

(5) ability to pay and self-support reserves;

(6) deviation factors; and

(7) collection, administrative, and other matters.

The new chapter shall be edited by the revisor in accordance with usual editorial practices as provided by Minnesota Statutes, section 3C.10. If the revisor determines that additional changes are necessary to assure the clarity and utility of the new chapter, the revisor shall draft and propose appropriate legislation to the legislature.

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

Sec. 30. APPROPRIATIONS.

\$860,000 is appropriated in fiscal year 2006 from the general fund to the commissioner of human services to fund implementation of this act. \$450,000 is appropriated in fiscal year 2007 from the general fund to the commissioner of human services to reimburse counties for their implementation costs. The commissioner of human services shall distribute funds to the counties for their costs of implementation based upon their total county IV-D caseload. The appropriation base in fiscal year 2008 for grants to counties shall be \$450,000.

\$440,000 is appropriated in fiscal year 2007 from the general fund to the Supreme Court to fund implementation of this act. This is a onetime appropriation.

Sec. 31. REPEALER.

Minnesota Statutes 2004, sections 518.171; 518.54, subdivisions 2, 4, and 4a; and 518.551, subdivisions 1, 5a, 5c, and 5f, are repealed.

Sec. 32. EFFECTIVE DATE.

Except as otherwise provided, this act is effective January 1, 2007, and applies to orders adopted or modified after that date. Sections 1 to 3 of this act are effective July 1, 2005.

Presented to the governor May 31, 2005

Signed by the governor June 3, 2005, 10:30 a.m.

CHAPTER 165—H.F.No. 1816

An act relating to human services; extending coverage of certain mental health services; providing for children's mental health services; changing certain civil commitment provisions; establishing a task force to study disposition of persons committed as sexually dangerous or sexual psychopathic personality; requiring a report; amending Minnesota Statutes 2004, sections 148C.11, subdivision 1; 253B.02, subdivisions 7, 9; 253B.05, subdivision 2; 256.9693; 256B.0624, by adding a subdivision; 260C.141, subdivision 2; 260C.193, subdivision 2;

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260C.201, subdivisions 1, 2; 260C.205; 260C.212, subdivision 1; repealing Laws 2001, First Special Session chapter 9, article 9, section 52; Laws 2002, chapter 335, section 4.

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

ARTICLE 1

MENTAL HEALTH SERVICES

Section 1. Minnesota Statutes 2004, section 148C.11, subdivision 1, is amended to read:

Subdivision 1. **OTHER PROFESSIONALS.** (a) Nothing in this chapter prevents members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to, licensed physicians, registered nurses, licensed practical nurses, licensed psychological practitioners, members of the clergy, American Indian medicine men and women, licensed attorneys, probation officers, licensed marriage and family therapists, licensed social workers, licensed professional counselors, licensed school counselors, registered occupational therapists or occupational therapy assistants, and until July 1, ~~2005~~ 2007, individuals providing integrated dual-diagnosis treatment in adult mental health rehabilitative programs certified by the Department of Human Services under section 256B.0622 or 256B.0623.

(b) Nothing in this chapter prohibits technicians and resident managers in programs licensed by the Department of Human Services from discharging their duties as provided in Minnesota Rules, chapter 9530.

(c) Any person who is exempt under this section but who elects to obtain a license under this chapter is subject to this chapter to the same extent as other licensees.

(d) These persons must not, however, use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold themselves out to the public by any title or description stating or implying that they are engaged in the practice of alcohol and drug counseling, or that they are licensed to engage in the practice of alcohol and drug counseling. Persons engaged in the practice of alcohol and drug counseling are not exempt from the commissioner's jurisdiction solely by the use of one of the above titles.

