CHAPTER 2--H.F.No. 11

An act relating to human services; modifying provisions relating to child care, foster care, disability services, community supports, civil commitment, maltreatment of minors, child protection, and child support; expanding definition of providers for child care assistance program; requiring students in foster care who change schools to be enrolled within seven days; requiring responsible social services agencies to initiate and facilitate phone calls between parents and foster care providers for children in out-of-home placement; requiring responsible social services agencies to coordinate prenatal alcohol exposure screenings for children in foster care; directing the commissioner of human services to modify a report and develop training; modifying provisions relating to child care services grants; clarifying commissioner authority to waive child care assistance program provider requirements during declared disaster; modifying family day care training requirements; requiring local agencies to use a universal form to process family day care variance requests and post variance policies publicly; modifying background study requirements for guardians and conservators; modifying the definition of supervision in child care center settings; extending sunset for Cultural and Ethnic Communities Leadership Council; extending the corporate adult foster care moratorium exception for a fifth bed until 2020; modifying timelines for intensive support service planning; permitting delegation of competency evaluations of direct support staff; modifying the training requirements for direct support staff providing licensed home and community-based services; codifying an existing grant program for fetal alcohol disorder prevention activities; codifying existing consumer-directed community supports laws; clarifying the excess income standard for medical assistance; extending end date for first three years of life demonstration project; permitting certain advanced practice registered nurses and physician assistants to order home health services under medical assistance; codifying existing session law governing consumer-directed community supports; modifying provisions regarding post-arrest community-based service coordination; birth to age eight pilot project participation requirements; eliminating requirement to involve state medical review agent in determination and documentation of medically necessary psychiatric residential treatment facility services; requiring establishment of per diem rate per provider of youth psychiatric residential treatment services; permitting facilities or licensed professionals to submit billing for arranged services; changing definition relating to children's mental health crisis response services; modifying intensive rehabilitative mental health services requirements and provider standards; establishing state policy regarding services offered to people with disabilities; modifying existing direction to the commissioner of human services regarding proposing changes to the home and community-based waivers; modifying requirements for service planning for home and community-based services; restoring a notice requirement when MnCHOICES assessments are required for personal care assistance services; modifying definitions, requirements, and eligibility for long-term care consultation services; modifying case management requirements for individuals receiving services through the home and community-based services waivers; modifying the definition of community-living setting; modifying provisions regarding medical assistance covered services for certified community behavioral health clinics and officer-involved community-based care coordination; modifying eligibility for children's mental health respite grants; removing certain categories from being exempt from foster care initial license moratorium; modifying background study provisions related to child foster care, children's residential facilities, foster residence settings, and housing support; modifying provisions relating to home and community-based services; modifying provisions governing state-operated community-based services environment and safety; clarifying circumstances for termination of state-operated services for individuals with complex behavioral needs; removing provision limiting

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medical assistance coverage for intensive mental health outpatient treatment to adults; modifying provisions relating to withdrawal management, substance use disorder, housing support, and general assistance programs; authorizing correction of housing support payments; modifying definition of qualified professional for purposes of applying for housing support and general assistance; allowing minor consent to homeless and sexually exploited youth services under specified circumstances; authorizing imposition of fine for repeat violations of chemical dependency or substance abuse disorder treatment program requirements; modifying provisions relating to foster care out-of-home and qualified residential treatment program placements; directing commissioner of human services to consider continuous licenses for family day care providers; instructing the revisor of statutes to modify references to the Disability Linkage Line; modifying provisions governing civil commitment; modifying the procedure for recreational license suspension and reinstatement; modifying child welfare provisions; reorganizing and clarifying sections regarding child maltreatment and neglect; authorizing engagement services pilot project; requiring reports; amending Minnesota Statutes 2018, sections 13.32, subdivision 3; 13.3805, subdivision 3; 13.43, subdivision 14; 13.82, subdivisions 8, 9, 17; 13.821; 13.84, subdivision 9; 13.871, subdivision 6; 13.88; 119B.21; 119B.26; 120B.22, subdivision 2; 125A.0942, subdivision 4; 135A.15, subdivision 10; 144.225, subdivision 2b; 144.343, subdivision 4; 144.7065, subdivision 10; 144.7068; 144A.472, subdivision 1; 144A.479, subdivision 6; 144A.4796, subdivision 6; 144H.16, subdivision 1; 144H.18, subdivision 3; 145.902, subdivision 3; 145.952, subdivision 2; 146A.025; 148E.240, subdivision 7; 148F.13, subdivision 12; 148F.205, subdivision 1; 153B.70; 214.103, subdivision 8; 214.104; 245.4871, by adding a subdivision; 245.4885, subdivision 1; 245.8261, subdivision 9; 245A.02, subdivision 2c; 245A.04, subdivisions 5, 9; 245A.06, subdivision 8; 245A.07, subdivision 5; 245A.08, subdivision 2a; 245A.085; 245A.11, subdivisions 2a, 7b; 245A.50, as amended; 245C.02, subdivision 5, by adding subdivisions; 245C.03, by adding a subdivision; 245C.04, subdivision 1, as amended, by adding a subdivision; 245C.05, subdivision 6; 245C.10, by adding subdivisions; 245C.14, by adding a subdivision; 245C.15, subdivision 4; 245C.16, subdivisions 1, 2; 245C.17, subdivisions 1, 3, by adding a subdivision; 245C.18; 245C.21, subdivision 2; 245C.24, subdivision 4; 245C.25; 245C.27, subdivisions 1, 2; 245C.28, subdivision 1; 245C.29, subdivision 1; 245C.31, subdivision 1; 245C.32, subdivision 2; 245D.02, subdivision 1l, as amended, by adding a subdivision; 245D.04, subdivision 3; 245D.06, subdivisions 1, 2, 6; 245D.071, subdivision 3; 245D.081, subdivision 2; 245D.09, subdivisions 4, 4a; 245D.10, subdivision 3a; 245D.32, subdivision 5; 245F.02, subdivisions 7, 14; 245F.04, subdivision 1; 245F.06, subdivision 2; 245F.12, subdivisions 2, 3; 245F.15, subdivisions 3, 5; 245F.16, subdivisions 1, 2; 245F.18; 245G.02, subdivision 2; 245G.03, subdivision 1; 245G.09, subdivision 1; 245G.10, subdivision 3; 245G.11, subdivisions 3, 4; 245G.13, subdivision 2; 253B.02, subdivisions 4b, 7, 8, 9, 10, 13, 16, 17, 18, 19, 21, 22, 23, by adding a subdivision; 253B.03, subdivisions 1, 2, 3, 4a, 5, 6, 6b, 6d, as amended, 7, 10; 253B.04, subdivisions 1, 1a, 2; 253B.045, subdivisions 2, 3, 5, 6; 253B.06, subdivisions 1, 2, as amended, 3; 253B.07, subdivisions 1, 2, 2a, 2b, 2d, 3, 5, 7; 253B.08, subdivisions 1, 2a, 5, 5a; 253B.09, subdivisions 1, 2, 3a, 5; 253B.092; 253B.0921; 253B.095, subdivision 3; 253B.097, subdivisions 1, 2, 3, 6; 253B.10; 253B.12, subdivisions 1, 3, 4, 7; 253B.13, subdivision 1; 253B.14; 253B.141; 253B.15, subdivisions 1, 1a, 2, 3, 3a, 3b, 3c, 5, 7, 9, 10, by adding a subdivision; 253B.16; 253B.17; 253B.18, subdivisions 1, 2, 3, 4a, 4b, 4c, 5, 5a, 6, 7, 8, 10, 11, 12, 14, 15; 253B.19, subdivision 2; 253B.20, subdivisions 1, 2, 3, 4, 6; 253B.21, subdivisions 1, 2, 3; 253B.212, subdivisions 1, 1a, 1b, 2; 253B.22, subdivisions 1, 2, 3, 4; 253B.23, subdivisions 1, 1b, 2; 253B.24; 253D.02, subdivision 6; 253D.07, subdivision 2; 253D.10, subdivision 2; 253D.28, subdivision 2; 254A.09; 256.01, subdivisions 12, 15; 256.0112, subdivision 10; 256.041, subdivision 10; 256.045, subdivisions 3, 3b, 4; 256.82, subdivision 2; 256.87, subdivision 8; 256.975, subdivision 12; 256B.0621, subdivision 4; 256B.0625, subdivisions 5l, 33, 56a; 256B.0652, subdivision 10; 256B.0653, subdivisions 4, 5, 7; 256B.0654, subdivisions 1, as amended, 2a, as amended, 3, as amended, 4, as amended; 256B.0911, subdivision 1; 256B.092, subdivision 1a; 256B.0941, subdivisions 1, 3; 256B.0944,

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subdivision 1; 256B.0945, subdivision 1; 256B.0947, subdivisions 2, 4, 5, 6; 256B.0949, subdivisions 2, 5, 6, 9, 13, 14, 15, 16; 256B.0951, subdivision 5; 256B.0954; 256B.097, subdivisions 4, 6; 256B.49, subdivisions 16, 23; 256B.77, subdivision 17; 256B.85, subdivision 12a; 256D.02, subdivision 17; 256E.21, subdivision 5; 256E.35; 256F.10, subdivisions 1, 4; 256I.03, subdivisions 3, 14; 256I.05, subdivisions 1c, 1n, 8; 256I.06, subdivision 2, by adding a subdivision; 256J.08, subdivision 73a, as amended; 256L.07, subdivision 4; 256M.10, subdivision 2; 256M.40, subdivision 1; 256M.41, subdivision 1; 256N.02, subdivision 14a; 256N.21, subdivisions 2, 5; 256N.24, subdivision 4; 256P.01, by adding a subdivision; 257.0725; 257.0764; 257.70; 260.012; 260.761, subdivision 2; 260B.171, subdivision 6; 260C.007, subdivisions 3, 5, 6, 13, by adding subdivisions; 260C.150, subdivision 3; 260C.157, subdivision 3; 260C.171, subdivision 3; 260C.177; 260C.202; 260C.204; 260C.209, subdivision 2; 260C.212, subdivisions 1, 4a, 12, by adding a subdivision; 260C.219; 260C.221; 260C.227; 260C.4412; 260C.503, subdivision 2, by adding a subdivision; 260D.01; 260D.02, subdivisions 3, 5; 388.051, subdivision 2; 518.005, subdivision 5; 518.165, subdivisions 2, 5; 518A.53, subdivision 11; 518A.68; 518A.685; 524.5-118; 595.02, subdivisions 1, 2; 609.26, subdivision 7; 609.3457, subdivision 2; 609.379, subdivision 2; 609.507; 609.7495, subdivision 1; 611A.203, subdivision 4; 611A.90, subdivision 1; 626.557, subdivision 9d; Minnesota Statutes 2019 Supplement, sections 13.46, subdivisions 3, 4; 119B.011, subdivision 19; 122A.20, subdivision 2; 122A.40, subdivision 13; 122A.41, subdivision 6; 144A.4796, subdivision 2; 148B.593; 243.166, subdivision 7; 245.4889, subdivision 1; 245.735, subdivision 3; 245A.02, subdivision 18; 245A.03, subdivision 7; 245A.07, subdivision 3; 245A.145, subdivision 1; 245A.149; 245A.16, subdivision 1; 245A.40, subdivisions 1, 7; 245C.03, subdivision 1; 245C.05, subdivision 4; 245C.08, subdivision 1; 245C.13, subdivision 2; 245D.071, subdivision 5; 245D.09, subdivision 5; 245G.12; 245G.13, subdivision 1; 245H.11, as amended; 254A.03, subdivision 3, as amended; 254B.04, subdivision 1; 254B.05, subdivision 1; 256.01, subdivision 14b; 256B.056, subdivision 5c; 256B.0625, subdivision 5m; 256B.064, subdivision 2; 256B.0711, subdivision 1; 256B.0911, subdivisions 1a, 3a, 3f; 256B.092, subdivision 1b; 256B.49, subdivisions 13, 14; 256B.85, subdivision 10; 256I.04, subdivision 2b; 256S.01, subdivision 6; 256S.19, subdivision 4; 260B.198, subdivision 1; 260C.139, subdivision 3; 260C.178, subdivision 1; 260C.201, subdivision 6; 260C.212, subdivision 2; 299C.093; Laws 2016, chapter 189, article 15, section 29; Laws 2017, First Special Session chapter 6, article 7, section 33, subdivisions 2, 3; Laws 2019, First Special Session chapter 9, article 5, section 86; article 14, section 2, subdivision 33; proposing coding for new law in Minnesota Statutes, chapters 120A; 253B; 254A; 256B; 256K; 260; 260C; proposing coding for new law as Minnesota Statutes, chapter 260E; repealing Minnesota Statutes 2018, sections 245F.02, subdivision 20; 253B.02, subdivisions 6, 12a; 253B.05, subdivisions 1, 2, 2b, 3, 4; 253B.064; 253B.065; 253B.066; 253B.09, subdivision 3; 253B.12, subdivision 2; 253B.15, subdivision 11; 253B.20, subdivision 7; 626.556, subdivisions 1, 3, 3a, 3c, 3d, 3f, 4, 4a, 5, 6, 6a, 7, 7a, 8, 9, 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h, 10i, 10j, 10k, 10l, 10m, 10n, 11a, 11b, 11c, 11d, 12, 14, 15, 16; 626.5561; 626.5562; 626.558; 626.559, subdivisions 1, 1a, 1b, 2, 3, 5; 626.5591; 626.561; Minnesota Statutes 2019 Supplement, section 626.556, subdivisions 2, 3b, 3e, 10, 11; Laws 2005, First Special Session chapter 4, article 7, sections 50; 51; Laws 2012, chapter 247, article 4, section 47, as amended; Laws 2015, chapter 71, article 7, section 54, as amended; Laws 2017, First Special Session chapter 6, article 1, sections 44, as amended; 45, as amended.

