

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

S.F. No. 3787

(SENATE AUTHORS: HOFFMAN and Abeler)

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Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to human services; modifying provisions regarding child welfare responses
1.3 to child sex trafficking and sexual exploitation of children; amending Minnesota
1.4 Statutes 2018, sections 260.761, subdivision 2; 260C.007, subdivisions 14, 31;
1.5 626.556, subdivisions 1, 7, 10e, 10f, 10i, 10k, 10l, 10m, 11c; 626.558, subdivision
1.6 1; 626.559, by adding a subdivision; Minnesota Statutes 2019 Supplement, section
1.7 626.556, subdivisions 2, 3e, 10.

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

1.9 Section 1. Minnesota Statutes 2018, section 260.761, subdivision 2, is amended to read:

1.10 Subd. 2. **Agency and court notice to tribes.** (a) When a local social services agency
1.11 has information that a family assessment ~~or~~ investigation, or noncaregiver sex trafficking
1.12 assessment being conducted may involve an Indian child, the local social services agency
1.13 shall notify the Indian child's tribe of the family assessment ~~or~~ investigation, or noncaregiver
1.14 sex trafficking assessment according to section 626.556, subdivision 10, paragraph ~~(a)~~ (b),
1.15 clause ~~(5)~~ (7). Initial notice shall be provided by telephone and by e-mail or facsimile. The
1.16 local social services agency shall request that the tribe or a designated tribal representative
1.17 participate in evaluating the family circumstances, identifying family and tribal community
1.18 resources, and developing case plans.

1.19 (b) When a local social services agency has information that a child receiving services
1.20 may be an Indian child, the local social services agency shall notify the tribe by telephone
1.21 and by e-mail or facsimile of the child's full name and date of birth, the full names and dates
1.22 of birth of the child's biological parents, and, if known, the full names and dates of birth of
1.23 the child's grandparents and of the child's Indian custodian. This notification must be provided
1.24 so the tribe can determine if the child is enrolled in the tribe or eligible for membership,

2.1 and must be provided within seven days. If information regarding the child's grandparents
2.2 or Indian custodian is not available within the seven-day period, the local social services
2.3 agency shall continue to request this information and shall notify the tribe when it is received.
2.4 Notice shall be provided to all tribes to which the child may have any tribal lineage. If the
2.5 identity or location of the child's parent or Indian custodian and tribe cannot be determined,
2.6 the local social services agency shall provide the notice required in this paragraph to the
2.7 United States secretary of the interior.

2.8 (c) In accordance with sections 260C.151 and 260C.152, when a court has reason to
2.9 believe that a child placed in emergency protective care is an Indian child, the court
2.10 administrator or a designee shall, as soon as possible and before a hearing takes place, notify
2.11 the tribal social services agency by telephone and by e-mail or facsimile of the date, time,
2.12 and location of the emergency protective case hearing. The court shall make efforts to allow
2.13 appearances by telephone for tribal representatives, parents, and Indian custodians.

2.14 (d) A local social services agency must provide the notices required under this subdivision
2.15 at the earliest possible time to facilitate involvement of the Indian child's tribe. Nothing in
2.16 this subdivision is intended to hinder the ability of the local social services agency and the
2.17 court to respond to an emergency situation. Lack of participation by a tribe shall not prevent
2.18 the tribe from intervening in services and proceedings at a later date. A tribe may participate
2.19 at any time. At any stage of the local social services agency's involvement with an Indian
2.20 child, the agency shall provide full cooperation to the tribal social services agency, including
2.21 disclosure of all data concerning the Indian child. Nothing in this subdivision relieves the
2.22 local social services agency of satisfying the notice requirements in the Indian Child Welfare
2.23 Act.

2.24 Sec. 2. Minnesota Statutes 2018, section 260C.007, subdivision 14, is amended to read:

2.25 Subd. 14. **Egregious harm.** "Egregious harm" means the infliction of bodily harm to a
2.26 child or neglect of a child which demonstrates a grossly inadequate ability to provide
2.27 minimally adequate parental care. The egregious harm need not have occurred in the state
2.28 or in the county where a termination of parental rights action is otherwise properly venued.
2.29 Egregious harm includes, but is not limited to:

2.30 (1) conduct towards a child that constitutes a violation of sections 609.185 to 609.2114,
2.31 609.222, subdivision 2, 609.223, or any other similar law of any other state;

2.32 (2) the infliction of "substantial bodily harm" to a child, as defined in section 609.02,
2.33 subdivision 7a;

3.1 (3) conduct towards a child that constitutes felony malicious punishment of a child under
3.2 section 609.377;

3.3 (4) conduct towards a child that constitutes felony unreasonable restraint of a child under
3.4 section 609.255, subdivision 3;

3.5 (5) conduct towards a child that constitutes felony neglect or endangerment of a child
3.6 under section 609.378;

3.7 (6) conduct towards a child that constitutes assault under section 609.221, 609.222, or
3.8 609.223;

3.9 (7) conduct towards a child that constitutes sex trafficking or solicitation, inducement,
3.10 or promotion of, or receiving profit derived from prostitution under section 609.322;

3.11 (8) conduct towards a child that constitutes murder or voluntary manslaughter as defined
3.12 by United States Code, title 18, section 1111(a) or 1112(a);

3.13 (9) conduct towards a child that constitutes aiding or abetting, attempting, conspiring,
3.14 or soliciting to commit a murder or voluntary manslaughter that constitutes a violation of
3.15 United States Code, title 18, section 1111(a) or 1112(a); or

3.16 (10) conduct toward a child that constitutes criminal sexual conduct under sections
3.17 609.342 to 609.345.

