609.54, clause (2);
- 4.25 (9) interference with privacy under section 609.746 or stalking under section 609.749  
 4.26 and the victim was a minor;
- 4.27 (10) using minors in a sexual performance under section 617.246;
- 4.28 (11) possessing pornographic works involving a minor under section 617.247; or

(12) 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.

In addition, the board may refuse to issue, refuse to renew, or automatically revoke a teacher's license to teach without the right to a hearing upon receiving a certified copy of a stay of adjudication for any offense. The board shall send notice of this licensing action to the district in which the teacher is currently employed.

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

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

(e) The Professional Educator Licensing and Standards Board or Board of School Administrators, whichever has jurisdiction over a teacher's licensure, must review and may refuse to issue, refuse to renew, or revoke a teacher's license to teach upon receiving a certified copy of a conviction showing that the teacher has been convicted of:

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

(2) embezzlement of public funds under section 609.54, clause (1);

(3) a felony involving a minor as the victim; or

(4) a gross misdemeanor involving a minor as the victim.

6.1 If an offense included in clauses (1) to (4) is already included in paragraph (b), the provisions  
6.2 of paragraph (b) apply to the conduct.

6.3 (f) A decision by the Professional Educator Licensing and Standards Board to refuse to  
6.4 issue, refuse to renew, suspend, or revoke a license must be reversed if the decision is based  
6.5 on a background check and the teacher or license application is not the subject of the  
6.6 background check.

6.7 (g) Section 122A.188 does not apply to a decision by the board to refuse to issue, refuse  
6.8 to renew, or revoke a license under this paragraph. A person whose license has been revoked,  
6.9 not issued, or not renewed under this subdivision may appeal the decision by filing a written  
6.10 request with the Professional Educator Licensing and Standards Board or the Board of  
6.11 School Administrators, as appropriate, within 30 days of notice of the licensing action. The  
6.12 board must then initiate a contested case under the Administrative Procedure Act, sections  
6.13 14.001 to 14.69.

6.14 (h) The Professional Educator Licensing and Standards Board or Board of School  
6.15 Administrators, whichever has jurisdiction over a teacher's licensure, may suspend a teacher's  
6.16 license pending an investigation into a report of conduct that would be grounds for revocation  
6.17 under paragraph (b), (d), or (e). The teacher's license is suspended until the licensing board  
6.18 completes its disciplinary investigation and determines whether disciplinary action is  
6.19 necessary.

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

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

6.23 Sec. 6. Minnesota Statutes 2018, section 122A.20, subdivision 2, is amended to read:

6.24 Subd. 2. **Mandatory reporting.** (a) A school board must report to the Professional  
6.25 Educator Licensing and Standards Board, the Board of School Administrators, or the Board  
6.26 of Trustees of the Minnesota State Colleges and Universities, whichever has jurisdiction  
6.27 over the teacher's or administrator's license, when its teacher or administrator is discharged  
6.28 or resigns from employment after a charge is filed with the school board under section  
6.29 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7, or after charges are filed that are  
6.30 grounds for discharge under section 122A.40, subdivision 13, paragraph (a), clauses (1) to  
6.31 (5), or when a teacher or administrator is suspended or resigns while an investigation is  
6.32 pending under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5); 122A.41,  
6.33 subdivisions 6, clauses (1), (2), and (3), and 7; or 626.556, or when a teacher or administrator