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

ARTICLE 1

CHILDREN AND FAMILY SERVICES

Section 1. Minnesota Statutes 2019 Supplement, section 119B.011, subdivision 19, is amended to read:

Subd. 19. **Provider.** "Provider" means:

(1) an individual or child care center or facility licensed to provide child care under chapter 245A when operating within the terms of the license;

(2) a license-exempt center required to be certified under chapter 245H;

(3) an individual or child care center or facility that: (i) holds a valid child care license issued by another state or a tribe; (ii) provides child care services in the licensing state or in the area under the licensing tribe's jurisdiction; and (iii) is in compliance with federal health and safety requirements as certified by the licensing state or tribe, or as determined by receipt of child care development block grant funds in the licensing state; ~~or~~

(4) a legal nonlicensed child care provider as defined under section 119B.011, subdivision 16, providing legal child care services. A legal nonlicensed child care provider must be at least 18 years of age, and not a member of the MFIP assistance unit or a member of the family receiving child care assistance to be authorized under this chapter~~.~~; or

(5) an individual or child care center or facility that is operated under the jurisdiction of the federal government.

EFFECTIVE DATE. This section is effective July 1, 2020.

Sec. 2. Minnesota Statutes 2018, section 119B.21, is amended to read:

119B.21 CHILD CARE SERVICES GRANTS.

Subdivision 1. **Distribution of grant funds.** (a) The commissioner shall distribute funds to the child care resource and referral programs designated under ~~section~~ sections 119B.189 and 119B.19, subdivision 1a, for child care services grants to ~~centers under subdivision 5 and family child care programs based upon the following factors~~ improve child care quality, support start-up of new programs, and expand existing programs.

(b) Up to ten percent of funds appropriated for grants under this section may be used by the commissioner for statewide child care development initiatives, training initiatives, collaboration programs, and research and data collection. The commissioner shall develop eligibility guidelines and a process to distribute funds under this paragraph.

(c) At least 90 percent of funds appropriated for grants under this section may be distributed by the commissioner to child care resource and referral programs under ~~section~~ sections 119B.189 and 119B.19, subdivision 1a, ~~for child care center grants and family child care grants~~ based on the following factors:

(1) the number of children under 13 years of age needing child care in the region;

(2) the region served by the program;

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(3) the ratio of children under 13 years of age needing child care to the number of licensed spaces in the region;

(4) the number of licensed child care providers and school-age care programs in the region; and

(5) other related factors determined by the commissioner.

(d) Child care resource and referral programs must award child care ~~center grants and family child care~~ services grants based on the recommendation of the child care district proposal review committees under subdivision 3.

(e) The commissioner may distribute funds under this section for a two-year period.

Subd. 1a. **Eligible programs.** A child care resource and referral program designated under sections 119B.189 and 119B.19, subdivision 1a, may award child care services grants to:

(1) a child care center licensed under Minnesota Rules, chapter 9503, or in the process of becoming licensed;

(2) a family or group family child care home licensed under Minnesota Rules, chapter 9502, or in the process of becoming licensed;

(3) corporations or public agencies that develop or provide child care services;

(4) a school-age care program;

(5) a tribally licensed child care program; or

(6) legal nonlicensed or family, friend, and neighbor child care providers.

Subd. 3. **Child care district proposal review committees.** (a) Child care district proposal review committees review applications for ~~family child care grants and~~ child care ~~center~~ services grants under this section and make funding recommendations to the child care resource and referral program designated under ~~section~~ sections 119B.189 and 119B.19, subdivision 1a. Each region within a district must be represented on the review committee. The child care district proposal review committees must complete their reviews and forward their recommendations to the child care resource and referral district programs by the date specified by the commissioner.

(b) A child care resource and referral district program shall establish a process to select members of the child care district proposal review committee. Members must reflect a broad cross-section of the community, and may include the following constituent groups: family child care providers, child care center providers, school-age care providers, parents who use child care services, health services, social services, public schools, Head Start, employers, representatives of cultural and ethnic communities, and other citizens with demonstrated interest in child care issues. Members of the proposal review committee with a direct financial interest in a pending grant proposal may not provide a recommendation or participate in the ranking of that grant proposal.

(c) The child care resource and referral district program may ~~reimburse committee members for their actual travel, child care, and child care provider substitute expenses for up to two committee meetings per year. The program may also pay~~ offer a stipend to ~~parent representatives~~ proposal review committee members for participating in ~~two meetings per year~~ the grant review process.

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Subd. 5. **Child care services grants.** (a) A child care resource and referral program designated under ~~section~~ sections 119B.189 and 119B.19, subdivision 1a, may award child care services grants for:

(1) creating new licensed child care facilities and expanding existing facilities, including, but not limited to, supplies, toys, equipment, facility renovation, and remodeling;

(2) ~~improving licensed child care facility programs~~ child care facility improvements, including but not limited to, improvements to meet licensing requirements;

(3) staff training and development services including, but not limited to, in-service training, curriculum development, accreditation, certification, consulting, resource centers, program and resource materials, supporting effective teacher-child interactions, child-focused teaching, and content-driven classroom instruction;

(4) capacity building through the purchase of appropriate technology to create, enhance, and maintain business management systems;

(5) emergency assistance for child care programs;

(6) new programs or projects for the creation, expansion, or improvement of programs that serve ethnic immigrant and refugee communities; ~~and~~

(7) targeted recruitment initiatives to expand and build the capacity of the child care system and to improve the quality of care provided by legal nonlicensed child care providers~~.~~; and

(8) other uses as approved by the commissioner.

(b) A child care resource and referral organization designated under ~~section~~ sections 119B.189 and 119B.19, subdivision 1a, may award child care services grants ~~of up to $1,000 to family child care providers. These grants may be used~~ for~~:~~ eligible programs in amounts up to a maximum determined by the commissioner for each type of eligible program.

~~(1) facility improvements, including, but not limited to, improvements to meet licensing requirements;~~

~~(2) improvements to expand a child care facility or program;~~

~~(3) toys and equipment;~~

~~(4) technology and software to create, enhance, and maintain business management systems;~~

~~(5) start-up costs;~~

~~(6) staff training and development; and~~

~~(7) other uses approved by the commissioner.~~

~~(c) A child care resource and referral program designated under section 119B.19, subdivision 1a, may award child care services grants to:~~

~~(1) licensed providers;~~

~~(2) providers in the process of being licensed;~~

~~(3) corporations or public agencies that develop or provide child care services;~~

~~(4) school-age care programs;~~

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~~(5) legal nonlicensed or family, friend, and neighbor care providers; or~~

~~(6) any combination of clauses (1) to (5).~~

~~(d) A child care center that is a recipient of a child care services grant for facility improvements or staff training and development must provide a 25 percent local match. A local match is not required for grants to family child care providers.~~

~~(e) Beginning July 1, 2009, grants to child care centers under this subdivision shall be increasingly awarded for activities that improve provider quality, including activities under paragraph (a), clauses (1) to (3) and (6). Grants to family child care providers shall be increasingly awarded for activities that improve provider quality, including activities under paragraph (b), clauses (1), (3), and (6).~~

Sec. 3. Minnesota Statutes 2018, section 119B.26, is amended to read:

119B.26 AUTHORITY TO WAIVE REQUIREMENTS DURING DISASTER PERIODS.

The commissioner may waive requirements under this chapter for up to nine months after the disaster in areas where a federal disaster has been declared under United States Code, title 42, section 5121, et seq., or the governor has exercised authority under chapter 12. The commissioner may waive requirements retroactively from the date of the disaster. The commissioner shall notify the chairs of the house of representatives and senate committees with jurisdiction over this chapter and the house of representatives Ways and Means Committee ~~ten days before the effective date of any waiver granted~~ within five business days after the commissioner grants a waiver under this section.

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

Sec. 4. **[120A.21] ENROLLMENT OF A STUDENT IN FOSTER CARE.**

A student placed in foster care must remain enrolled in the student's prior school unless it is determined that remaining enrolled in the prior school is not in the student's best interests. If the student does not remain enrolled in the prior school, the student must be enrolled in a new school within seven school days.

Sec. 5. Minnesota Statutes 2018, section 245A.02, subdivision 2c, is amended to read:

Subd. 2c. **Annual or annually; family child care training requirements.** For the purposes of ~~section 245A.50, subdivisions 1 to 9~~ sections 245A.50 to 245A.53, "annual" or "annually" means the 12-month period beginning on the license effective date or the annual anniversary of the effective date and ending on the day prior to the annual anniversary of the license effective date.

EFFECTIVE DATE. This section is effective September 30, 2020.

Sec. 6. Minnesota Statutes 2019 Supplement, section 245A.02, subdivision 18, is amended to read:

Subd. 18. **Supervision.** (a) For purposes of licensed child care centers, "supervision" means when a program staff person:

(1) is accountable for the child's care;

(2) can intervene to protect the health and safety of the child; and

(3) is within sight and hearing of the child at all times except as described in paragraphs (b) to ~~(d)~~ (e).

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(b) When an infant is placed in a crib room to sleep, supervision occurs when a program staff person is within sight or hearing of the infant. When supervision of a crib room is provided by sight or hearing, the center must have a plan to address the other supervision components.

(c) When a single school-age child uses the restroom within the licensed space, supervision occurs when a program staff person has knowledge of the child's activity and location and checks on the child at least every five minutes. When a school-age child uses the restroom outside the licensed space, including but not limited to field trips, supervision occurs when staff accompany children to the restroom.

(d) When a school-age child leaves the classroom but remains within the licensed space to deliver or retrieve items from the child's personal storage space, supervision occurs when a program staff person has knowledge of the child's activity and location and checks on the child at least every five minutes.

(e) When a single preschooler uses an individual, private restroom within the classroom with the door closed, supervision occurs when a program staff person has knowledge of the child's activity and location, can hear the child, and checks on the child at least every five minutes.