3.18 Sec. 3. Minnesota Statutes 2018, section 260C.007, subdivision 31, is amended to read:

3.19 Subd. 31. **Sexually exploited youth.** "Sexually exploited youth" means an individual
3.20 who:

3.21 (1) is alleged to have engaged in conduct which would, if committed by an adult, violate
3.22 any federal, state, or local law relating to being hired, offering to be hired, or agreeing to
3.23 be hired by another individual to engage in sexual penetration or sexual conduct;

3.24 (2) is a victim of a crime described in section 609.342, 609.343, 609.344, 609.345,
3.25 609.3451, 609.3453, 609.352, 617.246, or 617.247;

3.26 (3) is a victim of a crime described in United States Code, title 18, section 1591; 2260;
3.27 2421; 2422; 2423; 2425; 2425A; or 2256; or

3.28 (4) is a sex trafficking victim as defined in section 609.321, subdivision 7b.

4.1 Sec. 4. Minnesota Statutes 2018, section 626.556, subdivision 1, is amended to read:

4.2 Subdivision 1. **Public policy.** (a) The legislature hereby declares that the public policy
4.3 of this state is to protect children whose health or welfare may be jeopardized through
4.4 physical abuse, neglect, or sexual abuse. While it is recognized that most parents want to
4.5 keep their children safe, sometimes circumstances or conditions interfere with their ability
4.6 to do so. When this occurs, the health and safety of the children must be of paramount
4.7 concern. Intervention and prevention efforts must address immediate concerns for child
4.8 safety and the ongoing risk of abuse or neglect and should engage the protective capacities
4.9 of families. In furtherance of this public policy, it is the intent of the legislature under this
4.10 section to:

4.11 (1) protect children and promote child safety;

4.12 (2) strengthen the family;

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

4.15 (4) provide, when necessary, a safe temporary or permanent home environment for
4.16 physically or sexually abused or neglected children.

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

4.18 (1) require the reporting of neglect or physical or sexual abuse of children in the home,
4.19 school, and community settings;

4.20 (2) provide for the voluntary reporting of abuse or neglect of children;

4.21 (3) require an investigation when the report alleges sexual abuse, except reports of sex
4.22 trafficking by a noncaregiver sex trafficker, or substantial child endangerment;

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

4.25 (5) provide a noncaregiver sex trafficking assessment when the report alleges sex
4.26 trafficking by a noncaregiver sex trafficker; and

4.27 (6) provide protective, family support, and family preservation services when needed
4.28 in appropriate cases.

5.1 Sec. 5. Minnesota Statutes 2019 Supplement, section 626.556, subdivision 2, is amended
5.2 to read:

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

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

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

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

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

5.12 (c) "Facility" means:

5.13 (1) a licensed or unlicensed day care facility, certified license-exempt child care center,
5.14 residential facility, agency, hospital, sanitarium, or other facility or institution required to
5.15 be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter
5.16 144H, 245D, or 245H;

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

5.19 (3) a nonlicensed personal care provider organization as defined in section 256B.0625,
5.20 subdivision 19a.

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

5.27 (e) "Investigation" means fact gathering related to the current safety of a child and the
5.28 risk of subsequent maltreatment that determines whether child maltreatment occurred and
5.29 whether child protective services are needed. An investigation must be used when reports
5.30 involve sexual abuse or substantial child endangerment, and for reports of maltreatment in
5.31 facilities required to be licensed or certified under chapter 245A, 245D, or 245H; under
5.32 sections 144.50 to 144.58 and 241.021; in a school as defined in section 120A.05,

6.1 subdivisions 9, 11, and 13, and chapter 124E; or in a nonlicensed personal care provider
6.2 association as defined in section 256B.0625, subdivision 19a. An investigation is not required
6.3 when reports involve sex trafficking by a noncaregiver sex trafficker.

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

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

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

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

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

6.21 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
6.22 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
6.23 child with sympathomimetic medications, consistent with section 125A.091, subdivision
6.24 5;

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

7.1 (6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision
7.2 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in
7.3 the child at birth, results of a toxicology test performed on the mother at delivery or the
7.4 child at birth, medical effects or developmental delays during the child's first year of life
7.5 that medically indicate prenatal exposure to a controlled substance, or the presence of a
7.6 fetal alcohol spectrum disorder;

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

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

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

7.15 (h) "Noncaregiver sex trafficker" means a person who is alleged to have engaged in the
7.16 act of sex trafficking a child and who is not a person responsible for the child's care; a person
7.17 who has a significant relationship to the child, as defined in section 609.341, subdivision
7.18 15; or a person in a current or recent position of authority, as defined in section 609.341,
7.19 subdivision 10.

7.20 (i) "Noncaregiver sex trafficking assessment" means a comprehensive assessment of
7.21 child safety, risk of subsequent child maltreatment, and strengths and needs of the child and
7.22 the family. The noncaregiver sex trafficking assessment does not include a determination
7.23 as to whether child maltreatment occurred but does determine the need for services to address
7.24 the safety of the child and family members and the risk of subsequent maltreatment.

7.25 ~~(h)~~ (j) "Nonmaltreatment mistake" means:

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

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

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

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

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

8.7 This definition only applies to child care centers licensed under Minnesota Rules, chapter
8.8 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated
8.9 maltreatment by the individual, the commissioner of human services shall determine that a
8.10 nonmaltreatment mistake was made by the individual.

8.11 ~~(j)~~ (k) "Operator" means an operator or agency as defined in section 245A.02.