Sec. 2. Minnesota Statutes 2004, section 256.9693, is amended to read:

256.9693 CONTINUING CARE PROGRAM FOR PERSONS WITH MENTAL ILLNESS.

The commissioner shall establish a continuing care benefit program for persons with mental illness in which persons with mental illness may obtain acute care hospital inpatient treatment for mental illness for up to 45 days beyond that allowed by section

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256.969. The commissioner may authorize additional days beyond 45 based on an individual review of medical necessity. Persons with mental illness who are eligible for medical assistance may obtain inpatient treatment under this program in hospital beds for which the commissioner contracts under this section. The commissioner may selectively contract with hospitals to provide this benefit through competitive bidding when reasonable geographic access by recipients can be assured. Payments under this section shall not affect payments under section 256.969. The commissioner may contract externally with a utilization review organization to authorize persons with mental illness to access the continuing care benefit program. The commissioner, as part of the contracts with hospitals, shall establish admission criteria to allow persons with mental illness to access the continuing care benefit program. If a court orders acute care hospital inpatient treatment for mental illness for a person, the person may obtain the treatment under the continuing care benefit program. The commissioner shall not require, as part of the admission criteria, any commitment or petition under chapter 253B as a condition of accessing the program. This benefit is not available for people who are also eligible for Medicare and who have not exhausted their annual or lifetime inpatient psychiatric benefit under Medicare. If a recipient is enrolled in a prepaid plan, this program is included in the plan's coverage.

Sec. 3. Minnesota Statutes 2004, section 256B.0624, is amended by adding a subdivision to read:

Subd. 4a. ALTERNATIVE PROVIDER STANDARDS FOR ADULT MENTAL HEALTH CRISIS RESPONSE SERVICES. If a county demonstrates that, due to geographic or other barriers, it is not feasible to provide mobile crisis intervention services according to the standards in subdivision 4, paragraph (b), clause (9), the commissioner may approve a crisis response provider based on an alternative plan proposed by a county or group of counties. The alternative plan must:

(1) result in increased access and a reduction in disparities in the availability of crisis services;

(2) provide mobile services outside of the usual nine-to-five office hours and on weekends and holidays; and

(3) comply with standards for emergency mental health services in section 245.469.

Sec. 4. **REPEALER.**

Laws 2001, First Special Session chapter 9, article 9, section 52; and Laws 2002, chapter 335, section 4, are repealed effective the day following final enactment.

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ARTICLE 2

CHILDREN'S MENTAL HEALTH

Section 1. Minnesota Statutes 2004, section 260C.141, subdivision 2, is amended to read:

Subd. 2. **REVIEW OF FOSTER CARE STATUS.** ~~The social services agency responsible for the placement of a child in a residential facility, as defined in section 260C.212, subdivision 1, pursuant to a voluntary release by the child's parent or parents must proceed in juvenile court to review the foster care status of the child in the manner provided in this section.~~

(a) ~~Except for a child in placement foster care due solely to the child's developmental disability or emotional disturbance, when a child continues in voluntary placement according to section 260C.212, subdivision 8, a petition shall be filed alleging the child to be in need of protection or services or seeking termination of parental rights or other permanent placement of the child away from the parent within 90 days of the date of the voluntary placement agreement. The petition shall state the reasons why the child is in placement, the progress on the out-of-home placement plan required under section 260C.212, subdivision 1, and the statutory basis for the petition under section 260C.007, subdivision 6, 260C.201, subdivision 11, or 260C.301.~~

(1) In the case of a petition alleging the child to be in need of protection or services filed under this paragraph, if all parties agree and the court finds it is in the best interests of the child, the court may find the petition states a prima facie case that:

- (i) the child's needs are being met;
- (ii) the placement of the child in foster care is in the best interests of the child;
- (iii) reasonable efforts to reunify the child and the parent or guardian are being made; and
- (iv) the child will be returned home in the next three months.