Sec. 7. Minnesota Statutes 2018, section 245A.04, subdivision 9, is amended to read:

Subd. 9. **Variances.** (a) The commissioner may grant variances to rules that do not affect the health or safety of persons in a licensed program if the following conditions are met:

(1) the variance must be requested by an applicant or license holder on a form and in a manner prescribed by the commissioner;

(2) the request for a variance must include the reasons that the applicant or license holder cannot comply with a requirement as stated in the rule and the alternative equivalent measures that the applicant or license holder will follow to comply with the intent of the rule; and

(3) the request must state the period of time for which the variance is requested.

The commissioner may grant a permanent variance when conditions under which the variance is requested do not affect the health or safety of persons being served by the licensed program, nor compromise the qualifications of staff to provide services. The permanent variance shall expire as soon as the conditions that warranted the variance are modified in any way. Any applicant or license holder must inform the commissioner of any changes or modifications that have occurred in the conditions that warranted the permanent variance. Failure to advise the commissioner shall result in revocation of the permanent variance and may be cause for other sanctions under sections 245A.06 and 245A.07.

The commissioner's decision to grant or deny a variance request is final and not subject to appeal under the provisions of chapter 14.

(b) The commissioner shall consider variances for child care center staff qualification requirements under Minnesota Rules, parts 9503.0032 and 9503.0033, that do not affect the health and safety of children served by the center. A variance request must be submitted to the commissioner in accordance with paragraph (a) and must include a plan for the staff person to gain additional experience, education, or training, as requested by the commissioner. When reviewing a variance request under this section, the commissioner shall consider the staff person's level of professional development, including but not limited to steps completed on the Minnesota career lattice.

(c) Beginning January 1, 2021, counties shall use a uniform application form developed by the commissioner for variance requests by family child care license holders.

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Sec. 8. Minnesota Statutes 2019 Supplement, section 245A.149, is amended to read:

245A.149 SUPERVISION OF FAMILY CHILD CARE LICENSE HOLDER'S OWN CHILD.

(a) Notwithstanding Minnesota Rules, part 9502.0365, subpart 5, and with the license holder's consent, an individual may be present in the licensed space, may supervise the family child care license holder's own child both inside and outside of the licensed space, and is exempt from the training and supervision requirements of this chapter and Minnesota Rules, chapter 9502, if the individual:

(1) is related to the license holder or to the license holder's child, as defined in section 245A.02, subdivision 13, or is a household member who the license holder has reported to the county agency;

(2) is not a designated caregiver, helper, or substitute for the licensed program;

(3) is involved only in the care of the license holder's own child; and

(4) does not have direct, unsupervised contact with any nonrelative children receiving services.

(b) If the individual in paragraph (a) is not a household member, the individual is also exempt from background study requirements under chapter 245C.

EFFECTIVE DATE. This section is effective September 30, 2020.

Sec. 9. Minnesota Statutes 2019 Supplement, section 245A.16, subdivision 1, is amended to read:

Subdivision 1. **Delegation of authority to agencies.** (a) County agencies and private agencies that have been designated or licensed by the commissioner to perform licensing functions and activities under section 245A.04 and background studies for family child care under chapter 245C; to recommend denial of applicants under section 245A.05; to issue correction orders, to issue variances, and recommend a conditional license under section 245A.06; or to recommend suspending or revoking a license or issuing a fine under section 245A.07, shall comply with rules and directives of the commissioner governing those functions and with this section. The following variances are excluded from the delegation of variance authority and may be issued only by the commissioner:

(1) dual licensure of family child care and child foster care, dual licensure of child and adult foster care, and adult foster care and family child care;

(2) adult foster care maximum capacity;

(3) adult foster care minimum age requirement;

(4) child foster care maximum age requirement;

(5) variances regarding disqualified individuals except that, before the implementation of NETStudy 2.0, county agencies may issue variances under section 245C.30 regarding disqualified individuals when the county is responsible for conducting a consolidated reconsideration according to sections 245C.25 and 245C.27, subdivision 2, clauses (a) and (b), of a county maltreatment determination and a disqualification based on serious or recurring maltreatment;

(6) the required presence of a caregiver in the adult foster care residence during normal sleeping hours;

(7) variances to requirements relating to chemical use problems of a license holder or a household member of a license holder; and

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(8) variances to section 245A.53 for a time-limited period. If the commissioner grants a variance under this clause, the license holder must provide notice of the variance to all parents and guardians of the children in care.

Except as provided in section 245A.14, subdivision 4, paragraph (e), a county agency must not grant a license holder a variance to exceed the maximum allowable family child care license capacity of 14 children.

(b) A county agency that has been designated by the commissioner to issue family child care variances must:

(1) publish the county agency's policies and criteria for issuing variances on the county's public website and update the policies as necessary; and

(2) annually distribute the county agency's policies and criteria for issuing variances to all family child care license holders in the county.

~~(b)~~ (c) Before the implementation of NETStudy 2.0, county agencies must report information about disqualification reconsiderations under sections 245C.25 and 245C.27, subdivision 2, paragraphs (a) and (b), and variances granted under paragraph (a), clause (5), to the commissioner at least monthly in a format prescribed by the commissioner.

~~(c)~~ (d) For family child care programs, the commissioner shall require a county agency to conduct one unannounced licensing review at least annually.

~~(d)~~ (e) For family adult day services programs, the commissioner may authorize licensing reviews every two years after a licensee has had at least one annual review.

~~(e)~~ (f) A license issued under this section may be issued for up to two years.

~~(f)~~ (g) During implementation of chapter 245D, the commissioner shall consider:

(1) the role of counties in quality assurance;

(2) the duties of county licensing staff; and

(3) the possible use of joint powers agreements, according to section 471.59, with counties through which some licensing duties under chapter 245D may be delegated by the commissioner to the counties.

Any consideration related to this paragraph must meet all of the requirements of the corrective action plan ordered by the federal Centers for Medicare and Medicaid Services.

~~(g)~~ (h) Licensing authority specific to section 245D.06, subdivisions 5, 6, 7, and 8, or successor provisions; and section 245D.061 or successor provisions, for family child foster care programs providing out-of-home respite, as identified in section 245D.03, subdivision 1, paragraph (b), clause (1), is excluded from the delegation of authority to county and private agencies.

~~(h)~~ (i) A county agency shall report to the commissioner, in a manner prescribed by the commissioner, the following information for a licensed family child care program:

(1) the results of each licensing review completed, including the date of the review, and any licensing correction order issued;

(2) any death, serious injury, or determination of substantiated maltreatment; and

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(3) any fires that require the service of a fire department within 48 hours of the fire. The information under this clause must also be reported to the state fire marshal within two business days of receiving notice from a licensed family child care provider.

EFFECTIVE DATE. This section is effective January 1, 2021.

Sec. 10. Minnesota Statutes 2019 Supplement, section 245A.40, subdivision 7, is amended to read:

Subd. 7. **In-service.** (a) A license holder must ensure that the center director, staff persons, substitutes, and unsupervised volunteers complete in-service training each calendar year.

(b) The center director and staff persons who work more than 20 hours per week must complete 24 hours of in-service training each calendar year. Staff persons who work 20 hours or less per week must complete 12 hours of in-service training each calendar year. Substitutes and unsupervised volunteers must complete the requirements of paragraphs ~~(e) to (h)~~ (d) to (g) and do not otherwise have a minimum number of hours of training to complete.

(c) The number of in-service training hours may be prorated for individuals not employed for an entire year.

(d) Each year, in-service training must include:

(1) the center's procedures for maintaining health and safety according to section 245A.41 and Minnesota Rules, part 9503.0140, and handling emergencies and accidents according to Minnesota Rules, part 9503.0110;

(2) the reporting responsibilities under ~~section 626.556~~ chapter 260E and Minnesota Rules, part 9503.0130;

(3) at least one-half hour of training on the standards under section 245A.1435 and on reducing the risk of sudden unexpected infant death as required under subdivision 5, if applicable; and

(4) at least one-half hour of training on the risk of abusive head trauma from shaking infants and young children as required under subdivision 5a, if applicable.

(e) Each year, or when a change is made, whichever is more frequent, in-service training must be provided on: (1) the center's risk reduction plan under section 245A.66, subdivision 2; and (2) a child's individual child care program plan as required under Minnesota Rules, part 9503.0065, subpart 3.

(f) At least once every two calendar years, the in-service training must include:

(1) child development and learning training under subdivision 2;

(2) pediatric first aid that meets the requirements of subdivision 3;

(3) pediatric cardiopulmonary resuscitation training that meets the requirements of subdivision 4;

(4) cultural dynamics training to increase awareness of cultural differences; and

(5) disabilities training to increase awareness of differing abilities of children.

(g) At least once every five years, in-service training must include child passenger restraint training that meets the requirements of subdivision 6, if applicable.

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(h) The remaining hours of the in-service training requirement must be met by completing training in the following content areas of the Minnesota Knowledge and Competency Framework:

(1) Content area I: child development and learning;

(2) Content area II: developmentally appropriate learning experiences;

(3) Content area III: relationships with families;

(4) Content area IV: assessment, evaluation, and individualization;

(5) Content area V: historical and contemporary development of early childhood education;

(6) Content area VI: professionalism;

(7) Content area VII: health, safety, and nutrition; and

(8) Content area VIII: application through clinical experiences.

(i) For purposes of this subdivision, the following terms have the meanings given them.

(1) "Child development and learning training" means training in understanding how children develop physically, cognitively, emotionally, and socially and learn as part of the children's family, culture, and community.

(2) "Developmentally appropriate learning experiences" means creating positive learning experiences, promoting cognitive development, promoting social and emotional development, promoting physical development, and promoting creative development.

(3) "Relationships with families" means training on building a positive, respectful relationship with the child's family.

(4) "Assessment, evaluation, and individualization" means training in observing, recording, and assessing development; assessing and using information to plan; and assessing and using information to enhance and maintain program quality.

(5) "Historical and contemporary development of early childhood education" means training in past and current practices in early childhood education and how current events and issues affect children, families, and programs.

(6) "Professionalism" means training in knowledge, skills, and abilities that promote ongoing professional development.

(7) "Health, safety, and nutrition" means training in establishing health practices, ensuring safety, and providing healthy nutrition.

(8) "Application through clinical experiences" means clinical experiences in which a person applies effective teaching practices using a range of educational programming models.

(j) The license holder must ensure that documentation, as required in subdivision 10, includes the number of total training hours required to be completed, name of the training, the Minnesota Knowledge and Competency Framework content area, number of hours completed, and the director's approval of the training.

(k) In-service training completed by a staff person that is not specific to that child care center is transferable upon a staff person's change in employment to another child care program.

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

Sec. 11. Minnesota Statutes 2018, section 245A.50, as amended by Laws 2019, First Special Session chapter 9, article 2, section 53, is amended to read:

245A.50 FAMILY CHILD CARE TRAINING REQUIREMENTS.

Subdivision 1. **Initial training.** (a) License holders, second adult caregivers, and substitutes must comply with the training requirements in this section.

(b) Helpers who assist with care on a regular basis must complete six hours of training within one year after the date of initial employment.

(c) Training requirements established under this section that must be completed prior to initial licensure must be satisfied only by a newly licensed child care provider or by a child care provider who has not held an active child care license in Minnesota in the previous 12 months. A child care provider who voluntarily cancels a license or allows the license to lapse for a period of less than 12 months and who seeks reinstatement of the lapsed or canceled license within 12 months of the lapse or cancellation must satisfy the annual, ongoing training requirements, and is not required to satisfy the training requirements that must be completed prior to initial licensure. A child care provider who relocates within the state must (1) satisfy the annual, ongoing training requirements according to the schedules established in this section and (2) not be required to satisfy the training requirements under this section that the child care provider completed prior to initial licensure. If a licensed provider moves to a new county, the new county is prohibited from requiring the provider to complete any orientation class or training for new providers.

(d) Before a second adult caregiver or substitute cares for a child or assists in the care of a child, the license holder must train the second adult caregiver or substitute on:

(1) the emergency preparedness plan required under section 245A.51, subdivision 3; and

(2) allergy prevention and response required under section 245A.51, subdivision 1.