8.12 ~~(j)~~ (l) "Person responsible for the child's care" means (1) an individual functioning within
8.13 the family unit and having responsibilities for the care of the child such as a parent, guardian,
8.14 or other person having similar care responsibilities, or (2) an individual functioning outside
8.15 the family unit and having responsibilities for the care of the child such as a teacher, school
8.16 administrator, other school employees or agents, or other lawful custodian of a child having
8.17 either full-time or short-term care responsibilities including, but not limited to, day care,
8.18 babysitting whether paid or unpaid, counseling, teaching, and coaching.

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

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

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

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

8.31 (3) shaking a child under age three;

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

- 9.1 (5) unreasonable interference with a child's breathing;
- 9.2 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- 9.3 (7) striking a child under age one on the face or head;
- 9.4 (8) striking a child who is at least age one but under age four on the face or head, which
9.5 results in an injury;
- 9.6 (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
9.7 substances which were not prescribed for the child by a practitioner, in order to control or
9.8 punish the child; or other substances that substantially affect the child's behavior, motor
9.9 coordination, or judgment or that results in sickness or internal injury, or subjects the child
9.10 to medical procedures that would be unnecessary if the child were not exposed to the
9.11 substances;
- 9.12 (10) unreasonable physical confinement or restraint not permitted under section 609.379,
9.13 including but not limited to tying, caging, or chaining; or
- 9.14 (11) in a school facility or school zone, an act by a person responsible for the child's
9.15 care that is a violation under section 121A.58.
- 9.16 ~~(t)~~ (n) "Practice of social services," for the purposes of subdivision 3, includes but is not
9.17 limited to employee assistance counseling and the provision of guardian ad litem and
9.18 parenting time expeditor services.
- 9.19 ~~(m)~~ (o) "Report" means any communication received by the local welfare agency, police
9.20 department, county sheriff, or agency responsible for child protection pursuant to this section
9.21 that describes neglect or physical or sexual abuse of a child and contains sufficient content
9.22 to identify the child and any person believed to be responsible for the neglect or abuse, if
9.23 known.
- 9.24 ~~(n)~~ (p) "Sexual abuse" means the subjection of a child by a person responsible for the
9.25 child's care, by a person who has a significant relationship to the child, as defined in section
9.26 609.341, or by a person in a current or recent position of authority, as defined in section
9.27 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal
9.28 sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
9.29 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in
9.30 the fourth degree), 609.3451 (criminal sexual conduct in the fifth degree), or 609.352
9.31 (solicitation of children to engage in sexual conduct; communication of sexually explicit
9.32 materials to children). Sexual abuse also includes any act which involves a minor which
9.33 constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246.

10.1 Sexual abuse includes all reports of known or suspected child sex trafficking involving a
 10.2 child who is identified as a victim of sex trafficking. Sexual abuse includes child sex
 10.3 trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes
 10.4 threatened sexual abuse which includes the status of a parent or household member who
 10.5 has committed a violation which requires registration as an offender under section 243.166,
 10.6 subdivision 1b, paragraph (a) or (b), or required registration under section 243.166,
 10.7 subdivision 1b, paragraph (a) or (b).

10.8 ~~(p)~~ (q) "Substantial child endangerment" means a person responsible for a child's care,
 10.9 by act or omission, commits or attempts to commit an act against a child under their care
 10.10 that constitutes any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11.12 A child is the subject of a report of threatened injury when the responsible social services
 11.13 agency receives birth match data under paragraph (q) from the Department of Human
 11.14 Services.

11.15 ~~(q)~~ (s) Upon receiving data under section 144.225, subdivision 2b, contained in a birth
 11.16 record or recognition of parentage identifying a child who is subject to threatened injury
 11.17 under paragraph (p), the Department of Human Services shall send the data to the responsible
 11.18 social services agency. The data is known as "birth match" data. Unless the responsible
 11.19 social services agency has already begun an investigation or assessment of the report due
 11.20 to the birth of the child or execution of the recognition of parentage and the parent's previous
 11.21 history with child protection, the agency shall accept the birth match data as a report under
 11.22 this section. The agency may use either a family assessment or investigation to determine
 11.23 whether the child is safe. All of the provisions of this section apply. If the child is determined
 11.24 to be safe, the agency shall consult with the county attorney to determine the appropriateness
 11.25 of filing a petition alleging the child is in need of protection or services under section
 11.26 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is
 11.27 determined not to be safe, the agency and the county attorney shall take appropriate action
 11.28 as required under section 260C.503, subdivision 2.

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

12.1 Sec. 6. Minnesota Statutes 2019 Supplement, section 626.556, subdivision 3e, is amended
12.2 to read:

12.3 Subd. 3e. **Agency responsible for assessing or investigating reports of sexual**
12.4 **abuse.** The local welfare agency is the agency responsible for investigating allegations of
12.5 sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual
12.6 functioning within the family unit as a person responsible for the child's care, or a person
12.7 with a significant relationship to the child if that person resides in the child's household.
12.8 The local welfare agency is also responsible for assessing or investigating when a child is
12.9 identified as a victim of sex trafficking.

12.10 Sec. 7. Minnesota Statutes 2018, section 626.556, subdivision 7, is amended to read:

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

12.16 (b) The local welfare agency shall determine if the report is to be screened in or out as
12.17 soon as possible but in no event longer than 24 hours after the report is received. When
12.18 determining whether a report will be screened in or out, the agency receiving the report
12.19 must consider, when relevant, all previous history, including reports that were screened out.
12.20 The agency may communicate with treating professionals and individuals specified under
12.21 subdivision 10, paragraph (i), clause (3), item (iii).