(2) If the court makes findings under paragraph (1), the court shall approve the voluntary arrangement and continue the matter for up to three more months to ensure the child returns to the parents' home. The responsible social services agency shall:

(i) report to the court when the child returns home and the progress made by the parent on the out-of-home placement plan required under section 260C.212, in which case the court shall dismiss jurisdiction;

(ii) report to the court that the child has not returned home, in which case the matter shall be returned to the court for further proceedings under section 260C.163; or

(iii) if any party does not agree to continue the matter under this paragraph and paragraph (1) and this paragraph, the matter shall proceed under section 260C.163.

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(b) Subd. 2a. **VOLUNTARY FOSTER CARE PLACEMENT.** In the case of a child in voluntary placement due solely to the child's developmental disability or emotional disturbance according to section 260C.212, subdivision 9, ~~the following procedures apply: a petition under subdivision 1 shall not be filed unless a child continues in foster care for 13 consecutive months from the date of the voluntary placement, in which case, the responsible social services agency shall proceed under clause (2). In lieu of filing a petition to obtain judicial review of a child's voluntary placement due solely to disability and within 165 days of the placement, the responsible social services agency must report to the court as follows:~~

(1) **REPORT TO COURT.** (i) ~~Unless the county attorney determines that a petition under subdivision 1 is appropriate, without filing a petition, A written report shall be forwarded to the court within 165 days of the date of the voluntary placement agreement. The written report shall contain necessary identifying information for the court to proceed, a copy of the out-of-home placement plan required under section 260C.212, subdivision 1, a written summary of the proceedings of any administrative review required under section 260C.212, subdivision 7, and any other information the responsible social services agency, parent or guardian, the child or the foster parent or other residential facility wants the court to consider. In the case of a child in placement due solely to an emotional disturbance, the written report shall include as an attachment the child's individual treatment plan developed by the child's treatment professional, as provided in section 245.4871, subdivision 21, or the child's individual interagency intervention plan, as provided in section 125A.023, subdivision 3, paragraph (c). In the case of a child in placement due solely to a developmental disability, the written report shall include as an attachment the child's individual service plan, as provided in section 256B.092, subdivision 1b; the child's individual program plan, as provided in Minnesota Rules, part 9525.0004, subpart 11; the child's waiver care plan; or the child's individual interagency intervention plan, as provided in section 125A.023, subdivision 3, paragraph (c).~~

(ii) The responsible social services agency, where appropriate, must advise the child, parent or guardian, the foster parent, or representative of the residential facility of the requirements of this section and of their right to submit information to the court. If the child, parent or guardian, foster parent, or representative of the residential facility wants to send information to the court, the responsible social services agency shall advise those persons of the reporting date and the identifying information necessary for the court administrator to accept the information and submit it to a judge with the agency's report. The responsible social services agency must also notify those persons that they have the right to be heard in person by the court and how to exercise that right. The responsible social services agency must also provide notice that an in-court hearing will not be held unless requested by a parent or guardian, foster parent, or the child.

(iii) After receiving the required report, the court has jurisdiction to make the following determinations and must do so within ten days of receiving the forwarded report: (A) whether or not the placement of the child is in the child's best interests; and (B) whether the parent and agency are appropriately planning for the child. Unless

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requested by a parent or guardian, foster parent, or child, no in-court hearing need shall be held in order for the court to make findings and issue an order under this paragraph.

(iv) If the court finds the placement is in the child's best interests and that the agency and parent are appropriately planning for the child, the court shall issue an order containing explicit, individualized findings to support its determination. The court shall send a copy of the order to the county attorney, the responsible social services agency, the parent or guardian, the child, and the foster parents. The court shall also send the parent or guardian, the child, and the foster parent notice of the required review under clause (2).

(v) If the court finds continuing the placement not to be in the child's best interests or that the agency or the parent or guardian is not appropriately planning for the child, the court shall notify the county attorney, the responsible social services agency, the parent or guardian, the foster parent, the child, and the county attorney of the court's determinations and the basis for the court's determinations.