Subd. 1a. **Definitions and general provisions.** For the purposes of this section, the following terms have the meanings given:

(1) "second adult caregiver" means an adult who cares for children in the licensed program along with the license holder for a cumulative total of more than 500 hours annually;

(2) "helper" means a minor, ages 13 to 17, who assists in caring for children; and

(3) "substitute" means an adult who assumes responsibility for a license holder for a cumulative total of not more than 500 hours annually.

An adult who cares for children in the licensed program along with the license holder for a cumulative total of not more than 500 hours annually has the same training requirements as a substitute.

Subd. 2. **Child development and learning and behavior guidance training.** (a) For purposes of family and group family child care, the license holder and each second adult caregiver ~~who provides care in the licensed setting for more than 30 days in any 12-month period~~ shall complete and document at least four hours of child ~~growth~~ development and learning and behavior guidance training prior to initial licensure, and before caring for children. For purposes of this subdivision, "child development and learning training" means training in understanding how children develop physically, cognitively, emotionally, and socially and learn as part of the children's family, culture, and community. "Behavior guidance training" means

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training in the understanding of the functions of child behavior and strategies for managing challenging situations. ~~At least two hours of child development and learning or behavior guidance training must be repeated annually.~~ The training ~~curriculum~~ shall be developed or approved by the commissioner of human services.

(b) Notwithstanding initial child development and learning and behavior guidance training requirements in paragraph (a), individuals are exempt from this requirement if they:

(1) have taken a three-credit course on early childhood development within the past five years;

(2) have received a baccalaureate or master's degree in early childhood education or school-age child care within the past five years;

(3) are licensed in Minnesota as a prekindergarten teacher, an early childhood educator, a kindergarten to grade 6 teacher with a prekindergarten specialty, an early childhood special education teacher, or an elementary teacher with a kindergarten endorsement; or

(4) have received a baccalaureate degree with a Montessori certificate within the past five years.

(c) The license holder and each second adult caregiver must annually take at least two hours of child development and learning or behavior guidance training. A three-credit course about early childhood development meets the requirements of this paragraph.

Subd. 3. **First aid.** (a) ~~When children are present in a family child care home governed by Minnesota Rules, parts 9502.0315 to 9502.0445, at least one staff person must be present in the home who has been trained in first aid~~ Before initial licensure and before caring for a child, license holders, second adult caregivers, and substitutes must be trained in pediatric first aid. The first aid training must have been provided by an individual approved to provide first aid instruction. First aid training may be less than eight hours and persons qualified to provide first aid training include individuals approved as first aid instructors. ~~First aid training must be repeated every two years~~ License holders, second adult caregivers, and substitutes must repeat pediatric first aid training every two years. When the training expires, it must be retaken no later than the day before the anniversary of the license holder's license effective date.

~~(b) A family child care provider is exempt from the first aid training requirements under this subdivision related to any substitute caregiver who provides less than 30 hours of care during any 12-month period.~~

~~(c)~~ (b) Video training reviewed and approved by the county licensing agency satisfies the training requirement of this subdivision.

Subd. 4. **Cardiopulmonary resuscitation.** (a) ~~When children are present in a family child care home governed by Minnesota Rules, parts 9502.0315 to 9502.0445, at least one caregiver must be present in the home who has been trained in cardiopulmonary resuscitation (CPR)~~ Before initial licensure and before caring for a child, license holders, second adult caregivers, and substitutes must be trained in pediatric cardiopulmonary resuscitation (CPR), including CPR techniques for infants and children, and in the treatment of obstructed airways. The CPR training must have been provided by an individual approved to provide CPR instruction~~,~~. License holders, second adult caregivers, and substitutes must ~~be repeated~~ repeat pediatric CPR training at least once every two years~~,~~ and must ~~be documented~~ document the training in the ~~caregiver's~~ license holder's records. When the training expires, it must be retaken no later than the day before the anniversary of the license holder's license effective date.

~~(b) A family child care provider is exempt from the CPR training requirement in this subdivision related to any substitute caregiver who provides less than 30 hours of care during any 12-month period.~~

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~~(c)~~ (b) Persons providing CPR training must use CPR training that has been developed:

(1) by the American Heart Association or the American Red Cross and incorporates psychomotor skills to support the instruction; or

(2) using nationally recognized, evidence-based guidelines for CPR training and incorporates psychomotor skills to support the instruction.

Subd. 5. **Sudden unexpected infant death and abusive head trauma training.** (a) License holders must ensure and document that before ~~staff persons~~ the license holder, second adult caregivers, substitutes, and helpers assist in the care of infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden unexpected infant death. In addition, license holders must ensure and document that before ~~staff persons~~ the license holder, second adult caregivers, substitutes, and helpers assist in the care of infants and children under school age, they receive training on reducing the risk of abusive head trauma from shaking infants and young children. The training in this subdivision may be provided as initial training under subdivision 1 or ongoing annual training under subdivision 7.

(b) Sudden unexpected infant death reduction training required under this subdivision must, at a minimum, address the risk factors related to sudden unexpected infant death, means of reducing the risk of sudden unexpected infant death in child care, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death.

(c) Abusive head trauma training required under this subdivision must, at a minimum, address the risk factors related to shaking infants and young children, means of reducing the risk of abusive head trauma in child care, and license holder communication with parents regarding reducing the risk of abusive head trauma.

(d) Training for family and group family child care providers must be developed by the commissioner in conjunction with the Minnesota Sudden Infant Death Center and approved by the Minnesota Center for Professional Development. Sudden unexpected infant death reduction training and abusive head trauma training may be provided in a single course of no more than two hours in length.

(e) Sudden unexpected infant death reduction training and abusive head trauma training required under this subdivision must be completed in person or as allowed under subdivision 10, clause (1) or (2), at least once every two years. When the training expires, it must be retaken no later than the day before the anniversary of the license holder's license effective date. On the years when the ~~license holder~~ individual receiving training is not receiving training in person or as allowed under subdivision 10, clause (1) or (2), the ~~license holder~~ individual receiving training in accordance with this subdivision must receive sudden unexpected infant death reduction training and abusive head trauma training through a video of no more than one hour in length. The video must be developed or approved by the commissioner.

(f) An individual who is related to the license holder as defined in section 245A.02, subdivision 13, and who is involved only in the care of the license holder's own infant or child under school age and who is not designated to be a second adult caregiver, helper, or substitute~~, as defined in Minnesota Rules, part 9502.0315,~~ for the licensed program, is exempt from the sudden unexpected infant death and abusive head trauma training.

Subd. 6. **Child passenger restraint systems; training requirement.** (a) A license holder must comply with all seat belt and child passenger restraint system requirements under section 169.685.

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(b) Family and group family child care programs licensed by the Department of Human Services that serve a child or children under ~~nine~~ eight years of age must document training that fulfills the requirements in this subdivision.

(1) Before a license holder, ~~staff person,~~ second adult caregiver, substitute, or helper transports a child or children under age ~~nine~~ eight in a motor vehicle, the person placing the child or children in a passenger restraint must satisfactorily complete training on the proper use and installation of child restraint systems in motor vehicles. Training completed under this subdivision may be used to meet initial training under subdivision 1 or ongoing training under subdivision 7.

(2) Training required under this subdivision must be at least one hour in length, completed at initial training, and repeated at least once every five years. When the training expires, it must be retaken no later than the day before the anniversary of the license holder's license effective date. At a minimum, the training must address the proper use of child restraint systems based on the child's size, weight, and age, and the proper installation of a car seat or booster seat in the motor vehicle used by the license holder to transport the child or children.

(3) Training under this subdivision must be provided by individuals who are certified and approved by the Department of Public Safety, Office of Traffic Safety. License holders may obtain a list of certified and approved trainers through the Department of Public Safety website or by contacting the agency.

(c) Child care providers that only transport school-age children as defined in section 245A.02, subdivision 19, paragraph (f), in child care buses as defined in section 169.448, subdivision 1, paragraph (e), are exempt from this subdivision.

Subd. 7. **Training requirements for family and group family child care.** For purposes of family and group family child care, the license holder and each ~~primary~~ second adult caregiver must complete 16 hours of ongoing training each year. ~~For purposes of this subdivision, a primary caregiver is an adult caregiver who provides services in the licensed setting for more than 30 days in any 12-month period.~~ Repeat of topical training requirements in subdivisions 2 to 8 shall count toward the annual 16-hour training requirement. Additional ongoing training subjects to meet the annual 16-hour training requirement must be selected from the following areas:

(1) child development and learning training ~~under subdivision 2, paragraph (a)~~ in understanding how a child develops physically, cognitively, emotionally, and socially, and how a child learns as part of the child's family, culture, and community;

(2) developmentally appropriate learning experiences, including training in creating positive learning experiences, promoting cognitive development, promoting social and emotional development, promoting physical development, promoting creative development; and behavior guidance;

(3) relationships with families, including training in building a positive, respectful relationship with the child's family;

(4) assessment, evaluation, and individualization, including training in observing, recording, and assessing development; assessing and using information to plan; and assessing and using information to enhance and maintain program quality;

(5) historical and contemporary development of early childhood education, including training in past and current practices in early childhood education and how current events and issues affect children, families, and programs;

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(6) professionalism, including training in knowledge, skills, and abilities that promote ongoing professional development; and

(7) health, safety, and nutrition, including training in establishing healthy practices; ensuring safety; and providing healthy nutrition.

Subd. 8. **Other required training requirements.** (a) The training required of family and group family child care providers and staff must include training in the cultural dynamics of early childhood development and child care. The cultural dynamics and disabilities training and skills development of child care providers must be designed to achieve outcomes for providers of child care that include, but are not limited to:

(1) an understanding and support of the importance of culture and differences in ability in children's identity development;

(2) understanding the importance of awareness of cultural differences and similarities in working with children and their families;

(3) understanding and support of the needs of families and children with differences in ability;

(4) developing skills to help children develop unbiased attitudes about cultural differences and differences in ability;

(5) developing skills in culturally appropriate caregiving; and

(6) developing skills in appropriate caregiving for children of different abilities.

The commissioner shall approve the curriculum for cultural dynamics and disability training.

(b) The provider must meet the training requirement in section 245A.14, subdivision 11, paragraph (a), clause (4), to be eligible to allow a child cared for at the family child care or group family child care home to use the swimming pool located at the home.

Subd. 9. **Supervising for safety; training requirement.** (a) Courses required by this subdivision must include the following health and safety topics:

(1) preventing and controlling infectious diseases;

(2) administering medication;

(3) preventing and responding to allergies;

(4) ensuring building and physical premises safety;

(5) handling and storing biological contaminants;

(6) preventing and reporting child abuse and maltreatment; and

(7) emergency preparedness.

~~(a)~~ (b) Before initial licensure and before caring for a child, all family child care license holders and each second adult caregiver ~~who provides care in the licensed family child care home for more than 30 days in any 12-month period~~ shall complete and document the completion of the six-hour Supervising for Safety for Family Child Care course developed by the commissioner.

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(c) The license holder must ensure and document that, before caring for a child, all substitutes have completed the four-hour Basics of Licensed Family Child Care for Substitutes course developed by the commissioner, which must include health and safety topics as well as child development and learning.

~~(b)~~ (d) The family child care license holder and each second adult caregiver ~~who provides care in the licensed family child care home for more than 30 days in any 12-month period~~ shall complete and document:

(1) the annual completion of a two-hour active supervision course developed by the commissioner; and

(2) the completion at least once every five years of the two-hour courses Health and Safety I and Health and Safety II. When the training is due for the first time or expires, it must be taken no later than the day before the anniversary of the license holder's license effective date. A license holder's or second adult caregiver's completion of either training in a given year meets the annual active supervision training requirement in clause (1).

(e) At least once every three years, license holders must ensure and document that substitutes have completed the four-hour Basics of Licensed Family Child Care for Substitutes course. When the training expires, it must be retaken no later than the day before the anniversary of the license holder's license effective date.