12.22 (c) Any report shall be of sufficient content to identify the child, any person believed to
12.23 be responsible for the abuse or neglect of the child if the person is known, the nature and
12.24 extent of the abuse or neglect and the name and address of the reporter. The local welfare
12.25 agency or agency responsible for assessing or investigating the report shall accept a report
12.26 made under subdivision 3 notwithstanding refusal by a reporter to provide the reporter's
12.27 name or address as long as the report is otherwise sufficient under this paragraph. Written
12.28 reports received by a police department or the county sheriff shall be forwarded immediately
12.29 to the local welfare agency or the agency responsible for assessing or investigating the
12.30 report. The police department or the county sheriff may keep copies of reports received by
12.31 them. Copies of written reports received by a local welfare department or the agency
12.32 responsible for assessing or investigating the report shall be forwarded immediately to the
12.33 local police department or the county sheriff.

13.1 (d) When requested, the agency responsible for assessing or investigating a report shall
13.2 inform the reporter within ten days after the report was made, either orally or in writing,
13.3 whether the report was accepted or not. If the responsible agency determines the report does
13.4 not constitute a report under this section, the agency shall advise the reporter the report was
13.5 screened out. Any person mandated to report shall receive a summary of the disposition of
13.6 any report made by that reporter, including whether the case has been opened for child
13.7 protection or other services, or if a referral has been made to a community organization,
13.8 unless release would be detrimental to the best interests of the child. Any person who is not
13.9 mandated to report shall, upon request to the local welfare agency, receive a concise summary
13.10 of the disposition of any report made by that reporter, unless release would be detrimental
13.11 to the best interests of the child.

13.12 (e) Reports that are screened out must be maintained in accordance with subdivision
13.13 11c, paragraph (a).

13.14 (f) A local welfare agency or agency responsible for investigating or assessing a report
13.15 may use a screened-out report for making an offer of social services to the subjects of the
13.16 screened-out report. A local welfare agency or agency responsible for evaluating a report
13.17 alleging maltreatment of a child shall consider prior reports, including screened-out reports,
13.18 to determine whether an investigation ~~or~~, family assessment, or noncaregiver sex trafficking
13.19 assessment must be conducted.

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

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

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

14.1 Sec. 8. Minnesota Statutes 2019 Supplement, section 626.556, subdivision 10, is amended
14.2 to read:

14.3 Subd. 10. **Duties of local welfare agency and local law enforcement agency upon**
14.4 **receipt of report; mandatory notification between police or sheriff and agency.** (a) The
14.5 police department or the county sheriff shall immediately notify the local welfare agency
14.6 or agency responsible for child protection reports under this section orally and in writing
14.7 when a report is received. The local welfare agency or agency responsible for child protection
14.8 reports shall immediately notify the local police department or the county sheriff orally and
14.9 in writing when a report is received. The county sheriff and the head of every local welfare
14.10 agency, agency responsible for child protection reports, and police department shall each
14.11 designate a person within their agency, department, or office who is responsible for ensuring
14.12 that the notification duties of this paragraph are carried out. When the alleged maltreatment
14.13 occurred on tribal land, the local welfare agency or agency responsible for child protection
14.14 reports and the local police department or the county sheriff shall immediately notify the
14.15 tribe's social services agency and tribal law enforcement orally and in writing when a report
14.16 is received. When a police department or county sheriff determines that a child has been
14.17 the subject of physical abuse, sexual abuse, or neglect by a person licensed by the
14.18 Professional Educator Licensing and Standards Board or the Board of School Administrators,
14.19 the department or sheriff shall, in addition to its other duties under this section, immediately
14.20 inform the licensing board.

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

14.24 (1) shall conduct an investigation on reports involving sexual abuse, except as indicated
14.25 in clause (5), or substantial child endangerment;

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

14.29 (3) may conduct a family assessment for reports that do not allege sexual abuse, except
14.30 as indicated in clause (5), or substantial child endangerment. In determining that a family
14.31 assessment is appropriate, the local welfare agency may consider issues of child safety,
14.32 parental cooperation, and the need for an immediate response;

14.33 (4) may conduct a family assessment on a report that was initially screened and assigned
14.34 for an investigation. In determining that a complete investigation is not required, the local

15.1 welfare agency must document the reason for terminating the investigation and notify the
 15.2 local law enforcement agency if the local law enforcement agency is conducting a joint
 15.3 investigation; ~~and~~

15.4 (5) shall conduct a noncaregiver sex trafficking assessment on reports involving sex
 15.5 trafficking when the alleged offender is a noncaregiver sex trafficker;

15.6 (6) shall begin an immediate investigation if at any time during the noncaregiver sex
 15.7 trafficking assessment the local child welfare agency determines that there is reason to
 15.8 believe that the alleged offender in a sex trafficking allegation or any other allegation
 15.9 requiring an investigation is a person responsible for the child's care; a person who has a
 15.10 significant relationship to the child, as defined in section 609.341; or a person in a current
 15.11 or recent position of authority, as defined in section 609.341, subdivision 10; and

15.12 ~~(5)~~ (7) shall provide immediate notice, according to section 260.761, subdivision 2, to
 15.13 an Indian child's tribe when the agency has reason to believe the family assessment ~~or,~~
 15.14 investigation, or noncaregiver sex trafficking assessment may involve an Indian child. For
 15.15 purposes of this clause, "immediate notice" means notice provided within 24 hours.