(2) **PERMANENCY REVIEW BY PETITION.** If a child with a developmental disability or an emotional disturbance continues in out-of-home placement for 13 months from the date of a voluntary placement, a petition alleging the child to be in need of protection or services, for termination of parental rights, or for permanent placement of the child away from the parent under section 260C.201 shall be filed. The court shall conduct a permanency hearing on the petition no later than 14 months after the date of the voluntary placement. At the permanency hearing, the court shall determine the need for an order permanently placing the child away from the parent or determine whether there are compelling reasons that continued voluntary placement is in the child's best interests. A petition alleging the child to be in need of protection or services shall state the date of the voluntary placement agreement, the nature of the child's developmental disability or emotional disturbance, the plan for the ongoing care of the child, the parents' participation in the plan, the responsible social services agency's efforts to finalize a plan for the permanent placement of the child, and the statutory basis for the petition.

(i) If a petition alleging the child to be in need of protection or services is filed under this paragraph, the court may find, based on the contents of the sworn petition, and the agreement of all parties, including the child, where appropriate, that there are compelling reasons that the voluntary arrangement is in the best interests of the child and that the responsible social services agency has made reasonable efforts to finalize a plan for the permanent placement of the child, approve the continued voluntary placement, and continue the matter under the court's jurisdiction for the purpose of reviewing the child's placement as a continued voluntary arrangement every 12 months as long as the child continues in out-of-home placement.

(ii) When the court finds compelling reasons and approves the continued voluntary placement under this subdivision, the court shall not adjudicate the child in need of protection or services and shall not order the child placed in foster care or transfer legal custody of the child to the responsible social services agency. A finding that the court approves the continued voluntary placement means the responsible social

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services agency has continued legal responsibility for the child's placement due to the voluntary placement agreement and that the parent may terminate the voluntary agreement as provided in section 260C.212, subdivision 4, paragraph (c), clause (2), or, in the case of an Indian child, as provided in section 260.765, subdivision 4.

(iii) The matter must be returned to the court for further review every 12 months as long as the child remains in placement. The court shall give notice to the parent or guardian of the continued review requirements under this section. Nothing in this paragraph shall be construed to mean the court must order permanent placement for the child under section 260C.201, subdivision 11, as long as the court finds compelling reasons at the first review required under this section.

(iv) If a child diagnosed with developmental disability or emotional disturbance has been ordered into foster care under section 260C.178 or 260C.201 and the conditions which led to the court's order have been corrected so that the child could safely return to the care of the parent or guardian except for the child's need for continued placement to access necessary treatment or services, the responsible social services agency may file a motion with the court in the child in need of protection or services matter to vacate the finding that the child is in need of protection or services and to vacate the award of custody to the responsible agency. The motion shall be supported by affidavit setting forth: (A) the agency's reasonable efforts to finalize a permanent plan for the child including returning the child home; (B) the agency's compelling reasons why a permanent placement need not be ordered under section 260C.201, subdivision 11; and (C) why the voluntary placement is in the child's best interests. This motion must be filed no later than the time a permanency placement determination hearing is required under section 260C.201, subdivision 11. At the time scheduled for the court to hear the agency's motion, the parent or guardian and agency may execute a voluntary placement agreement when the court approves the child's continued foster care placement as a voluntary arrangement. The court may approve the continued foster care placement as a voluntary arrangement if it finds there are compelling reasons why continued placement on a voluntary basis is in the child's best interests and that the responsible social services agency has made reasonable efforts to finalize a plan for the permanent placement of the child. The matter shall continue under the court's jurisdiction for the purpose of reviewing the child's placement as a continued voluntary arrangement every 12 months as long as the child continues in out-of-home placement due solely to the child's disability. A finding that the court approves the continued voluntary placement means the responsible social services agency has continued legal responsibility for the child's placement due to the voluntary placement agreement and that the parent may terminate the voluntary agreement as provided in section 260C.212, subdivision 4, paragraph (c), clause (2), or, in the case of an Indian child, as provided in section 260.765, subdivision 4.