Subd. 10. **Approved training.** (a) The commissioner of human services must post information on the department's website indicating the specific category within the Knowledge and Competency Framework that will satisfy training requirements for child development and learning, behavior guidance, and active supervision. County licensing staff must accept trainings designated as satisfying training requirements by the commissioner under this paragraph.

(b) Unless specifically authorized in this section, one training does not fulfill two different training requirements. Courses within the identified knowledge and competency areas that are specific to child care centers or legal nonlicensed providers do not fulfill the requirements of this section.

(c) County licensing staff must accept training approved by the Minnesota Center for Professional Development, including:

(1) face-to-face or classroom training;

(2) online training; and

(3) relationship-based professional development, such as mentoring, coaching, and consulting.

Subd. 11. **Provider training.** New and increased training requirements under this section must not be imposed on providers until the commissioner establishes statewide accessibility to the required provider training.

EFFECTIVE DATE. This section is effective September 30, 2020.

Sec. 12. Minnesota Statutes 2018, section 245C.10, is amended by adding a subdivision to read:

Subd. 15. **Guardians and conservators.** The commissioner shall recover the cost of conducting background studies for guardians and conservators under section 524.5-118 through a fee of no more than $110 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

EFFECTIVE DATE. This section is effective January 1, 2021.

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Sec. 13. Minnesota Statutes 2018, section 245C.32, subdivision 2, is amended to read:

Subd. 2. **Use.** (a) The commissioner may also use these systems and records to obtain and provide criminal history data from the Bureau of Criminal Apprehension, criminal history data held by the commissioner, and data about substantiated maltreatment under section 626.556 or 626.557, for other purposes, provided that:

(1) the background study is specifically authorized in statute; or

(2) the request is made with the informed consent of the subject of the study as provided in section 13.05, subdivision 4.

(b) An individual making a request under paragraph (a), clause (2), must agree in writing not to disclose the data to any other individual without the consent of the subject of the data.

(c) The commissioner may recover the cost of obtaining and providing background study data by charging the individual or entity requesting the study a fee of no more than $20 per study. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

~~(d) The commissioner shall recover the cost of obtaining background study data required under section 524.5-118 through a fee of $50 per study for an individual who has not lived outside Minnesota for the past ten years, and a fee of $100 for an individual who has resided outside of Minnesota for any period during the ten years preceding the background study. The commissioner shall recover, from the individual, any additional fees charged by other states' licensing agencies that are associated with these data requests. Fees under subdivision 3 also apply when criminal history data from the National Criminal Records Repository is required.~~

EFFECTIVE DATE. This section is effective January 1, 2021.

Sec. 14. Minnesota Statutes 2018, section 256.041, subdivision 10, is amended to read:

Subd. 10. **Expiration.** The council expires on June 30, ~~2020~~ 2022.

Sec. 15. Minnesota Statutes 2018, section 256E.35, is amended to read:

256E.35 FAMILY ASSETS FOR INDEPENDENCE.

Subdivision 1. **Establishment.** The Minnesota family assets for independence initiative is established to provide incentives for low-income families to accrue assets for education, housing, vehicles, and economic development purposes.

Subd. 2. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Eligible educational institution" means the following:

(1) an institution of higher education described in section 101 or 102 of the Higher Education Act of 1965; or

(2) an area vocational education school, as defined in subparagraph (C) or (D) of United States Code, title 20, chapter 44, section 2302 (3) (the Carl D. Perkins Vocational and Applied Technology Education Act), which is located within any state, as defined in United States Code, title 20, chapter 44, section 2302 (30). This clause is applicable only to the extent section 2302 is in effect on August 1, 2008.

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(c) "Family asset account" means a savings account opened by a household participating in the Minnesota family assets for independence initiative.

(d) "Fiduciary organization" means:

(1) a community action agency that has obtained recognition under section 256E.31;

(2) a federal community development credit union serving the seven-county metropolitan area; or

(3) a women-oriented economic development agency serving the seven-county metropolitan area.

(e) "Financial coach" means a person who:

(1) has completed an intensive financial literacy training workshop that includes curriculum on budgeting to increase savings, debt reduction and asset building, building a good credit rating, and consumer protection;

(2) participates in ongoing statewide family assets for independence in Minnesota (FAIM) network training meetings under FAIM program supervision; and

(3) provides financial coaching to program participants under subdivision 4a.

(f) "Financial institution" means a bank, bank and trust, savings bank, savings association, or credit union, the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(g) "Household" means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(h) "Permissible use" means:

(1) postsecondary educational expenses at an eligible educational institution as defined in paragraph (b), including books, supplies, and equipment required for courses of instruction;

(2) acquisition costs of acquiring, constructing, or reconstructing a residence, including any usual or reasonable settlement, financing, or other closing costs;

(3) business capitalization expenses for expenditures on capital, plant, equipment, working capital, and inventory expenses of a legitimate business pursuant to a business plan approved by the fiduciary organization; ~~and~~

(4) acquisition costs of a principal residence within the meaning of section 1034 of the Internal Revenue Code of 1986 which do not exceed 100 percent of the average area purchase price applicable to the residence determined according to section 143(e)(2) and (3) of the Internal Revenue Code of 1986~~.~~; and

(5) acquisition costs of a personal vehicle only if approved by the fiduciary organization.

Subd. 3. **Grants awarded.** The commissioner shall allocate funds to participating fiduciary organizations to provide family asset services. Grant awards must be based on a plan submitted by a statewide organization representing fiduciary organizations. The statewide organization must ensure that any interested unrepresented fiduciary organization have input into the development of the plan. The plan must equitably distribute funds to achieve geographic balance and document the capacity of participating fiduciary organizations to manage the program ~~and to raise the private match~~.

Subd. 4. **Duties.** A participating fiduciary organization must:

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(1) provide separate accounts for the immediate deposit of program funds;

(2) establish a process to select participants and describe any priorities for participation;

(3) enter into a family asset agreement with the household to establish the terms of participation;

(4) provide households with economic literacy education;

(5) provide households with information on early childhood family education;

(6) provide matching deposits for participating households;

(7) coordinate with other related public and private programs; and

(8) establish a process to appeal and mediate disputes.

Subd. 4a. **Financial coaching.** A financial coach shall provide the following to program participants:

(1) financial education relating to budgeting, debt reduction, asset-specific training, and financial stability activities;

(2) asset-specific training related to buying a home or vehicle, acquiring postsecondary education, or starting or expanding a small business; and

(3) financial stability education and training to improve and sustain financial security.

Subd. 5. **Household eligibility; participation.** (a) To be eligible for state or TANF matching funds in the family assets for independence initiative, a household must meet the eligibility requirements of the federal Assets for Independence Act, Public Law 105-285, in Title IV, section 408 of that act.

(b) Each participating household must sign a family asset agreement that includes the amount of scheduled deposits into its savings account, the proposed use, and the proposed savings goal. A participating household must agree to complete an economic literacy training program.

(c) Participating households may only deposit money that is derived from household earned income or from state and federal income tax credits.

Subd. 6. **Withdrawal; matching; permissible uses.** (a) To receive a match, a participating household must transfer funds withdrawn from a family asset account to its matching fund custodial account held by the fiscal agent, according to the family asset agreement. The fiscal agent must determine if the match request is for a permissible use consistent with the household's family asset agreement.

(b) The fiscal agent must ensure the household's custodial account contains the applicable matching funds to match the balance in the household's account, including interest, on at least a quarterly basis and at the time of an approved withdrawal. Matches must be ~~provided as follows:~~

~~(1) from state grant and TANF funds,~~ a ~~matching~~ contribution of ~~$1.50~~ $3 from state grant or TANF funds for every $1 of funds withdrawn from the family asset account ~~equal to the lesser of $720 per year or~~ not to exceed a ~~$3,000~~ $6,000 lifetime limit~~; and~~.

~~(2) from nonstate funds, a matching contribution of no less than $1.50 for every $1 of funds withdrawn from the family asset account equal to the lesser of $720 per year or a $3,000 lifetime limit.~~

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(c) Notwithstanding paragraph (b), if funds are appropriated for the Federal Assets for Independence Act of 1998, and a participating fiduciary organization is awarded a grant under that act, participating households with that fiduciary organization must be provided matches as follows:

(1) from state grant and TANF funds, a matching contribution of $1.50 for every $1 of funds withdrawn from the family asset account not to exceed a $3,000 lifetime limit; and

(2) from nonstate funds, a matching contribution of not less than $1.50 for every $1 of funds withdrawn from the family asset account not to exceed a $3,000 lifetime limit.

~~(b)~~ (d) Upon receipt of transferred custodial account funds, the fiscal agent must make a direct payment to the vendor of the goods or services for the permissible use.

Subd. 7. **Program reporting.** The fiscal agent on behalf of each fiduciary organization participating in a family assets for independence initiative must report quarterly to the commissioner of human services identifying the participants with accounts, the number of accounts, the amount of savings and matches for each participant's account, the uses of the account, and the number of businesses, homes, vehicles, and educational services paid for with money from the account, as well as other information that may be required for the commissioner to administer the program and meet federal TANF reporting requirements.

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

Sec. 16. Minnesota Statutes 2018, section 257.0725, is amended to read:

257.0725 ANNUAL REPORT.

The commissioner of human services shall publish an annual report on child maltreatment and on children in out-of-home placement. The commissioner shall confer with counties, child welfare organizations, child advocacy organizations, the courts, and other groups on how to improve the content and utility of the department's annual report. In regard to child maltreatment, the report shall include the number and kinds of maltreatment reports received and any other data that the commissioner determines is appropriate to include in a report on child maltreatment. In regard to children in out-of-home placement, the report shall include, by county and statewide, information on legal status, living arrangement, age, sex, race, accumulated length of time in placement, reason for most recent placement, race of family with whom placed, school enrollments within seven days of placement pursuant to section 120A.21, and other information deemed appropriate on all children in out-of-home placement. Out-of-home placement includes placement in any facility by an authorized child-placing agency.

Sec. 17. Minnesota Statutes 2018, section 260C.219, is amended to read:

260C.219 AGENCY RESPONSIBILITIES FOR PARENTS AND CHILDREN IN PLACEMENT.

Subdivision 1. **Responsibilities for parents; noncustodial parents.** (a) When a child is in foster care, the responsible social services agency shall make diligent efforts to identify, locate, and, where appropriate, offer services to both parents of the child.

~~(1)~~ (b) The responsible social services agency shall assess whether a noncustodial or nonadjudicated parent is willing and capable of providing for the day-to-day care of the child temporarily or permanently. An assessment under this ~~clause~~ paragraph may include, but is not limited to, obtaining information under section 260C.209. If after assessment, the responsible social services agency determines that a noncustodial or nonadjudicated parent is willing and capable of providing day-to-day care of the child, the responsible social services agency may seek authority from the custodial parent or the court to have that parent assume

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day-to-day care of the child. If a parent is not an adjudicated parent, the responsible social services agency shall require the nonadjudicated parent to cooperate with paternity establishment procedures as part of the case plan.

~~(2)~~ (c) If, after assessment, the responsible social services agency determines that the child cannot be in the day-to-day care of either parent, the agency shall:

~~(i)~~ (1) prepare an out-of-home placement plan addressing the conditions that each parent must meet before the child can be in that parent's day-to-day care; and

~~(ii)~~ (2) provide a parent who is the subject of a background study under section 260C.209 15 days' notice that it intends to use the study to recommend against putting the child with that parent, and the court shall afford the parent an opportunity to be heard concerning the study.

The results of a background study of a noncustodial parent shall not be used by the agency to determine that the parent is incapable of providing day-to-day care of the child unless the agency reasonably believes that placement of the child into the home of that parent would endanger the child's health, safety, or welfare.

~~(3)~~ (d) If, after the provision of services following an out-of-home placement plan under this ~~section~~ subdivision, the child cannot return to the care of the parent from whom the child was removed or who had legal custody at the time the child was placed in foster care, the agency may petition on behalf of a noncustodial parent to establish legal custody with that parent under section 260C.515, subdivision 4. If paternity has not already been established, it may be established in the same proceeding in the manner provided for under chapter 257.