7.1 is suspended without an investigation under section 122A.41, subdivisions 6, paragraph (a),  
7.2 clauses (1), (2), and (3), and 7; or 626.556. The report must be made to the appropriate  
7.3 licensing board within ten days after the discharge, suspension, or resignation has occurred.  
7.4 The licensing board to which the report is made must investigate the report for violation of  
7.5 subdivision 1 and the reporting board must cooperate in the investigation. Notwithstanding  
7.6 any provision in chapter 13 or any law to the contrary, upon written request from the licensing  
7.7 board having jurisdiction over the license, a board or school superintendent ~~shall~~ must  
7.8 provide the licensing board with information about the teacher or administrator from the  
7.9 district's files, any termination or disciplinary proceeding, any settlement or compromise,  
7.10 or any investigative file. Upon written request from the appropriate licensing board, a board  
7.11 or school superintendent may, at the discretion of the board or school superintendent, solicit  
7.12 the written consent of a student and the student's parent to provide the licensing board with  
7.13 information that may aid the licensing board in its investigation and license proceedings.  
7.14 The licensing board's request need not identify a student or parent by name. The consent  
7.15 of the student and the student's parent must meet the requirements of chapter 13 and Code  
7.16 of Federal Regulations, title 34, section 99.30. The licensing board may provide a consent  
7.17 form to the district. Any data transmitted to any board under this section is private data  
7.18 under section 13.02, subdivision 12, notwithstanding any other classification of the data  
7.19 when it was in the possession of any other agency.

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

7.29 (c) The Professional Educator Licensing and Standards Board and Board of School  
7.30 Administrators must report to the appropriate law enforcement authorities a revocation,  
7.31 suspension, or agreement involving a loss of license, relating to a teacher or administrator's  
7.32 inappropriate sexual conduct with a minor. For purposes of this section, "law enforcement  
7.33 authority" means a police department, county sheriff, or tribal police department. A report  
7.34 by the Professional Educator Licensing and Standards Board or the Board of School  
7.35 Administrators to appropriate law enforcement authorities does not diminish, modify, or

otherwise affect the responsibilities of a licensing board, school board, or any person mandated to report abuse under section 626.556.

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

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

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

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

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

Sec. 7. Minnesota Statutes 2018, 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;

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

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

(5) willful neglect of duty; or

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

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

Prior to discharging a teacher under this paragraph, the board must notify the teacher in writing and state its ground for the proposed discharge in reasonable detail. Within ten days after receipt of this notification the teacher may make a written request for a hearing before



the board and it ~~shall~~ must be granted before final action is taken. The board may suspend a teacher with pay pending the conclusion of the hearing and determination of the issues raised in the hearing after charges have been filed which constitute ground for discharge. If a teacher has been charged with a felony and the underlying conduct that is the subject of the felony charge is a ground for a proposed immediate discharge, the suspension pending the conclusion of the hearing and determination of the issues may be without pay. If a hearing under this paragraph is held, the board must reimburse the teacher for any salary or compensation withheld if the final decision of the board or the arbitrator does not result in a penalty to or suspension, termination, or discharge of the teacher.

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

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

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

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

(4) engaging in hiring or agreeing to hire a minor to engage in prostitution under section 609.324, ~~subdivision~~ subdivisions 1, 1a, or 2;

(5) criminal sexual abuse conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23, ~~subdivision 3~~;

(6) indecent exposure under section 617.23, subdivision 3;

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

(8) embezzlement of public funds under section 609.54, clause (2);

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

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

(11) possessing pornographic works involving a minor under section 617.247; ~~or~~

(12) 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; or

10.1 (13) any other offense not listed in this paragraph that requires notice of a licensing  
10.2 action to the district in accordance with section 122A.20, subdivision 1, paragraph (b).

10.3 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes  
10.4 a final determination of child maltreatment involving a teacher under section 626.556,  
10.5 subdivision 11, the school principal or other person having administrative control of the  
10.6 school must include in the teacher's employment record the information contained in the  
10.7 record of the disciplinary action or the final maltreatment determination, consistent with  
10.8 the definition of public data under section 13.41, subdivision 5, and must provide the  
10.9 Professional Educator Licensing and Standards Board ~~and the licensing division at the~~  
10.10 ~~department~~ with the necessary and relevant information to enable the Professional Educator  
10.11 Licensing and Standards Board ~~and the department's licensing division~~ to fulfill ~~their~~ its  
10.12 statutory and administrative duties related to issuing, renewing, suspending, or revoking a  
10.13 teacher's license. Information received by the Professional Educator Licensing and Standards  
10.14 Board ~~or the licensing division at the department~~ under this paragraph is governed by section  
10.15 13.41 or other applicable law governing data of the receiving entity. In addition to the  
10.16 background check required under section 123B.03, a school board or other school hiring  
10.17 authority must contact the Professional Educator Licensing and Standards Board and the  
10.18 department to determine whether the teacher's license has been suspended or revoked,  
10.19 consistent with the discharge and final maltreatment determinations identified in this  
10.20 paragraph. Unless restricted by federal or state data practices law or by the terms of a  
10.21 collective bargaining agreement, the responsible authority for a school district must  
10.22 disseminate to another school district private personnel data on a current or former teacher  
10.23 employee or contractor of the district, including the results of background investigations,  
10.24 if the requesting school district seeks the information because the subject of the data has  
10.25 applied for employment with the requesting school district.