(ii) (v) If a petition for termination of parental rights, for transfer of permanent legal and physical custody to a relative, for long-term foster care, or for foster care for a specified period of time is filed, the court must proceed under section 260C.201, subdivision 11.

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(3) If any party, including the child, disagrees with the voluntary arrangement, the court shall proceed under section 260C.163.

Sec. 2. Minnesota Statutes 2004, section 260C.193, subdivision 2, is amended to read:

Subd. 2. **CONSIDERATION OF REPORTS.** Before making a disposition in a case, terminating parental rights, or appointing a guardian for a child, the court may consider any report or recommendation made by the responsible social services agency, probation officer, licensed child-placing agency, foster parent, guardian ad litem, tribal representative, the child's health or mental health care provider, or other authorized advocate for the child or child's family, a school district concerning the effect on student transportation of placing a child in a school district in which the child is not a resident, or any other information deemed material by the court.

Sec. 3. Minnesota Statutes 2004, section 260C.201, subdivision 1, is amended to read:

Subdivision 1. **DISPOSITIONS.** (a) If the court finds that the child is in need of protection or services or neglected and in foster care, it shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the responsible social services agency or child-placing agency in the home of a parent of the child under conditions prescribed by the court directed to the correction of the child's need for protection or services:

(i) the court may order the child into the home of a parent who does not otherwise have legal custody of the child, however, an order under this section does not confer legal custody on that parent;

(ii) if the court orders the child into the home of a father who is not adjudicated, he must cooperate with paternity establishment proceedings regarding the child in the appropriate jurisdiction as one of the conditions prescribed by the court for the child to continue in his home;

(iii) the court may order the child into the home of a noncustodial parent with conditions and may also order both the noncustodial and the custodial parent to comply with the requirements of a case plan under subdivision 2; or

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the responsible social services agency. In placing a child whose custody has been transferred under this paragraph, the agencies shall make an individualized determination of how the placement is in the child's best interests using the consideration for relatives and the best interest factors in section 260C.212, subdivision 2, paragraph (b); or

(3) if the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a physical

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or mental disability or emotional disturbance as defined in section 245.4871, subdivision 15, the court may order the child's parent, guardian, or custodian to provide it. The court may order the child's health plan company to provide mental health services to the child. Section 62Q.535 applies to an order for mental health services directed to the child's health plan company. If the health plan, parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. Absent specific written findings by the court that the child's disability is the result of abuse or neglect by the child's parent or guardian, the court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(4) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's conduct and the conduct of the parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child; or with the consent of the commissioner of corrections, place the child in a group foster care facility which is under the commissioner's management and supervision;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to \$100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

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(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child and of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

To the extent practicable, the court shall enter a disposition order the same day it makes a finding that a child is in need of protection or services or neglected and in foster care, but in no event more than 15 days after the finding unless the court finds that the best interests of the child will be served by granting a delay. If the child was under eight years of age at the time the petition was filed, the disposition order must be entered within ten days of the finding and the court may not grant a delay unless good cause is shown and the court finds the best interests of the child will be served by the delay.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section 260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in Laws 1997, chapter 239, article 10, section 2.

(e) When a parent has complied with a case plan ordered under subdivision 6 and the child is in the care of the parent, the court may order the responsible social services agency to monitor the parent's continued ability to maintain the child safely in the home under such terms and conditions as the court determines appropriate under the circumstances.

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Sec. 4. Minnesota Statutes 2004, section 260C.201, subdivision 2, is amended to read:

Subd. 2. **WRITTEN FINDINGS.** (a) Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition and case plan ordered and shall also set forth in writing the following information:

(1) Why the best interests and safety of the child are served by the disposition and case plan ordered;

(2) What alternative dispositions or services under the case plan were considered by the court and why such dispositions or services were not appropriate in the instant case;

(3) When legal custody of the child is transferred, the appropriateness of the particular placement made or to be made by the placing agency using the factors in section 260C.212, subdivision 2, paragraph (b); and