~~(4)~~ (e) The responsible social services agency may be relieved of the requirement to locate and offer services to both parents by the juvenile court upon a finding of good cause after the filing of a petition under section 260C.141.

Subd. 2. **Notice to parent or guardian.** ~~(b)~~ The responsible social services agency shall give notice to the parent or guardian of each child in foster care, other than a child in voluntary foster care for treatment under chapter 260D, of the following information:

(1) that the child's placement in foster care may result in termination of parental rights or an order permanently placing the child out of the custody of the parent, but only after notice and a hearing as required under this chapter and the juvenile court rules;

(2) time limits on the length of placement and of reunification services, including the date on which the child is expected to be returned to and safely maintained in the home of the parent or parents or placed for adoption or otherwise permanently removed from the care of the parent by court order;

(3) the nature of the services available to the parent;

(4) the consequences to the parent and the child if the parent fails or is unable to use services to correct the circumstances that led to the child's placement;

(5) the first consideration for placement with relatives;

(6) the benefit to the child in getting the child out of foster care as soon as possible, preferably by returning the child home, but if that is not possible, through a permanent legal placement of the child away from the parent;

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(7) when safe for the child, the benefits to the child and the parent of maintaining visitation with the child as soon as possible in the course of the case and, in any event, according to the visitation plan under this section; and

(8) the financial responsibilities and obligations, if any, of the parent or parents for the support of the child during the period the child is in foster care.

Subd. 3. **Information for a parent considering voluntary placement.** ~~(c)~~ The responsible social services agency shall inform a parent considering voluntary placement of a child under section 260C.227 of the following information:

(1) the parent and the child each has a right to separate legal counsel before signing a voluntary placement agreement, but not to counsel appointed at public expense;

(2) the parent is not required to agree to the voluntary placement, and a parent who enters a voluntary placement agreement may at any time request that the agency return the child. If the parent so requests, the child must be returned within 24 hours of the receipt of the request;

(3) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging that the child is in need of protection or services or as the basis for a petition seeking termination of parental rights or other permanent placement of the child away from the parent;

(4) if the responsible social services agency files a petition alleging that the child is in need of protection or services or a petition seeking the termination of parental rights or other permanent placement of the child away from the parent, the parent would have the right to appointment of separate legal counsel and the child would have a right to the appointment of counsel and a guardian ad litem as provided by law, and that counsel will be appointed at public expense if they are unable to afford counsel; and

(5) the timelines and procedures for review of voluntary placements under section 260C.212, subdivision 3, and the effect the time spent in voluntary placement on the scheduling of a permanent placement determination hearing under sections 260C.503 to 260C.521.

Subd. 4. **Medical examinations.** ~~(d)~~ When an agency accepts a child for placement, the agency shall determine whether the child has had a physical examination by or under the direction of a licensed physician within the 12 months immediately preceding the date when the child came into the agency's care. If there is documentation that the child has had an examination within the last 12 months, the agency is responsible for seeing that the child has another physical examination within one year of the documented examination and annually in subsequent years. If the agency determines that the child has not had a physical examination within the 12 months immediately preceding placement, the agency shall ensure that the child has an examination within 30 days of coming into the agency's care and once a year in subsequent years.

Subd. 5. **Children reaching age of majority; copies of records.** ~~(e)~~ Whether under state guardianship or not, if a child leaves foster care by reason of having attained the age of majority under state law, the child must be given at no cost a copy of the child's social and medical history, as defined in section 259.43, and education report.

Subd. 6. **Initial foster care phone call.** (a) When a child enters foster care or moves to a new foster care placement, the responsible social services agency should attempt to coordinate a phone call between the foster parent or facility and the child's parent or legal guardian to establish a connection and encourage ongoing information sharing between the child's parent or legal guardian and the foster parent or facility; and to provide an opportunity to share any information regarding the child, the child's needs, or the child's

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care that would facilitate the child's adjustment to the foster home, promote stability, reduce the risk of trauma, or otherwise improve the quality of the child's care.

(b) The responsible social services agency should attempt to coordinate the phone call in paragraph (a) as soon as practicable after the child arrives at the placement but no later than 72 hours after the child's placement. If the responsible social services agency determines that the phone call is not in the child's best interests, or if the agency is unable to identify, locate, or contact the child's parent or legal guardian despite reasonable efforts, or despite active efforts if the child is an American Indian child, the agency may delay the phone call until up to 48 hours after the agency determines that the phone call is in the child's best interests, or up to 48 hours after the child's parent or legal guardian is located or becomes available for the phone call. The responsible social services agency is not required to attempt to coordinate the phone call if placing the phone call poses a danger to the mental or physical health of the child or foster parent.

(c) The responsible social services agency shall document the date and time of the phone call in paragraph (a), its efforts to coordinate the phone call, its efforts to identify, locate, or find availability for the child's parent or legal guardian, any determination of whether the phone call is in the child's best interests, and any reasons that the phone call did not occur, including any danger to the child's or foster parent's mental or physical health.

Subd. 7. **Prenatal alcohol exposure screening.** (a) The responsible social services agency shall coordinate a prenatal alcohol exposure screening for any child who enters foster care as soon as practicable but no later than 45 days after the removal of the child from the child's home, if the agency has determined that the child has not previously been screened or identified as prenatally exposed to alcohol.

(b) The responsible social services agency shall ensure that the screening is conducted in accordance with:

(1) existing prenatal alcohol exposure screening best practice guidelines; and

(2) the criteria developed and provided to the responsible social services agency by the statewide organization that focuses solely on prevention and intervention with fetal alcohol spectrum disorder and that receives funding under the appropriation for fetal alcohol spectrum disorder in Laws 2007, chapter 147, article 19, section 4, subdivision 2.

EFFECTIVE DATE. This section is effective for children who enter foster care on or after August 1, 2020, except subdivision 6 is effective for children entering out-of-home placement or moving between placements on or after November 1, 2020.

Sec. 18. Minnesota Statutes 2018, section 524.5-118, is amended to read:

524.5-118 BACKGROUND STUDY.

Subdivision 1. **When required; exception.** (a) The court shall require a background study under this section:

(1) before the appointment of a guardian or conservator, unless a background study has been done on the person under this section within the previous ~~two~~ five years; and

(2) once every ~~two~~ five years after the appointment, if the person continues to serve as a guardian or conservator.

(b) The background study must include:

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(1) criminal history data from the Bureau of Criminal Apprehension, other criminal history data held by the commissioner of human services, and data regarding whether the person has been a perpetrator of substantiated maltreatment of a vulnerable adult or minor;

(2) criminal history data from ~~the National Criminal Records Repository if the proposed guardian or conservator has not resided in Minnesota for the previous ten years or if the Bureau of Criminal Apprehension information received from the commissioner of human services under subdivision 2, paragraph (b), indicates that the subject is a multistate offender or that the individual's multistate offender status is undetermined~~ a national criminal history record check as defined in section 245C.02, subdivision 13c; and

(3) state licensing agency data if a search of the database or databases of the agencies listed in subdivision 2a shows that the proposed guardian or conservator has ever held a professional license directly related to the responsibilities of a professional fiduciary from an agency listed in subdivision 2a that was conditioned, suspended, revoked, or canceled.

(c) If the guardian or conservator is not an individual, the background study must be done on all individuals currently employed by the proposed guardian or conservator who will be responsible for exercising powers and duties under the guardianship or conservatorship.

(d) If the court determines that it would be in the best interests of the ward or protected person to appoint a guardian or conservator before the background study can be completed, the court may make the appointment pending the results of the study, however, the background study must then be completed as soon as reasonably possible after appointment, no later than 30 days after appointment.

(e) The fee for background studies conducted under this section is specified in section 245C.10, subdivision 14. The fee for conducting a background study for appointment of a professional guardian or conservator must be paid by the guardian or conservator. In other cases, the fee must be paid as follows:

(1) if the matter is proceeding in forma pauperis, the fee is an expense for purposes of section 524.5-502, paragraph (a);

(2) if there is an estate of the ward or protected person, the fee must be paid from the estate; or

(3) in the case of a guardianship or conservatorship of the person that is not proceeding in forma pauperis, the court may order that the fee be paid by the guardian or conservator or by the court.

(f) The requirements of this subdivision do not apply if the guardian or conservator is:

(1) a state agency or county;

(2) a parent or guardian of a proposed ward or protected person who has a developmental disability, if the parent or guardian has raised the proposed ward or protected person in the family home until the time the petition is filed, unless counsel appointed for the proposed ward or protected person under section 524.5-205, paragraph (d); 524.5-304, paragraph (b); 524.5-405, paragraph (a); or 524.5-406, paragraph (b), recommends a background study; or

(3) a bank with trust powers, bank and trust company, or trust company, organized under the laws of any state or of the United States and which is regulated by the commissioner of commerce or a federal regulator.

Subd. 2. **Procedure; criminal history and maltreatment records background check.** (a) The court shall request the commissioner of human services to complete a background study under section 245C.32. The request must be accompanied by the applicable fee and ~~the signed consent of the subject of the study~~

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~~authorizing the release of the data obtained to the court. If the court is requesting a search of the National Criminal Records Repository, the request must be accompanied by~~ acknowledgment that the study subject received a privacy notice required under subdivision 3. The commissioner of human services shall conduct a national criminal history record check. The study subject shall submit a set of classifiable fingerprints ~~of the subject of the study~~. The fingerprints must be recorded on a fingerprint card provided by the commissioner of human services.

(b) The commissioner of human services shall provide the court with criminal history data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department of Public Safety, other criminal history data held by the commissioner of human services, ~~and~~ data regarding substantiated maltreatment of vulnerable adults under section 626.557 and substantiated maltreatment of minors under section 626.556, and criminal history information from other states or jurisdictions as indicated from a national criminal history record check within ~~15~~ 20 working days of receipt of a request. If the subject of the study has been the perpetrator of substantiated maltreatment of a vulnerable adult or minor, the response must include a copy of the public portion of the investigation memorandum under section 626.557, subdivision 12b, or the public portion of the investigation memorandum under section 626.556, subdivision 10f. ~~If the court did not request a search of the National Criminal Records Repository and information from the Bureau of Criminal Apprehension indicates that the subject is a multistate offender or that multistate offender status is undetermined, the response must include this information. The commissioner shall provide the court with information from the National Criminal Records Repository within three working days of the commissioner's receipt of the data~~ The commissioner shall provide the court with information from a review of information according to subdivision 2a if the study subject provided information indicating current or prior affiliation with a state licensing agency.

(c) Notwithstanding section 626.557, subdivision 12b, or 626.556, subdivision 10f, if the commissioner of human services or a county lead agency or lead investigative agency has information that a person on whom a background study was previously done under this section has been determined to be a perpetrator of maltreatment of a vulnerable adult or minor, the commissioner or the county may provide this information to the court that requested the background study. The commissioner may also provide the court with additional criminal history or substantiated maltreatment information that becomes available after the background study is done.

Subd. 2a. **Procedure; state licensing agency data.** (a) The court shall request the commissioner of human services to provide the court within 25 working days of receipt of the request with licensing agency data for licenses directly related to the responsibilities of a professional fiduciary if the study subject indicates current or prior affiliation from the following agencies in Minnesota:

(1) Lawyers Responsibility Board;

(2) State Board of Accountancy;

(3) Board of Social Work;

(4) Board of Psychology;

(5) Board of Nursing;

(6) Board of Medical Practice;

(7) Department of Education;

(8) Department of Commerce;

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(9) Board of Chiropractic Examiners;

(10) Board of Dentistry;

(11) Board of Marriage and Family Therapy;

(12) Department of Human Services; ~~and~~

(13) Peace Officer Standards and Training (POST) Board~~.~~; and

(14) Professional Educator Licensing and Standards Board.

(b) The commissioner shall enter into agreements with these agencies to provide ~~for~~ the commissioner with electronic access to the relevant licensing data ~~by the commissioner~~, and to provide the commissioner with a quarterly list of new sanctions issued by the agency.