15.16 If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or
 15.17 individual functioning within the family unit as a person responsible for the child's care, or
 15.18 sexual abuse by a person with a significant relationship to the child when that person resides
 15.19 in the child's household or by a sibling, the local welfare agency shall immediately conduct
 15.20 a family assessment or investigation as identified in clauses (1) to (4). If the report alleges
 15.21 sex trafficking by a noncaregiver sex trafficker, the local welfare agency shall immediately
 15.22 conduct a noncaregiver sex trafficking assessment. In conducting a family assessment ~~or,~~
 15.23 investigation, or noncaregiver sex trafficking assessment, the local welfare agency shall
 15.24 gather information on the existence of substance abuse and domestic violence and offer
 15.25 services for purposes of preventing future child maltreatment, safeguarding and enhancing
 15.26 the welfare of the abused or neglected minor, and supporting and preserving family life
 15.27 whenever possible. If the report alleges a violation of a criminal statute involving sexual
 15.28 abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law
 15.29 enforcement agency and local welfare agency shall coordinate the planning and execution
 15.30 of their respective investigation and assessment efforts to avoid a duplication of fact-finding
 15.31 efforts and multiple interviews. Each agency shall prepare a separate report of the results
 15.32 of its investigation or assessment. In cases of alleged child maltreatment resulting in death,
 15.33 the local agency may rely on the fact-finding efforts of a law enforcement investigation to
 15.34 make a determination of whether or not maltreatment occurred. When necessary the local
 15.35 welfare agency shall seek authority to remove the child from the custody of a parent,

16.1 guardian, or adult with whom the child is living. In performing any of these duties, the local
16.2 welfare agency shall maintain appropriate records.

16.3 If the family assessment or investigation indicates there is a potential for abuse of alcohol
16.4 or other drugs by the parent, guardian, or person responsible for the child's care, the local
16.5 welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part
16.6 9530.6615.

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

16.15 (d) Authority of the local welfare agency responsible for assessing or investigating the
16.16 child abuse or neglect report, the agency responsible for assessing or investigating the report,
16.17 and of the local law enforcement agency for investigating the alleged abuse or neglect
16.18 includes, but is not limited to, authority to interview, without parental consent, the alleged
16.19 victim and any other minors who currently reside with or who have resided with the alleged
16.20 offender. The interview may take place at school or at any facility or other place where the
16.21 alleged victim or other minors might be found or the child may be transported to, and the
16.22 interview conducted at, a place appropriate for the interview of a child designated by the
16.23 local welfare agency or law enforcement agency. The interview may take place outside the
16.24 presence of the alleged offender or parent, legal custodian, guardian, or school official. For
16.25 family assessments, it is the preferred practice to request a parent or guardian's permission
16.26 to interview the child prior to conducting the child interview, unless doing so would
16.27 compromise the safety assessment. Except as provided in this paragraph, the parent, legal
16.28 custodian, or guardian shall be notified by the responsible local welfare or law enforcement
16.29 agency no later than the conclusion of the investigation or assessment that this interview
16.30 has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile
16.31 Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare
16.32 agency, order that, where reasonable cause exists, the agency withhold notification of this
16.33 interview from the parent, legal custodian, or guardian. If the interview took place or is to
16.34 take place on school property, the order shall specify that school officials may not disclose
16.35 to the parent, legal custodian, or guardian the contents of the notification of intent to interview

17.1 the child on school property, as provided under this paragraph, and any other related
17.2 information regarding the interview that may be a part of the child's school record. A copy
17.3 of the order shall be sent by the local welfare or law enforcement agency to the appropriate
17.4 school official.

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

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

17.32 (f) Where the alleged offender or a person responsible for the care of the alleged victim
17.33 or other minor prevents access to the victim or other minor by the local welfare agency, the
17.34 juvenile court may order the parents, legal custodian, or guardian to produce the alleged
17.35 victim or other minor for questioning by the local welfare agency or the local law

18.1 enforcement agency outside the presence of the alleged offender or any person responsible
18.2 for the child's care at reasonable places and times as specified by court order.

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

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

18.19 (i) The local welfare agency responsible for conducting a family assessment ~~or~~
18.20 investigation, or noncaregiver sex trafficking assessment shall collect available and relevant
18.21 information to determine child safety, risk of subsequent child maltreatment, and family
18.22 strengths and needs and share not public information with an Indian's tribal social services
18.23 agency without violating any law of the state that may otherwise impose duties of
18.24 confidentiality on the local welfare agency in order to implement the tribal state agreement.
18.25 ~~The local welfare agency or the agency responsible for investigating the report shall collect~~
18.26 ~~available and relevant information to ascertain whether maltreatment occurred and whether~~
18.27 ~~protective services are needed.~~ Information collected includes, when relevant, information
18.28 with regard to the person reporting the alleged maltreatment, including the nature of the
18.29 reporter's relationship to the child and to the alleged offender, and the basis of the reporter's
18.30 knowledge for the report; the child allegedly being maltreated; the alleged offender; the
18.31 child's caretaker; and other collateral sources having relevant information related to the
18.32 alleged maltreatment. The local welfare agency or the agency responsible for investigating
18.33 the report shall collect available and relevant information to ascertain whether maltreatment
18.34 occurred and whether protective services are needed. The local welfare agency or the agency
18.35 responsible for investigating the report may make a determination of no maltreatment early

19.1 in an investigation, and close the case and retain immunity, if the collected information
19.2 shows no basis for a full investigation.

19.3 Information relevant to the family assessment or investigation, or noncaregiver sex
19.4 trafficking assessment must be asked for, and may include:

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

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

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

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

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

19.29 Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access
19.30 to medical data and records for purposes of clause (3). Notwithstanding the data's
19.31 classification in the possession of any other agency, data acquired by the local welfare
19.32 agency or the agency responsible for assessing or investigating the report during the course
19.33 of the assessment or investigation are private data on individuals and must be maintained
19.34 in accordance with subdivision 11. Data of the commissioner of education collected or

20.1 maintained during and for the purpose of an investigation of alleged maltreatment in a school
20.2 are governed by this section, notwithstanding the data's classification as educational,
20.3 licensing, or personnel data under chapter 13.

