

Subd. 2. **ADMINISTERING BOARD.** Each community action agency shall administer its community action programs through a community action board consisting of 15 to 51 members.

(a) One-third of the members of the board shall be elected public officials, currently holding office, or their representatives.

(b) At least one-third of the members shall be persons chosen in accordance with democratic selection procedures adequate to assure that they are representative of the poor in the area served.

(c) The other members shall be officials or members of business, industry, labor, religious, welfare, education, or other major groups and interests in the community. Each member of the board selected to represent a specific geographic area within a community must reside in the area represented.

~~(d) No person selected under clause (b) or (c) shall serve for more than five consecutive years or more than a total of ten years.~~

(e) The public community action agency shall have an administering board which meets the requirements of this subdivision.

~~(f)~~ (e) The statewide migrant seasonal farmworker organization known as the Minnesota migrant council and Indian reservations carrying out community action programs are exempt from the board composition requirements of this subdivision.

#### Sec. 4. **EFFECTIVE DATE.**

This act is effective the day following final enactment.

Approved May 31, 1985

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### CHAPTER 283 — H.F.No. 1175

*An act relating to children; expanding the definition of a medically neglected child; providing for intervention by commissioner of human services after a report of medical neglect; requiring the local agency to report and initiate proceedings in cases of medical neglect; amending Minnesota Statutes 1984, sections 260.015, subdivision 10; 626.556, subdivisions 2, 10, and by adding a subdivision.*

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

Section 1. Minnesota Statutes 1984, section 260.015, subdivision 10, is amended to read:

Subd. 10. "Neglected child" means a child:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(a) Who is abandoned by his parent, guardian, or other custodian; or

(b) Who is without proper parental care because of the faults or habits of his parent, guardian, or other custodian; or

(c) Who is without necessary subsistence, education or other care necessary for his physical or mental health or morals because his parent, guardian or other custodian neglects or refuses to provide it; or

(d) Who is without the special care made necessary by his physical or mental condition because his parent, guardian, or other custodian neglects or refuses to provide it; or

(e) Who is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(1) the infant is chronically and irreversibly comatose;

(2) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(3) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane; or

(f) Whose occupation, behavior, condition, environment or associations are such as to be injurious or dangerous to himself or others; or

~~(f)~~ (g) Who is living in a facility for foster care which is not licensed as required by law, unless the child is living in the facility under court order; or

~~(g)~~ (h) Whose parent, guardian, or custodian has made arrangements for his placement in a manner detrimental to the welfare of the child or in violation of law; or

~~(h)~~ (i) Who comes within the provisions of subdivision 5, but whose conduct results in whole or in part from parental neglect.

Sec. 2. Minnesota Statutes 1984, section 626.556, subdivision 2, is amended to read:

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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 a person responsible for the child's care, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of sections 609.342, 609.343, 609.344, or 609.345, or sections 609.364 to 609.3644. Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246.

(b) "Person responsible for the child's care" means a parent, guardian, teacher, school administrator, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, baby sitting whether paid or unpaid, counseling, teaching, and coaching.

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so or failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so. Nothing in this section shall be construed to (i) 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, or (ii) impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter or medical care, a duty to provide that care. Neglect also means "medical neglect" as defined in section 260.015, subdivision 10, clause (e).

(d) "Physical abuse" means:

(i) Any physical injury inflicted by a 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 child's history of injuries.

(e) "Report" means any report received by the local welfare agency, police department or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitorium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245.781 to 245.812.

(g) "Operator" means an operator or agency as defined in section 245.782.

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other

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person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

Sec. 3. Minnesota Statutes 1984, section 626.556, subdivision 10, is amended to read:

**Subd. 10. DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.** (a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment and offer protective social services for purposes of preventing 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.

(b) Authority of the local welfare agency responsible for assessing the child abuse report and of the local law enforcement agency 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 perpetrator. The interview may take place at school or any facility or other place where the alleged victim or other minors might be found and may take place outside the presence of the perpetrator or parent, legal custodian, guardian, or school official. Except as provided in this clause, the parent, legal custodian, or guardian shall be notified, no later than the conclusion of the investigation or assessment, that this interview has occurred. Notwithstanding rule 49.02 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, notification of this interview be withheld from the parent, legal custodian, or guardian.

(c) When the local welfare or local law enforcement agency determines that an interview should take place on school property, written notification must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chairman of the county welfare board or his designee. The time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare agency, or the local law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless

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another time is deemed necessary by agreement between the school officials and the local welfare agency or local law enforcement agency. Where the school fails to comply with the provisions of this section, the juvenile court may order the school to comply with this provision. School officials shall not disclose to the parent, legal custodian, guardian, or perpetrator that a request to interview the child has been made until after the investigation or assessment has been concluded. Every effort shall be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

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

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

(f) The commissioner, the local welfare agencies responsible for investigating reports, 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.

Sec. 4. Minnesota Statutes 1984, section 626.556, is amended by adding a subdivision to read:

**Subd. 10c. DUTIES OF THE LOCAL SOCIAL SERVICE AGENCY UPON RECEIPT OF A REPORT OF MEDICAL NEGLIGENCE.** If the report alleges medical neglect as defined in section 260.015, subdivision 10, clause (e), the local welfare agency shall, in addition to its other duties under this section, immediately consult with designated hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration, and medication are being provided; and shall immediately secure an independent medical review of the infant's medical charts and records and, if necessary, seek a court order for an

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independent medical examination of the infant. If the review or examination leads to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by initiating legal proceedings under section 260.131 and by filing an expedited motion to prevent the withholding of medically indicated treatment.

Approved May 31, 1985

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**CHAPTER 284 — H.F.No. 242**

*An act relating to commerce; requiring manufacturers to make certain new motor vehicle warranty disclosures directly to consumers; requiring a study of protection for purchasers of agricultural vehicles; amending Minnesota Statutes 1984, section 325F.665, subdivision 3.*

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

Section 1. Minnesota Statutes 1984, section 325F.665, subdivision 3, is amended to read:

**Subd. 3. MANUFACTURER'S DUTY TO REFUND OR REPLACE.**

(a) If the manufacturer, its agents, or its authorized dealers are unable to conform the new motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use or market value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall, at the consumer's option, either replace the new motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price, including the cost of any options or other modifications arranged, installed, or made by the manufacturer, its agent, or its authorized dealer within 30 days after the date of original delivery, and all other charges including, but not limited to, sales tax, license fees and registration fees, less a reasonable allowance for the consumer's use of the vehicle not exceeding ten cents per mile driven or ten percent of the purchase price of the vehicle, whichever is less. Refunds must be made to the consumer, and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles. A reasonable allowance for use is that amount directly attributable to use by the consumer and any previous consumer prior to his or her first report of the nonconformity to the manufacturer, agent, or dealer and during any subsequent period when the vehicle is not out of service by reason of repair. It is an affirmative defense to any claim under this section (1) that an alleged nonconformity does not substantially impair the use or market value, or (2) that a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by anyone other than the manufacturer, its agent or its authorized dealer.

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