(c) The commissioner shall provide to the court the electronically available data maintained in the agency's database, including whether the proposed guardian or conservator is or has been licensed by the agency, and if the licensing agency database indicates a disciplinary action or a sanction against the individual's license, including a condition, suspension, revocation, or cancellation.

(d) If the proposed guardian or conservator has resided in a state other than Minnesota in the previous ten years, licensing agency data under this section shall also include the licensing agency data from any other state where the proposed guardian or conservator reported to have resided during the previous ten years if the study subject indicates current or prior affiliation. If the proposed guardian or conservator has or has had a professional license in another state that is directly related to the responsibilities of a professional fiduciary from one of the agencies listed under paragraph (a), state licensing agency data shall also include data from the relevant licensing agency of that state.

(e) The commissioner is not required to repeat a search for Minnesota or out-of-state licensing data on an individual if the commissioner has provided this information to the court within the prior ~~two~~ five years.

(f) ~~If an individual has continuously resided in Minnesota since a previous background study under this section was completed, the commissioner is not required to repeat a search for records in another state.~~ The commissioner shall review the information in paragraph (c) at least once every four months to determine if an individual who has been studied within the previous five years:

(1) has new disciplinary action or sanction against the individual's license; or

(2) did not disclose a prior or current affiliation with a Minnesota licensing agency.

(g) If the commissioner's review in paragraph (f) identifies new information, the commissioner shall provide any new information to the court.

Subd. 3. **~~Form~~ Forms and systems.** The court must provide the study subject with a privacy notice that complies with section 245C.05, subdivision 2c. The commissioner of human services shall ~~develop a form to be used for requesting~~ use the NETStudy 2.0 system to conduct a background study under this section~~, which must include:~~.

~~(1) a notification to the subject of the study that the court will request the commissioner to perform a background study under this section;~~

~~(2) a notification to the subject of the rights in subdivision 4; and~~

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~~(3) a signed consent to conduct the background study.~~

Subd. 4. **Rights.** The court shall notify the subject of a background study that the subject has the following rights:

(1) the right to be informed that the court will request a background study on the subject for the purpose of determining whether the person's appointment or continued appointment is in the best interests of the ward or protected person;

(2) the right to be informed of the results of the study and to obtain from the court a copy of the results; and

(3) the right to challenge the accuracy and completeness of information contained in the results under section 13.04, subdivision 4, except to the extent precluded by section 256.045, subdivision 3.

EFFECTIVE DATE. This section is effective January 1, 2021.

Sec. 19. Laws 2016, chapter 189, article 15, section 29, is amended to read:

Sec. 29. **DIRECTION TO COMMISSIONERS; INCOME AND ASSET EXCLUSION.**

(a) The commissioner of human services shall not count payments made to families by the income and child development in the first three years of life demonstration project as income or assets for purposes of determining or redetermining eligibility for child care assistance programs under Minnesota Statutes, chapter 119B; the Minnesota family investment program, work benefit program, or diversionary work program under Minnesota Statutes, chapter 256J, during the duration of the demonstration.

(b) The commissioner of human services shall not count payments made to families by the income and child development in the first three years of life demonstration project as income for purposes of determining or redetermining eligibility for medical assistance under Minnesota Statutes, chapter 256B, and MinnesotaCare under Minnesota Statutes, chapter 256L.

(c) For the purposes of this section, "income and child development in the first three years of life demonstration project" means a demonstration project funded by the United States Department of Health and Human Services National Institutes of Health to evaluate whether the unconditional cash payments have a causal effect on the cognitive, socioemotional, and brain development of infants and toddlers.

(d) This section shall only be implemented if Minnesota is chosen as a site for the child development in the first three years of life demonstration project, and expires January 1, ~~2022~~ 2026.

(e) The commissioner of human services shall provide a report to the chairs and ranking minority members of the legislative committees having jurisdiction over human services issues by January 1, ~~2023~~ 2027, informing the legislature on the progress and outcomes of the demonstration under this section.

Sec. 20. Laws 2017, First Special Session chapter 6, article 7, section 33, subdivision 2, is amended to read:

Subd. 2. **Pilot design and goals.** The pilot will establish ~~five~~ key developmental milestone markers from birth to age eight. ~~Enrollees in the~~ Pilot program participants will be developmentally assessed and tracked by a technology solution that tracks developmental milestones along the established developmental continuum. If a ~~child's~~ pilot program participant's progress falls below established milestones ~~and the weighted scoring~~, the coordinated service system will focus on identified areas of concern~~, mobilize appropriate~~

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~~supportive services,~~ and offer referrals or services to ~~identified children and their families~~ pilot program participants.

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

Sec. 21. Laws 2017, First Special Session chapter 6, article 7, section 33, subdivision 3, is amended to read:

Subd. 3. **Program participants in ~~phase 1~~ target population.** Pilot program participants must opt in and provide parental or guardian consent to participate and be enrolled or engaged in one or more of the following:

(1) ~~be enrolled in~~ a Women's Infant & Children (WIC) program;

(2) ~~be participating in~~ a family home visiting program~~,~~ or ~~nurse family practice, or Healthy Families America (HFA)~~ Follow Along Program;

(3) ~~be children and families qualifying for and participating in early language learners (ELL) in the school district in which they reside; and~~ a school's early childhood screening; or

(4) ~~opt in and provide parental consent to participate in the pilot project~~ any other Dakota County or school program that is determined as useful for identifying children at risk of falling below established guidelines.

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

Sec. 22. **DIRECTION TO COMMISSIONER; INITIAL FOSTER CARE PHONE CALL TRAINING.**

By August 1, 2020, the commissioner of human services shall issue written guidance to county social services agencies, foster parents, and facilities to fully implement the initial foster care phone call procedures in Minnesota Statutes, section 260C.219, subdivision 6.

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

Sec. 23. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; UNIFORM FAMILY CHILD CARE VARIANCE APPLICATION FORM DEVELOPED BY THE COMMISSIONER.**

By October 1, 2020, the commissioner of human services, after consultation with county licensors and family child care providers, including those serving on the Family Child Care Task Force, shall issue to counties a uniform application form for family child care variance requests. The commissioner shall also issue any necessary training or guidance for counties to use the form.

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

Sec. 24. **DIRECTION TO THE COMMISSIONER; EVALUATION OF CONTINUOUS LICENSES.**

By January 1, 2021, the commissioner of human services shall consult with family child care license holders and county agencies to determine whether family child care licenses should automatically renew instead of requiring license holders to reapply for licensure. If the commissioner determines that family child care licenses should automatically renew, the commissioner must propose legislation for the 2021 legislative session to make the required amendments to statute and administrative rules, as necessary.

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

ARTICLE 2

COMMUNITY SUPPORTS ADMINISTRATION

Section 1. Minnesota Statutes 2019 Supplement, section 245.735, subdivision 3, is amended to read:

Subd. 3. **Certified community behavioral health clinics.** (a) The commissioner shall establish a state certification process for certified community behavioral health clinics (CCBHCs). Entities that choose to be CCBHCs must:

(1) comply with the CCBHC criteria published by the United States Department of Health and Human Services;

(2) employ or contract for clinic staff who have backgrounds in diverse disciplines, including licensed mental health professionals and licensed alcohol and drug counselors, and staff who are culturally and linguistically trained to meet the needs of the population the clinic serves;

(3) ensure that clinic services are available and accessible to individuals and families of all ages and genders and that crisis management services are available 24 hours per day;

(4) establish fees for clinic services for individuals who are not enrolled in medical assistance using a sliding fee scale that ensures that services to patients are not denied or limited due to an individual's inability to pay for services;

(5) comply with quality assurance reporting requirements and other reporting requirements, including any required reporting of encounter data, clinical outcomes data, and quality data;

(6) provide crisis mental health and substance use services, withdrawal management services, emergency crisis intervention services, and stabilization services; screening, assessment, and diagnosis services, including risk assessments and level of care determinations; person- and family-centered treatment planning; outpatient mental health and substance use services; targeted case management; psychiatric rehabilitation services; peer support and counselor services and family support services; and intensive community-based mental health services, including mental health services for members of the armed forces and veterans;

(7) provide coordination of care across settings and providers to ensure seamless transitions for individuals being served across the full spectrum of health services, including acute, chronic, and behavioral needs. Care coordination may be accomplished through partnerships or formal contracts with:

(i) counties, health plans, pharmacists, pharmacies, rural health clinics, federally qualified health centers, inpatient psychiatric facilities, substance use and detoxification facilities, or community-based mental health providers; and

(ii) other community services, supports, and providers, including schools, child welfare agencies, juvenile and criminal justice agencies, Indian health services clinics, tribally licensed health care and mental health facilities, urban Indian health clinics, Department of Veterans Affairs medical centers, outpatient clinics, drop-in centers, acute care hospitals, and hospital outpatient clinics;

(8) be certified as mental health clinics under section 245.69, subdivision 2;

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(9) comply with standards relating to mental health services in Minnesota Rules, parts 9505.0370 to 9505.0372~~, and section 256B.0671~~;

(10) be licensed to provide substance use disorder treatment under chapter 245G;

(11) be certified to provide children's therapeutic services and supports under section 256B.0943;

(12) be certified to provide adult rehabilitative mental health services under section 256B.0623;

(13) be enrolled to provide mental health crisis response services under sections 256B.0624 and 256B.0944;

(14) be enrolled to provide mental health targeted case management under section 256B.0625, subdivision 20;

(15) comply with standards relating to mental health case management in Minnesota Rules, parts 9520.0900 to 9520.0926;

(16) provide services that comply with the evidence-based practices described in paragraph (e); and

(17) comply with standards relating to peer services under sections 256B.0615, 256B.0616, and 245G.07, subdivision 1, paragraph (a), clause (5), as applicable when peer services are provided.

(b) If an entity is unable to provide one or more of the services listed in paragraph (a), clauses (6) to (17), the commissioner may certify the entity as a CCBHC, if the entity has a current contract with another entity that has the required authority to provide that service and that meets federal CCBHC criteria as a designated collaborating organization, or, to the extent allowed by the federal CCBHC criteria, the commissioner may approve a referral arrangement. The CCBHC must meet federal requirements regarding the type and scope of services to be provided directly by the CCBHC.

(c) Notwithstanding any other law that requires a county contract or other form of county approval for certain services listed in paragraph (a), clause (6), a clinic that otherwise meets CCBHC requirements may receive the prospective payment under section 256B.0625, subdivision 5m, for those services without a county contract or county approval. ~~There is no county share when medical assistance pays the CCBHC prospective payment.~~ As part of the certification process in paragraph (a), the commissioner shall require a letter of support from the CCBHC's host county confirming that the CCBHC and the county or counties it serves have an ongoing relationship to facilitate access and continuity of care, especially for individuals who are uninsured or who may go on and off medical assistance.

(d) When the standards listed in paragraph (a) or other applicable standards conflict or address similar issues in duplicative or incompatible ways, the commissioner may grant variances to state requirements if the variances do not conflict with federal requirements. If standards overlap, the commissioner may substitute all or a part of a licensure or certification that is substantially the same as another licensure or certification. The commissioner shall consult with stakeholders, as described in subdivision 4, before granting variances under this provision. For the CCBHC that is certified but not approved for prospective payment under section 256B.0625, subdivision 5m, the commissioner may grant a variance under this paragraph if the variance does not increase the state share of costs.

(e) The commissioner shall issue a list of required evidence-based practices to be delivered by CCBHCs, and may also provide a list of recommended evidence-based practices. The commissioner may update the list to reflect advances in outcomes research and medical services for persons living with mental illnesses or substance use disorders. The commissioner shall take into consideration the adequacy of evidence to

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support the efficacy of the practice, the quality of workforce available, and the current availability of the practice in the state. At least 30 days before issuing the initial list and any revisions, the commissioner shall provide stakeholders with an opportunity to comment.