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

10.27 Sec. 8. Minnesota Statutes 2018, section 122A.41, subdivision 6, is amended to read:

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

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

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

11.1 (3) inefficiency in teaching or in the management of a school, consistent with subdivision  
11.2 5, paragraph (b);

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

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

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

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

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

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

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

11.14 (4) engaging in hiring or agreeing to hire a minor to engage in prostitution under section  
11.15 609.324, ~~subdivision~~ subdivisions 1, 1a, or 2;

11.16 (5) criminal sexual abuse conduct under section 609.342, 609.343, 609.344, 609.345,  
11.17 609.3451, subdivision 3, ~~or~~ 2;

11.18 (6) indecent exposure under section 617.23, subdivision 3;

11.19 (7) solicitation of children to engage in sexual conduct or communication of sexually  
11.20 explicit materials to children under section 609.352;

11.21 (8) embezzlement of public funds under section 609.54, clause (2);

11.22 (9) interference with privacy under section 609.746 or stalking under section 609.749  
11.23 and the victim was a minor;

11.24 (10) using minors in a sexual performance under section 617.246;

11.25 (11) possessing pornographic works involving a minor under section 617.247; ~~or~~

11.26 (12) any other offense not listed in this paragraph that requires the person to register as  
11.27 a predatory offender under section 243.166, or a crime under a similar law of another state  
11.28 or the United States; or

11.29 (13) any other offense not listed in this paragraph that requires notice of a licensing  
11.30 action to the district in accordance with section 122A.20, subdivision 1, paragraph (b).

(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, 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~~ its 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.

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

Sec. 9. Minnesota Statutes 2018, section 122A.42, is amended to read:

**122A.42 GENERAL CONTROL OF SCHOOLS.**

(a) The teacher of record shall have the general control and government of the school and classroom. When more than one teacher is employed in any district, one of the teachers may be designated by the board as principal and shall have the general control and supervision of the schools of the district, subject to the general supervisory control of the board and other officers.

(b) Consistent with paragraph (a), the teacher may remove students from class under section 121A.61, subdivision 2, for violent or disruptive conduct. A school district must

13.1 include notice of a teacher's authority under this paragraph in a teacher handbook, school  
13.2 policy guide, or other similar communication.

13.3 Sec. 10. Minnesota Statutes 2018, section 123B.03, subdivision 1, is amended to read:

13.4 Subdivision 1. **Background check required.** (a) A school hiring authority ~~shall~~ must  
13.5 request a criminal history background check from the superintendent of the Bureau of  
13.6 Criminal Apprehension on all individuals who are offered employment in a school and on  
13.7 all individuals, except enrolled student volunteers, who are offered the opportunity to provide  
13.8 athletic coaching services or other extracurricular academic coaching services to a school,  
13.9 regardless of whether any compensation is paid. In order for an individual to be eligible for  
13.10 employment or to provide the services, the individual must provide an executed criminal  
13.11 history consent form and a money order or check payable to either the Bureau of Criminal  
13.12 Apprehension or the school hiring authority, at the discretion of the school hiring authority,  
13.13 in an amount equal to the actual cost to the Bureau of Criminal Apprehension and the school  
13.14 district of conducting the criminal history background check. A school hiring authority  
13.15 deciding to receive payment may, at its discretion, accept payment in the form of a negotiable  
13.16 instrument other than a money order or check and shall pay the superintendent of the Bureau  
13.17 of Criminal Apprehension directly to conduct the background check. The superintendent  
13.18 of the Bureau of Criminal Apprehension shall conduct the background check by retrieving  
13.19 criminal history data as defined in section 13.87. A school hiring authority, at its discretion,  
13.20 may decide not to request a criminal history background check on an individual who holds  
13.21 an initial entrance license issued by the Professional Educator Licensing and Standards  
13.22 Board or the commissioner of education within the 12 months preceding an offer of  
13.23 employment.