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

20.8 (j) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact
20.9 with the child reported to be maltreated and with the child's primary caregiver sufficient to
20.10 complete a safety assessment and ensure the immediate safety of the child. The face-to-face
20.11 contact with the child and primary caregiver shall occur immediately if sexual abuse, except
20.12 in noncaregiver sex trafficking assessments, or substantial child endangerment is alleged
20.13 and within five calendar days for all other reports. If the alleged offender was not already
20.14 interviewed as the primary caregiver, the local welfare agency shall also conduct a
20.15 face-to-face interview with the alleged offender in the early stages of the assessment or
20.16 investigation, except in noncaregiver sex trafficking assessments. At the initial contact, the
20.17 local child welfare agency or the agency responsible for ~~assessing or investigating the report~~
20.18 the family assessment or investigation must inform the alleged offender of the complaints
20.19 or allegations made against the individual in a manner consistent with laws protecting the
20.20 rights of the person who made the report. The interview with the alleged offender may be
20.21 postponed if it would jeopardize an active law enforcement investigation. In cases of
20.22 noncaregiver sex trafficking assessments, there is no requirement for the local child welfare
20.23 agency or the agency responsible for investigating the report to inform or interview the
20.24 alleged offender.

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

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

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

20.32 (l) In conducting an assessment or investigation involving a school facility as defined
20.33 in subdivision 2, paragraph (c), the commissioner of education shall collect available and
20.34 relevant information and use the procedures in paragraphs (j) and (k), and subdivision 3d,

21.1 except that the requirement for face-to-face observation of the child and face-to-face interview
21.2 of the alleged offender is to occur in the initial stages of the assessment or investigation
21.3 provided that the commissioner may also base the assessment or investigation on investigative
21.4 reports and data received from the school facility and local law enforcement, to the extent
21.5 those investigations satisfy the requirements of paragraphs (j) and (k), and subdivision 3d.

21.6 Sec. 9. Minnesota Statutes 2018, section 626.556, subdivision 10e, is amended to read:

21.7 Subd. 10e. **Determinations.** (a) The local welfare agency shall conclude the family
21.8 assessment ~~or the~~, investigation, or noncaregiver sex trafficking assessment within 45 days
21.9 of the receipt of a report. The conclusion of the family assessment or
21.10 noncaregiver sex trafficking assessment may be extended to permit the completion of a
21.11 criminal investigation or the receipt of expert information requested within 45 days of the
21.12 receipt of the report.

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

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

21.20 (d) If the commissioner of education conducts an assessment or investigation, the
21.21 commissioner shall determine whether maltreatment occurred and what corrective or
21.22 protective action was taken by the school facility. If a determination is made that
21.23 maltreatment has occurred, the commissioner shall report to the employer, the school board,
21.24 and any appropriate licensing entity the determination that maltreatment occurred and what
21.25 corrective or protective action was taken by the school facility. In all other cases, the
21.26 commissioner shall inform the school board or employer that a report was received, the
21.27 subject of the report, the date of the initial report, the category of maltreatment alleged as
21.28 defined in paragraph (f), the fact that maltreatment was not determined, and a summary of
21.29 the specific reasons for the determination.

21.30 (e) When maltreatment is determined in an investigation involving a facility, the
21.31 investigating agency shall also determine whether the facility or individual was responsible,
21.32 or whether both the facility and the individual were responsible for the maltreatment using
21.33 the mitigating factors in paragraph (i). Determinations under this subdivision must be made

22.1 based on a preponderance of the evidence and are private data on individuals or nonpublic
22.2 data as maintained by the commissioner of education.

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

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

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

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

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

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

22.10 (g) For the purposes of this subdivision, a determination that child protective services
22.11 are needed means that the local welfare agency has documented conditions during the family
22.12 assessment or, investigation, or noncaregiver sex trafficking assessment sufficient to cause
22.13 a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a
22.14 child is at significant risk of maltreatment if protective intervention is not provided and that
22.15 the individuals responsible for the child's care have not taken or are not likely to take actions
22.16 to protect the child from maltreatment or risk of maltreatment.

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

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

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

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

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

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

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

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

23.20 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion of a
23.21 family assessment or noncaregiver sex trafficking assessment, the local welfare agency
23.22 shall notify the parent or guardian of the child of the need for services to address child safety
23.23 concerns or significant risk of subsequent child maltreatment. The local welfare agency and
23.24 the family may also jointly agree that family support and family preservation services are
23.25 needed. Within ten working days of the conclusion of an investigation, the local welfare
23.26 agency or agency responsible for investigating the report shall notify the parent or guardian
23.27 of the child, the person determined to be maltreating the child, and, if applicable, the director
23.28 of the facility, of the determination and a summary of the specific reasons for the
23.29 determination. When the investigation involves a child foster care setting that is monitored
23.30 by a private licensing agency under section 245A.16, the local welfare agency responsible
23.31 for investigating the report shall notify the private licensing agency of the determination
23.32 and shall provide a summary of the specific reasons for the determination. The notice to
23.33 the private licensing agency must include identifying private data, but not the identity of
23.34 the reporter of maltreatment. The notice must also include a certification that the information

24.1 collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and
24.2 a notice of the right of a data subject to obtain access to other private data on the subject
24.3 collected, created, or maintained under this section. In addition, the notice shall include the
24.4 length of time that the records will be kept under subdivision 11c. The investigating agency
24.5 shall notify the parent or guardian of the child who is the subject of the report, and any
24.6 person or facility determined to have maltreated a child, of their appeal or review rights
24.7 under this section. The notice must also state that a finding of maltreatment may result in
24.8 denial of a license or certification application or background study disqualification under
24.9 chapter 245C related to employment or services that are licensed or certified by the
24.10 Department of Human Services under chapter 245A or 245H, the Department of Health
24.11 under chapter 144 or 144A, the Department of Corrections under section 241.021, and from
24.12 providing services related to an unlicensed personal care provider organization under chapter
24.13 256B.