(4) Whether reasonable efforts consistent with section 260.012 were made to prevent or eliminate the necessity of the child's removal and to reunify the family after removal. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal or that reasonable efforts were not required under section 260.012 or 260C.178, subdivision 1; and

(5) If the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a mental disability or emotional disturbance as defined in section 245.4871, subdivision 15, the written findings shall also set forth:

(i) whether the child has mental health needs that must be addressed by the case plan;

(ii) what consideration was given to the diagnostic and functional assessments performed by the child's mental health professional and to health and mental health care professionals' treatment recommendations;

(iii) what consideration was given to the requests or preferences of the child's parent or guardian with regard to the child's interventions, services, or treatment; and

(iv) what consideration was given to the cultural appropriateness of the child's treatment or services.

(b) If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(c) If the child has been identified by the responsible social services agency as the subject of concurrent permanency planning, the court shall review the reasonable efforts of the agency to recruit, identify, and make a placement in a home where the foster parent or relative that has committed to being the legally permanent home for the child in the event reunification efforts are not successful.

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Sec. 5. Minnesota Statutes 2004, section 260C.205, is amended to read:

260C.205 DISPOSITIONS; VOLUNTARY FOSTER CARE PLACEMENTS.

Unless the court disposes of the petition under section 260C.141, subdivision 2, upon a petition for review of the foster care status of a child, the court may:

(a) Find that the child's needs are not being met, in which case the court shall order the social services agency or the parents to take whatever action is necessary and feasible to meet the child's needs, including, when appropriate, the provision by the social services agency of services to the parents which would enable the child to live at home, and order a disposition under section 260C.201.

(b) Find that the child has been abandoned by parents financially or emotionally, or that the developmentally disabled child does not require out-of-home care because of the handicapping condition, in which case the court shall order the social services agency to file an appropriate petition pursuant to section 260C.141, subdivision 1, or 260C.307.

(c) When a child is in placement due solely to the child's developmental disability or emotional disturbance and the court finds that there are compelling reasons which permit the court to approve the continued voluntary placement of the child and retain jurisdiction to conduct reviews as required under section 260C.141, subdivision 2, the court shall give the parent notice by registered United States mail of the review requirements of section 260C.141, subdivision 2, in the event the child continues in placement 12 months or longer.

Nothing in this section shall be construed to prohibit bringing a petition pursuant to section 260C.141, subdivision 1 or 4, sooner than required by court order pursuant to this section.

Sec. 6. Minnesota Statutes 2004, section 260C.212, subdivision 1, is amended to read:

Subdivision 1. OUT-OF-HOME PLACEMENT; PLAN. (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in a residential facility by court order or by the voluntary release of the child by the parent or parents.

For purposes of this section, a residential facility means any group home, family foster home or other publicly supported out-of-home residential facility, including any out-of-home residential facility under contract with the state, county or other political subdivision, or any agency thereof, to provide those services or foster care as defined in section 260C.007, subdivision 18.

(b) An out-of-home placement plan means a written document which is prepared by the responsible social services agency jointly with the parent or parents or guardian of the child and in consultation with the child's guardian ad litem, the child's tribe, if

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the child is an Indian child, the child's foster parent or representative of the residential facility, and, where appropriate, the child. For a child in placement due solely or in part to the child's emotional disturbance, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. As appropriate, the plan shall be:

(1) submitted to the court for approval under section 260C.178, subdivision 7;

(2) ordered by the court, either as presented or modified after hearing, under section 260C.178, subdivision 7, or 260C.201, subdivision 6; and

(3) signed by the parent or parents or guardian of the child, the child's guardian ad litem, a representative of the child's tribe, the responsible social services agency, and, if possible, the child.