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

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

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

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

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

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

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

~~(d)~~ (e) For all nonstate residents who are offered employment in a school, a school hiring authority shall request a criminal history background check on such individuals from the superintendent of the Bureau of Criminal Apprehension and from the government agency performing the same function in the resident state or, if no government entity performs the

same function in the resident state, from the Federal Bureau of Investigation. Such individuals must provide an executed criminal history consent form and a money order, check, or other negotiable instrument payable to the school hiring authority in an amount equal to the actual cost to the government agencies and the school district of conducting the criminal history background check. Notwithstanding section 299C.62, subdivision 1, the cost of the criminal history background check under this paragraph is the responsibility of the individual.

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

**EFFECTIVE DATE.** This section is effective for the 2019-2020 school year and later.

Sec. 11. Minnesota Statutes 2018, section 123B.03, subdivision 2, is amended to read:

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

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

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

Sec. 12. Minnesota Statutes 2018, section 299C.17, is amended to read:

**299C.17 REPORT BY COURT ADMINISTRATOR.**

The superintendent shall require the court administrator of every court ~~which~~ that (1) sentences a defendant for a felony, gross misdemeanor, or targeted misdemeanor, or (2) grants a stay of adjudication pursuant to section 609.095, paragraph (b), clause (2), for an offense that, if convicted of, would require predatory offender registration under section 243.166, to electronically transmit within 24 hours of the disposition of the case a report, in a form prescribed by the superintendent providing information required by the superintendent with regard to the prosecution and disposition of criminal cases. A copy of the report shall be kept on file in the office of the court administrator.

Sec. 13. **[299C.77] BACKGROUND CHECKS; ADDITIONAL DISCLOSURE.**

The superintendent shall disclose to each applicant for a statutorily mandated or authorized background check or background study all records of stays of adjudication granted to the subject of the background check or background study that the superintendent receives pursuant to section 299C.17, clause (2). The data required to be disclosed under this section is in addition to other data on the subject of the background check or background study that the superintendent is mandated to disclose.

Sec. 14. Minnesota Statutes 2018, section 609.095, is amended to read:

**609.095 LIMITS OF SENTENCES.**

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

(b) Except as provided in:

(1) section 152.18 or 609.375 $\frac{1}{2}$ ; or

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

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

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



17.1 Sec. 15. Minnesota Statutes 2018, section 626.556, subdivision 3, is amended to read:

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

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

17.12 (2) employed as a member of the clergy and received the information while engaged in  
17.13 ministerial duties, provided that a member of the clergy is not required by this subdivision  
17.14 to report information that is otherwise privileged under section 595.02, subdivision 1,  
17.15 paragraph (c)-; or

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

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

17.22 (c) A person mandated to report physical or sexual child abuse or neglect occurring  
17.23 within a licensed facility shall report the information to the agency responsible for licensing  
17.24 or certifying the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16;  
17.25 or chapter 144H, 245D, or 245H; or a nonlicensed personal care provider organization as  
17.26 defined in section 256B.0625, subdivision 19a. A health or corrections agency receiving a  
17.27 report may request the local welfare agency to provide assistance pursuant to subdivisions  
17.28 10, 10a, and 10b. A board or other entity whose licensees perform work within a school  
17.29 facility, upon receiving a complaint of alleged maltreatment, shall provide information about  
17.30 the circumstances of the alleged maltreatment to the commissioner of education. Section  
17.31 13.03, subdivision 4, applies to data received by the commissioner of education from a  
17.32 licensing entity.