24.14 Sec. 11. Minnesota Statutes 2018, section 626.556, subdivision 10i, is amended to read:

24.15 Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative
24.16 reconsideration is not applicable in family assessments or noncaregiver sex trafficking
24.17 assessments since no determination concerning maltreatment is made. For investigations,
24.18 except as provided under paragraph (e), an individual or facility that the commissioner of
24.19 human services, a local social service agency, or the commissioner of education determines
24.20 has maltreated a child, an interested person acting on behalf of the child, regardless of the
24.21 determination, who contests the investigating agency's final determination regarding
24.22 maltreatment, may request the investigating agency to reconsider its final determination
24.23 regarding maltreatment. The request for reconsideration must be submitted in writing to the
24.24 investigating agency within 15 calendar days after receipt of notice of the final determination
24.25 regarding maltreatment or, if the request is made by an interested person who is not entitled
24.26 to notice, within 15 days after receipt of the notice by the parent or guardian of the child.
24.27 If mailed, the request for reconsideration must be postmarked and sent to the investigating
24.28 agency within 15 calendar days of the individual's or facility's receipt of the final
24.29 determination. If the request for reconsideration is made by personal service, it must be
24.30 received by the investigating agency within 15 calendar days after the individual's or facility's
24.31 receipt of the final determination. Effective January 1, 2002, an individual who was
24.32 determined to have maltreated a child under this section and who was disqualified on the
24.33 basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request
24.34 reconsideration of the maltreatment determination and the disqualification. The request for
24.35 reconsideration of the maltreatment determination and the disqualification must be submitted

25.1 within 30 calendar days of the individual's receipt of the notice of disqualification under
25.2 sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment
25.3 determination and the disqualification must be postmarked and sent to the investigating
25.4 agency within 30 calendar days of the individual's receipt of the maltreatment determination
25.5 and notice of disqualification. If the request for reconsideration is made by personal service,
25.6 it must be received by the investigating agency within 30 calendar days after the individual's
25.7 receipt of the notice of disqualification.

25.8 (b) Except as provided under paragraphs (e) and (f), if the investigating agency denies
25.9 the request or fails to act upon the request within 15 working days after receiving the request
25.10 for reconsideration, the person or facility entitled to a fair hearing under section 256.045
25.11 may submit to the commissioner of human services or the commissioner of education a
25.12 written request for a hearing under that section. Section 256.045 also governs hearings
25.13 requested to contest a final determination of the commissioner of education. The investigating
25.14 agency shall notify persons who request reconsideration of their rights under this paragraph.
25.15 The hearings specified under this section are the only administrative appeal of a decision
25.16 issued under paragraph (a). Determinations under this section are not subject to accuracy
25.17 and completeness challenges under section 13.04.

25.18 (c) If, as a result of a reconsideration or review, the investigating agency changes the
25.19 final determination of maltreatment, that agency shall notify the parties specified in
25.20 subdivisions 10b, 10d, and 10f.

25.21 (d) Except as provided under paragraph (f), if an individual or facility contests the
25.22 investigating agency's final determination regarding maltreatment by requesting a fair
25.23 hearing under section 256.045, the commissioner of human services shall assure that the
25.24 hearing is conducted and a decision is reached within 90 days of receipt of the request for
25.25 a hearing. The time for action on the decision may be extended for as many days as the
25.26 hearing is postponed or the record is held open for the benefit of either party.

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

26.1 requests a fair hearing on the maltreatment determination and the disqualification, the scope
26.2 of the fair hearing shall include both the maltreatment determination and the disqualification.

26.3 (f) If a maltreatment determination or a disqualification based on serious or recurring
26.4 maltreatment is the basis for a denial of a license under section 245A.05 or a licensing
26.5 sanction under section 245A.07, the license holder has the right to a contested case hearing
26.6 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for
26.7 under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include
26.8 the maltreatment determination, disqualification, and licensing sanction or denial of a license.
26.9 In such cases, a fair hearing regarding the maltreatment determination and disqualification
26.10 shall not be conducted under section 256.045. Except for family child care and child foster
26.11 care, reconsideration of a maltreatment determination as provided under this subdivision,
26.12 and reconsideration of a disqualification as provided under section 245C.22, shall also not
26.13 be conducted when:

26.14 (1) a denial of a license under section 245A.05 or a licensing sanction under section
26.15 245A.07, is based on a determination that the license holder is responsible for maltreatment
26.16 or the disqualification of a license holder based on serious or recurring maltreatment;

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

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

26.21 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
26.22 determination or disqualification, but does not appeal the denial of a license or a licensing
26.23 sanction, reconsideration of the maltreatment determination shall be conducted under sections
26.24 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the
26.25 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall
26.26 also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and
26.27 626.557, subdivision 9d.

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

26.32 (g) For purposes of this subdivision, "interested person acting on behalf of the child"
26.33 means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult

27.1 stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been
27.2 determined to be the perpetrator of the maltreatment.