(c) The out-of-home placement plan shall be explained to all persons involved in its implementation, including the child who has signed the plan, and shall set forth:

(1) a description of the residential facility including how the out-of-home placement plan is designed to achieve a safe placement for the child in the least restrictive, most family-like, setting available which is in close proximity to the home of the parent or parents or guardian of the child when the case plan goal is reunification, and how the placement is consistent with the best interests and special needs of the child according to the factors under subdivision 2, paragraph (b);

(2) the specific reasons for the placement of the child in a residential facility, and when reunification is the plan, a description of the problems or conditions in the home of the parent or parents which necessitated removal of the child from home and the changes the parent or parents must make in order for the child to safely return home;

(3) a description of the services offered and provided to prevent removal of the child from the home and to reunify the family including:

(i) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (2), and the time period during which the actions are to be taken; and

(ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made to achieve a safe and stable home for the child including social and other supportive services to be provided or offered to the parent or parents or guardian of the child, the child, and the residential facility during the period the child is in the residential facility;

(4) a description of any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of the child's placement in the residential facility, and whether those services or resources were provided and if not, the basis for the denial of the services or resources;

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 27, and siblings of the child if the siblings are not placed together in the residential facility, and whether visitation is consistent with

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the best interest of the child, during the period the child is in the residential facility;

(6) documentation of steps to finalize the adoption or legal guardianship of the child if the court has issued an order terminating the rights of both parents of the child or of the only known, living parent of the child, and a copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

(7) to the extent available and accessible, the health and educational records of the child including:

- (i) the names and addresses of the child's health and educational providers;
- (ii) the child's grade level performance;
- (iii) the child's school record;
- (iv) assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement;
- (v) a record of the child's immunizations;
- (vi) the child's known medical problems, including any known communicable diseases, as defined in section 144.4172, subdivision 2;
- (vii) the child's medications; and
- (viii) any other relevant health and education information; and

(8) an independent living plan for a child age 16 or older who is in placement as a result of a permanency disposition. The plan should include, but not be limited to, the following objectives:

- (i) educational, vocational, or employment planning;
- (ii) health care planning and medical coverage;
- (iii) transportation including, where appropriate, assisting the child in obtaining a driver's license;
- (iv) money management;
- (v) planning for housing;
- (vi) social and recreational skills; and
- (vii) establishing and maintaining connections with the child's family and community; and

(9) for a child in placement due solely or in part to the child's emotional disturbance, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes.

(d) The parent or parents or guardian and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad

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litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social services agency in preparation of the case plan.

After the plan has been agreed upon by the parties involved or approved or ordered by the court, the foster parents shall be fully informed of the provisions of the case plan and shall be provided a copy of the plan.

Sec. 7. EFFECTIVE DATE.

Sections 1 to 6 shall be effective the day following final enactment.

ARTICLE 3

CIVIL COMMITMENT

Section 1. Minnesota Statutes 2004, section 253B.02, subdivision 7, is amended to read:

Subd. 7. **EXAMINER.** "Examiner" means a person who is knowledgeable, trained, and practicing in the diagnosis and assessment or in the treatment of the alleged impairment, and who is:

(1) a licensed physician; or

(2) a licensed psychologist who has a doctoral degree in psychology or who became a licensed consulting psychologist before July 2, 1975; or

(3) an advanced practice registered nurse certified in mental health, except that only a physician or psychologist meeting these requirements may be appointed by the court as described by sections 253B.07, subdivision 3; 253B.092, subdivision 8, paragraph (b); 253B.17, subdivision 3; 253B.18, subdivision 2; and 253B.19, subdivisions 1 and 2, and only a physician or psychologist may conduct an assessment as described by Minnesota Rules of Criminal Procedure, Rule 20.

Sec. 2. Minnesota Statutes 2004, section 253B.02, subdivision 9, is amended to read:

Subd. 9. **HEALTH OFFICER.** "Health officer" means a licensed physician, licensed psychologist, licensed social worker, registered nurse working in an emergency room of a hospital, or psychiatric or public health nurse as defined in section 145A.02, subdivision 18, or an advanced practice registered nurse (APRN) as defined in section 148.171, subdivision 3, and formally designated members of a prepetition screening unit established by section 253B.07.