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

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

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

Sec. 16. Minnesota Statutes 2018, section 626.556, subdivision 10, is amended to read:

Subd. 10. **Duties of local welfare agency and local law enforcement agency upon receipt of report; mandatory notification between police or sheriff and agency.** (a) The police department or the county sheriff shall immediately notify the local welfare agency 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 receives a report or otherwise has information indicating that a child has been the subject of physical abuse, sexual abuse, or neglect by a person licensed by the Professional Educator Licensing and Standards Board or Board of School Administrators, it shall, in addition to its other duties under this section, immediately inform the licensing board.

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

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

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

(3) may conduct a family assessment for reports that do not allege sexual abuse or substantial child endangerment. In determining that a family assessment is appropriate, the

19.1 local welfare agency may consider issues of child safety, parental cooperation, and the need  
19.2 for an immediate response;

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

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

19.12 If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or  
19.13 individual functioning within the family unit as a person responsible for the child's care, or  
19.14 sexual abuse by a person with a significant relationship to the child when that person resides  
19.15 in the child's household or by a sibling, the local welfare agency shall immediately conduct  
19.16 a family assessment or investigation as identified in clauses (1) to (4). In conducting a family  
19.17 assessment or investigation, the local welfare agency shall gather information on the existence  
19.18 of substance abuse and domestic violence and offer services for purposes of preventing  
19.19 future child maltreatment, safeguarding and enhancing the welfare of the abused or neglected  
19.20 minor, and supporting and preserving family life whenever possible. If the report alleges a  
19.21 violation of a criminal statute involving sexual abuse, physical abuse, or neglect or  
19.22 endangerment, under section 609.378, the local law enforcement agency and local welfare  
19.23 agency shall coordinate the planning and execution of their respective investigation and  
19.24 assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews.  
19.25 Each agency shall prepare a separate report of the results of its investigation or assessment.  
19.26 In cases of alleged child maltreatment resulting in death, the local agency may rely on the  
19.27 fact-finding efforts of a law enforcement investigation to make a determination of whether  
19.28 or not maltreatment occurred. When necessary the local welfare agency shall seek authority  
19.29 to remove the child from the custody of a parent, guardian, or adult with whom the child is  
19.30 living. In performing any of these duties, the local welfare agency shall maintain appropriate  
19.31 records.

19.32 If the family assessment or investigation indicates there is a potential for abuse of alcohol  
19.33 or other drugs by the parent, guardian, or person responsible for the child's care, the local  
19.34 welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part  
19.35 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

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

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

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

21.32 (g) Before making an order under paragraph (f), the court shall issue an order to show  
21.33 cause, either upon its own motion or upon a verified petition, specifying the basis for the  
21.34 requested interviews and fixing the time and place of the hearing. The order to show cause  
21.35 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 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.

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

Sec. 17. Minnesota Statutes 2018, section 626.556, subdivision 10e, is amended to read:

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



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

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

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

27.1 the background study disqualification standards under section 245C.15, subdivision 4, and  
27.2 the licensing or certification actions under section 245A.06, 245A.07, 245H.06, or 245H.07  
27.3 apply.

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

27.5 Sec. 18. Minnesota Statutes 2018, section 631.40, subdivision 1a, is amended to read:

27.6 Subd. 1a. **Certified copy of disqualifying offense convictions sent to public safety**  
27.7 **and school districts.** When a person is convicted of committing a disqualifying offense,  
27.8 as defined in section 171.3215, subdivision 1, a gross misdemeanor, a fourth moving violation  
27.9 within the previous three years, or a violation of section 169A.20, or a similar statute or  
27.10 ordinance from another state, or if the person received a stay of adjudication for an offense  
27.11 that, if convicted of, would require predatory offender registration under section 243.166,  
27.12 the court shall determine whether the offender is a school bus driver as defined in section  
27.13 171.3215, subdivision 1, whether the offender possesses a school bus driver's endorsement  
27.14 on the offender's driver's license and in what school districts the offender drives a school  
27.15 bus. If the offender is a school bus driver or possesses a school bus driver's endorsement,  
27.16 the court administrator shall send a certified copy of the conviction or stay of adjudication  
27.17 to the Department of Public Safety and to the school districts in which the offender drives  
27.18 a school bus within ten days after the conviction or stay of adjudication.

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