

imposed shall not exceed \$5,000. Upon proof of a third violation the penalty provisions applicable upon proof of a second violation shall apply.

The commissioner shall by certified mail or by personal service notify the person upon whom a penalty has been imposed, setting forth the reasons for the decision. The imposition of penalty shall become effective 30 days after the mailing or service in person of the notification unless that person complies with the provisions of section 15.0424, providing for a procedure for judicial review of the determination in the district court. In addition to the provisions contained therein, the person may petition to the district court that the review procedure shall be by trial de novo.

Imposition of any penalties under this section shall be construed as civil and not criminal in nature.

Any amounts received by the commissioner as a result of the imposition of penalties under this provision shall be deposited with the state treasurer and shall be placed in the "dairy industry unfair trade practices account."

Sec. 5. Minnesota Statutes 1974, Section 32A.06, is repealed.

Sec. 6. **EFFECTIVE DATE.** This act takes effect the day following its final enactment.

Approved June 2, 1975.

CHAPTER 221—H.F.No.306

[Coded]

An act relating to children; requiring reports of maltreatment of minors to be filed by certain individuals; authorizing reports to be filed by citizens under certain circumstances; prescribing penalties for failing to report or falsifying reports; amending Minnesota Statutes 1974, Chapter 626, by adding a section; repealing Minnesota Statutes 1974, Section 626.554.

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

Section 1. Minnesota Statutes 1974, Chapter 626, is amended by adding a section to read:

[626.556] CHILDREN; REPORTING OF MALTREATMENT OF MINORS. Subdivision 1. PUBLIC POLICY. The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through physical abuse, neglect or sexual abuse; to strengthen the family and make the home safe for

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children through improvement of parental and guardian capacity for responsible child care; and to provide a safe temporary or permanent home environment for physically or sexually abused children.

In addition, it is the policy of this state to require the reporting of suspected physical or sexual abuse of children; to provide for the voluntary reporting of neglect of children; to require the investigation of such reports; and to provide protective and counseling services in appropriate cases.

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

(a) "Sexual abuse" means the subjection by the child's parents, guardian, or person responsible for the child's care, to any act which constitutes a violation of Minnesota Statutes, Sections 609.291, 609.292, 609.293, 609.295, or 609.296.

(b) "Neglected child" shall have the meanings defined in Minnesota Statutes, Section 260.015, Subdivision 10. Nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian or other person responsible for his care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child.

(c) "Physical abuse" means:

(i) Any physical injury inflicted by a parent, guardian or other person responsible for the child's care on a child other than by accidental means; or

(ii) Any physical injury that cannot reasonably be explained by the history of injuries provided by the parent, guardian or other person responsible for the child's care.

(d) "Report" means any report received by the local welfare agency pursuant to this act.

Subd. 3. PERSONS MANDATED TO REPORT. A professional or his delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement who has knowledge of or reasonable cause to believe a child is being physically or sexually abused shall immediately report the information to the local welfare agency or police department. The police department, upon receiving a report, shall immediately notify the local welfare agency. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school or agency.

Any person not required to report under the provisions of this

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subdivision may voluntarily report to the local welfare agency or police department if he has knowledge of or reasonable cause to believe a child is being neglected or subjected to physical or sexual abuse. The police department, upon receiving a report, shall immediately notify the local welfare agency.

Subd. 4. IMMUNITY FROM LIABILITY. Any person participating in good faith and exercising due care in the making of a report pursuant to this act shall have immunity from any liability, civil or criminal, that otherwise might result by reason of his action.

Subd. 5. FALSIFIED REPORTS. Any person who willfully or recklessly makes a false report under the provisions of this act shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury.

Subd. 6. FAILURE TO REPORT. Any person required by this act to report suspected physical or sexual child abuse who willfully fails to do so shall be guilty of a misdemeanor.

Subd. 7. REPORT. An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed as soon as possible by a report in writing to the appropriate police department or local welfare agency. Any report shall be of sufficient content to identify the child, the parent, guardian, or other person responsible for his care, the nature and extent of the child's injuries and the name and address of the reporter. Written reports received by a police department shall be forwarded immediately to the local welfare agency.

Subd. 8. EVIDENCE NOT PRIVILEGED. No evidence regarding the child's injuries shall be excluded in any proceeding arising out of the alleged physical or sexual abuse on the grounds of either a physician-patient or husband-wife privilege.

Subd. 9. MANDATORY REPORTING TO A MEDICAL EXAMINER OR CORONER. When a person required to report under the provisions of subdivision 3 has reasonable cause to believe a child has died as a result of physical or sexual abuse, he shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency or police department. Medical examiners or coroners shall notify the local welfare agency or police department in instances in which they believe that the child has died as a result of physical or sexual abuse. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the appropriate law enforcement authorities and the local welfare agency.

Subd. 10. DUTIES OF LOCAL WELFARE AGENCY UPON RECEIPT OF A REPORT. The local welfare agency shall immediately investigate and offer protective social services for purposes of prevent-

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ing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. When necessary the local welfare agency shall seek authority to remove the child from the custody of his parent, guardian or adult with whom he is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

Subd. 11. RECORDS. All records maintained by a local welfare agency under this section, including any written reports filed under subdivision 7, shall be private. The records shall be collected and maintained in accordance with the provisions of Minnesota Statutes, Sections 15.162 to 15.168, and an individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be disclosed only (a) by the local welfare agency if the report is found to be unsubstantiated or (b) by the local welfare agency upon court order if the report is found to be substantiated.

Records maintained by local welfare agencies under this section must be destroyed as follows:

(a) All records relating to reports which, upon investigation, are found to be unsubstantiated shall be destroyed immediately;

(b) All records relating to reports which, upon investigation, are found to be substantiated shall be destroyed seven years after the date of the final entry in the case record; and

(c) All records of reports which, upon initial investigation, cannot be substantiated to the satisfaction of the local welfare agency may be kept for a period of one year. If the local welfare agency is unable to substantiate the report within that period, all records relating to the report shall be destroyed immediately.

Sec. 2. Minnesota Statutes 1974, Section 626.554, is repealed.

Approved June 2, 1975.

CHAPTER 222—H.F.No.339

An act relating to butter substitutes; identification of oleomargarine served in public places; amending Minnesota Statutes 1974, Section 33.111; repealing Minnesota Statutes 1974, Sections 33.095 and 33.096.

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

Section 1. Minnesota Statutes 1974, Section 33.111, is amended to read:

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