Sec. 3. Minnesota Statutes 2004, section 253B.05, subdivision 2, is amended to read:

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Subd. 2. **PEACE OR HEALTH OFFICER AUTHORITY.** (a) A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior, or upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or mentally retarded and in danger of injuring self or others if not immediately detained. A peace or health officer or a person working under such officer's supervision, may take a person who is believed to be chemically dependent or is intoxicated in public into custody and transport the person to a treatment facility. If the person is intoxicated in public or is believed to be chemically dependent and is not in danger of causing self-harm or harm to any person or property, the peace or health officer may transport the person home. The peace or health officer shall make written application for admission of the person to the treatment facility. The application shall contain the peace or health officer's statement specifying the reasons for and circumstances under which the person was taken into custody. If danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable. A copy of the statement shall be made available to the person taken into custody.

(b) As far as is practicable, a peace officer who provides transportation for a person placed in a facility under this subdivision may not be in uniform and may not use a vehicle visibly marked as a law enforcement vehicle.

(c) A person may be admitted to a treatment facility for emergency care and treatment under this subdivision with the consent of the head of the facility under the following circumstances: (1) a written statement is made by shall only be made by the following individuals who are knowledgeable, trained, and practicing in the diagnosis and treatment of mental illness or mental retardation; the medical officer, or the officer's designee on duty at the facility, if the designee is including a licensed physician, a registered physician assistant, or an advanced practice registered nurse who is knowledgeable, trained, and practicing in the diagnosis and treatment of mental illness or mental retardation; that after preliminary examination has determined that the person has symptoms of mental illness or mental retardation and appears to be in danger of harming self or others if not immediately detained; or (2) a written statement is made by the institution program director or the director's designee on duty at the facility after preliminary examination that the person has symptoms of chemical dependency and appears to be in danger of harming self or others if not immediately detained or is intoxicated in public.

Sec. 4. **SUPREME COURT TASK FORCE; STUDY REQUIRED.**

Subdivision 1. ESTABLISHMENT. The Minnesota Supreme Court is requested to establish a task force to study the use of the court system as an alternative to the administrative process of the Special Review Board for reductions in custody and discharge from commitment of those persons committed as a sexually dangerous person or sexual psychopathic personality under Minnesota Statutes, section 253B.185.

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Subd. 2. MEMBERSHIP. The task force shall consist of the following:

- (1) a representative from the Minnesota Supreme Court;
- (2) a court administrator;
- (3) a district court judge;
- (4) a county attorney selected by the County Attorney's Association;
- (5) a representative from the Attorney General's Office;
- (6) the ombudsman for mental health and mental retardation;
- (7) a law enforcement representative;
- (8) a county case manager;
- (9) a victim services representative;
- (10) a person experienced in treating sex offenders;
- (11) a defense attorney;
- (12) the commissioner of human services or the commissioner's designee;
- (13) the state-operated services forensic medical director or the medical director's designee;
- (14) the commissioner of corrections or the commissioner's designee;
- (15) a representative from community corrections;
- (16) a member of the Special Review Board; and
- (17) any other persons deemed necessary by the Minnesota Supreme Court.

Subd. 3. RECOMMENDATIONS. The task force shall convene no later than August 1, 2005. The task force shall examine current law and practices relating to the reduction in custody and discharge of persons committed as a sexually dangerous person or sexual psychopathic personality. The task force shall examine the laws of other jurisdictions and shall make recommendations regarding reduction in custody and discharge procedures and release criteria. The recommendations may suggest the establishment of a judicial process rather than the Special Review Board to authorize a reduction in custody or discharge.

Subd. 4. REPORT. The task force shall report to the chairs of the house Public Safety Policy and Finance Committee and the senate Crime Prevention and Public Safety Committee with recommendations by February 1, 2006.

Presented to the governor May 31, 2005

Signed by the governor June 3, 2005, 8:00 a.m.

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