27.3 (h) If a maltreatment determination is the basis for a correction order under section
27.4 245H.06 or decertification under section 245H.07, the certification holder has the right to
27.5 request reconsideration under sections 245H.06 and 245H.07. If the certification holder
27.6 appeals the maltreatment determination or disqualification, but does not appeal the correction
27.7 order or decertification, reconsideration of the maltreatment determination shall be conducted
27.8 under section 626.556, subdivision 10i, and reconsideration of the disqualification shall be
27.9 conducted under section 245C.22.

27.10 Sec. 12. Minnesota Statutes 2018, section 626.556, subdivision 10k, is amended to read:

27.11 Subd. 10k. **Release of certain assessment or investigative records to other**
27.12 **counties.** Records maintained under subdivision 11c, paragraph (a), may be shared with
27.13 another local welfare agency that requests the information because it is conducting ~~an~~ a
27.14 family assessment or investigation, or noncaregiver sex trafficking assessment under this
27.15 section of the subject of the records.

27.16 Sec. 13. Minnesota Statutes 2018, section 626.556, subdivision 10l, is amended to read:

27.17 Subd. 10l. **Documentation.** When a case is closed that has been open for services, the
27.18 local welfare agency shall document the outcome of the family assessment or investigation,
27.19 or noncaregiver sex trafficking assessment, including a description of services provided
27.20 and the removal or reduction of risk to the child, if it existed.

27.21 Sec. 14. Minnesota Statutes 2018, section 626.556, subdivision 10m, is amended to read:

27.22 Subd. 10m. **Provision of child protective services; consultation with county**
27.23 **attorney.** (a) The local welfare agency shall create a written plan, in collaboration with the
27.24 family whenever possible, within 30 days of the determination that child protective services
27.25 are needed or upon joint agreement of the local welfare agency and the family that family
27.26 support and preservation services are needed. Child protective services for a family are
27.27 voluntary unless ordered by the court.

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

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

- 28.1 (2) voluntary child protective services may not provide sufficient protection for the child;
28.2 or
28.3 (3) the family is not cooperating with an investigation ~~or~~, family assessment, or
28.4 noncaregiver sex trafficking assessment.

28.5 Sec. 15. Minnesota Statutes 2018, section 626.556, subdivision 11c, is amended to read:

28.6 Subd. 11c. **Welfare, court services agency, and school records**

28.7 **maintained.** Notwithstanding sections 138.163 and 138.17, records maintained or records
28.8 derived from reports of abuse by local welfare agencies, agencies responsible for assessing
28.9 or investigating the report, court services agencies, or schools under this section shall be
28.10 destroyed as provided in paragraphs (a) to (d) by the responsible authority.

28.11 (a) For reports alleging child maltreatment that were not accepted for assessment or
28.12 investigation, family assessment, or noncaregiver sex trafficking assessment cases, and
28.13 cases where an investigation results in no determination of maltreatment or the need for
28.14 child protective services, the records must be maintained for a period of five years after the
28.15 date the report was not accepted for assessment or investigation or of the final entry in the
28.16 case record. Records of reports that were not accepted must contain sufficient information
28.17 to identify the subjects of the report, the nature of the alleged maltreatment, and the reasons
28.18 as to why the report was not accepted. Records under this paragraph may not be used for
28.19 employment, background checks, or purposes other than to assist in future screening decisions
28.20 and risk and safety assessments.

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

28.24 (c) All records regarding a report of maltreatment, including any notification of intent
28.25 to interview which was received by a school under subdivision 10, paragraph (d), shall be
28.26 destroyed by the school when ordered to do so by the agency conducting the assessment or
28.27 investigation. The agency shall order the destruction of the notification when other records
28.28 relating to the report under investigation or assessment are destroyed under this subdivision.

28.29 (d) Private or confidential data released to a court services agency under subdivision
28.30 10h must be destroyed by the court services agency when ordered to do so by the local
28.31 welfare agency that released the data. The local welfare agency or agency responsible for
28.32 assessing or investigating the report shall order destruction of the data when other records
28.33 relating to the assessment or investigation are destroyed under this subdivision.

29.1 Sec. 16. Minnesota Statutes 2018, section 626.558, subdivision 1, is amended to read:

29.2 Subdivision 1. **Establishment of team.** A county shall establish a multidisciplinary
29.3 child protection team that may include, but not be limited to, the director of the local welfare
29.4 agency or designees, the county attorney or designees, the county sheriff or designees,
29.5 representatives of health and education, representatives of mental health, representatives of
29.6 agencies providing specialized services or response for youth who experience sex trafficking
29.7 or sexual exploitation or other appropriate human service or community-based agencies,
29.8 and parent groups. As used in this section, a "community-based agency" may include, but
29.9 is not limited to, schools, social service agencies, family service and mental health
29.10 collaboratives, children's advocacy centers, early childhood and family education programs,
29.11 Head Start, or other agencies serving children and families. A member of the team must be
29.12 designated as the lead person of the team responsible for the planning process to develop
29.13 standards for its activities with battered women's and domestic abuse programs and services.

29.14 Sec. 17. Minnesota Statutes 2018, section 626.559, is amended by adding a subdivision
29.15 to read:

29.16 Subd. 1c. **Sex trafficking and sexual exploitation training requirement.** As required
29.17 by the Child Abuse Prevention and Treatment Act amendments through Public Law 114-22,
29.18 all child protection workers and social services staff with responsibility for child protective
29.19 duties under section 626.556 shall complete training implemented by the commissioner of
29.20 human services regarding sex trafficking and sexual exploitation.