(f) The commissioner shall recertify CCBHCs at least every three years. The commissioner shall establish a process for decertification and shall require corrective action, medical assistance repayment, or decertification of a CCBHC that no longer meets the requirements in this section or that fails to meet the standards provided by the commissioner in the application and certification process.

Sec. 2. Minnesota Statutes 2018, section 245A.11, subdivision 2a, is amended to read:

Subd. 2a. **Adult foster care and community residential setting license capacity.** (a) The commissioner shall issue adult foster care and community residential setting licenses with a maximum licensed capacity of four beds, including nonstaff roomers and boarders, except that the commissioner may issue a license with a capacity of five beds, including roomers and boarders, according to paragraphs (b) to (g).

(b) The license holder may have a maximum license capacity of five if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

(c) The commissioner may grant variances to paragraph (b) to allow a facility with a licensed capacity of up to five persons to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed facility is located.

(d) The commissioner may grant variances to paragraph (a) to allow the use of an additional bed, up to five, for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed facility is located.

(e) The commissioner may grant a variance to paragraph (b) to allow for the use of an additional bed, up to five, for respite services, as defined in section 245A.02, for persons with disabilities, regardless of age, if the variance complies with sections 245A.03, subdivision 7, and 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed facility is located. Respite care may be provided under the following conditions:

(1) staffing ratios cannot be reduced below the approved level for the individuals being served in the home on a permanent basis;

(2) no more than two different individuals can be accepted for respite services in any calendar month and the total respite days may not exceed 120 days per program in any calendar year;

(3) the person receiving respite services must have his or her own bedroom, which could be used for alternative purposes when not used as a respite bedroom, and cannot be the room of another person who lives in the facility; and

(4) individuals living in the facility must be notified when the variance is approved. The provider must give 60 days' notice in writing to the residents and their legal representatives prior to accepting the first respite placement. Notice must be given to residents at least two days prior to service initiation, or as soon as the license holder is able if they receive notice of the need for respite less than two days prior to initiation, each time a respite client will be served, unless the requirement for this notice is waived by the resident or legal guardian.

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(f) The commissioner may issue an adult foster care or community residential setting license with a capacity of five adults if the fifth bed does not increase the overall statewide capacity of licensed adult foster care or community residential setting beds in homes that are not the primary residence of the license holder, as identified in a plan submitted to the commissioner by the county, when the capacity is recommended by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:

(1) the facility meets the physical environment requirements in the adult foster care licensing rule;

(2) the five-bed living arrangement is specified for each resident in the resident's:

(i) individualized plan of care;

(ii) individual service plan under section 256B.092, subdivision 1b, if required; or

(iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required;

(3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to remain living in the home and that the resident's refusal to consent would not have resulted in service termination; and

(4) the facility was licensed for adult foster care before March 1, ~~2011~~ 2016.

(g) The commissioner shall not issue a new adult foster care license under paragraph (f) after ~~June 30~~ December 31, ~~2019~~ 2020. The commissioner shall allow a facility with an adult foster care license issued under paragraph (f) before ~~June 30~~ December 31, ~~2019~~ 2020, to continue with a capacity of five adults if the license holder continues to comply with the requirements in paragraph (f).

Sec. 3. Minnesota Statutes 2018, section 245D.02, is amended by adding a subdivision to read:

Subd. 32a. **Sexual violence.** "Sexual violence" means the use of sexual actions or words that are unwanted or harmful to another person.

Sec. 4. Minnesota Statutes 2018, section 245D.071, subdivision 3, is amended to read:

Subd. 3. **Assessment and initial service planning.** (a) Within 15 days of service initiation the license holder must complete a preliminary coordinated service and support plan addendum based on the coordinated service and support plan.

(b) Within the scope of services, the license holder must, at a minimum, complete assessments in the following areas before the 45-day planning meeting:

(1) the person's ability to self-manage health and medical needs to maintain or improve physical, mental, and emotional well-being, including, when applicable, allergies, seizures, choking, special dietary needs, chronic medical conditions, self-administration of medication or treatment orders, preventative screening, and medical and dental appointments;

(2) the person's ability to self-manage personal safety to avoid injury or accident in the service setting, including, when applicable, risk of falling, mobility, regulating water temperature, community survival skills, water safety skills, and sensory disabilities; and

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(3) the person's ability to self-manage symptoms or behavior that may otherwise result in an incident as defined in section 245D.02, subdivision 11, clauses (4) to (7), suspension or termination of services by the license holder, or other symptoms or behaviors that may jeopardize the health and welfare of the person or others.

Assessments must produce information about the person that describes the person's overall strengths, functional skills and abilities, and behaviors or symptoms. Assessments must be based on the person's status within the last 12 months at the time of service initiation. Assessments based on older information must be documented and justified. Assessments must be conducted annually at a minimum or within 30 days of a written request from the person or the person's legal representative or case manager. The results must be reviewed by the support team or expanded support team as part of a service plan review.

(c) ~~Within~~ Before providing 45 days of service ~~initiation~~ or within 60 calendar days of service initiation, whichever is shorter, the license holder must meet with the person, the person's legal representative, the case manager, ~~and~~ other members of the support team or expanded support team, and other people as identified by the person or the person's legal representative to determine the following based on information obtained from the assessments identified in paragraph (b), the person's identified needs in the coordinated service and support plan, and the requirements in subdivision 4 and section 245D.07, subdivision 1a:

(1) the scope of the services to be provided to support the person's daily needs and activities;

(2) the person's desired outcomes and the supports necessary to accomplish the person's desired outcomes;

(3) the person's preferences for how services and supports are provided, including how the provider will support the person to have control of the person's schedule;

(4) whether the current service setting is the most integrated setting available and appropriate for the person; ~~and~~

(5) opportunities to develop and maintain essential and life-enriching skills, abilities, strengths, interests, and preferences;

(6) opportunities for community access, participation, and inclusion in preferred community activities;

(7) opportunities to develop and strengthen personal relationships with other persons of the person's choice in the community;

(8) opportunities to seek competitive employment and work at competitively paying jobs in the community; and

~~(5)~~ (9) how services must be coordinated across other providers licensed under this chapter serving the person and members of the support team or expanded support team to ensure continuity of care and coordination of services for the person.

(d) A discussion of how technology might be used to meet the person's desired outcomes must be included in the 45-day planning meeting. The coordinated service and support plan or support plan addendum must include a summary of this discussion. The summary must include a statement regarding any decision that is made regarding the use of technology and a description of any further research that needs to be completed before a decision regarding the use of technology can be made. Nothing in this paragraph requires that the coordinated service and support plan include the use of technology for the provision of services.

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Sec. 5. Minnesota Statutes 2018, section 245D.081, subdivision 2, is amended to read:

Subd. 2. **Coordination and evaluation of individual service delivery.** (a) Delivery and evaluation of services provided by the license holder must be coordinated by a designated staff person. Except as provided in clause (3), the designated coordinator must provide supervision, support, and evaluation of activities that include:

(1) oversight of the license holder's responsibilities assigned in the person's coordinated service and support plan and the coordinated service and support plan addendum;

(2) taking the action necessary to facilitate the accomplishment of the outcomes according to the requirements in section 245D.07;

(3) instruction and assistance to direct support staff implementing the coordinated service and support plan and the service outcomes, including direct observation of service delivery sufficient to assess staff competency. The designated coordinator may delegate the direct observation and competency assessment of the service delivery activities of direct support staff to an individual whom the designated coordinator has previously deemed competent in those activities; and

(4) evaluation of the effectiveness of service delivery, methodologies, and progress on the person's outcomes based on the measurable and observable criteria for identifying when the desired outcome has been achieved according to the requirements in section 245D.07.

(b) The license holder must ensure that the designated coordinator is competent to perform the required duties identified in paragraph (a) through education, training, and work experience relevant to the primary disability of persons served by the license holder and the individual persons for whom the designated coordinator is responsible. The designated coordinator must have the skills and ability necessary to develop effective plans and to design and use data systems to measure effectiveness of services and supports. The license holder must verify and document competence according to the requirements in section 245D.09, subdivision 3. The designated coordinator must minimally have:

(1) a baccalaureate degree in a field related to human services, and one year of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older;

(2) an associate degree in a field related to human services, and two years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older;

(3) a diploma in a field related to human services from an accredited postsecondary institution and three years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older; or

(4) a minimum of 50 hours of education and training related to human services and disabilities; and

(5) four years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older under the supervision of a staff person who meets the qualifications identified in clauses (1) to (3).

Sec. 6. Minnesota Statutes 2018, section 245D.09, subdivision 4, is amended to read:

Subd. 4. **Orientation to program requirements.** Except for a license holder who does not supervise any direct support staff, within 60 calendar days of hire, unless stated otherwise, the license holder must

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provide and ensure completion of orientation sufficient to create staff competency for direct support staff that combines supervised on-the-job training with review of and instruction in the following areas:

(1) the job description and how to complete specific job functions, including:

(i) responding to and reporting incidents as required under section 245D.06, subdivision 1; and

(ii) following safety practices established by the license holder and as required in section 245D.06, subdivision 2;

(2) the license holder's current policies and procedures required under this chapter, including their location and access, and staff responsibilities related to implementation of those policies and procedures;

(3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff responsibilities related to complying with data privacy practices;

(4) the service recipient rights and staff responsibilities related to ensuring the exercise and protection of those rights according to the requirements in section 245D.04;

(5) sections 245A.65, 245A.66, 626.556, and 626.557, governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment. This orientation must be provided within 72 hours of first providing direct contact services and annually thereafter according to section 245A.65, subdivision 3;

(6) the principles of person-centered service planning and delivery as identified in section 245D.07, subdivision 1a, and how they apply to direct support service provided by the staff person;

(7) the safe and correct use of manual restraint on an emergency basis according to the requirements in section 245D.061 or successor provisions, and what constitutes the use of restraints, time out, and seclusion, including chemical restraint;

(8) staff responsibilities related to prohibited procedures under section 245D.06, subdivision 5, or successor provisions, why such procedures are not effective for reducing or eliminating symptoms or undesired behavior, and why such procedures are not safe;

(9) basic first aid; ~~and~~

(10) strategies to minimize the risk of sexual violence, including concepts of healthy relationships, consent, and bodily autonomy of people with disabilities; and

(11) other topics as determined necessary in the person's coordinated service and support plan by the case manager or other areas identified by the license holder.

Sec. 7. Minnesota Statutes 2018, section 245D.09, subdivision 4a, is amended to read:

Subd. 4a. **Orientation to individual service recipient needs.** (a) Before having unsupervised direct contact with a person served by the program, or for whom the staff person has not previously provided direct support, or any time the plans or procedures identified in paragraphs (b) to (f) are revised, the staff person must review and receive instruction on the requirements in paragraphs (b) to (f) as they relate to the staff person's job functions for that person.

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(b) For community residential services, training and competency evaluations must include the following, if identified in the coordinated service and support plan:

(1) appropriate and safe techniques in personal hygiene and grooming, including hair care; bathing; care of teeth, gums, and oral prosthetic devices; and other activities of daily living (ADLs) as defined under section 256B.0659, subdivision 1;

(2) an understanding of what constitutes a healthy diet according to data from the Centers for Disease Control and Prevention and the skills necessary to prepare that diet; and

(3) skills necessary to provide appropriate support in instrumental activities of daily living (IADLs) as defined under section 256B.0659, subdivision 1.

(c) The staff person must review and receive instruction on the person's coordinated service and support plan or coordinated service and support plan addendum as it relates to the responsibilities assigned to the license holder, and when applicable, the person's individual abuse prevention plan, to achieve and demonstrate an understanding of the person as a unique individual, and how to implement those plans.

(d) The staff person must review and receive instruction on medication setup, assistance, or administration procedures established for the person when assigned to the license holder according to section 245D.05, subdivision 1, paragraph (b). Unlicensed staff may perform medication setup or medication administration only after successful completion of a medication setup or medication administration training, from a training curriculum developed by a registered nurse or appropriate licensed health professional. The training curriculum must incorporate an observed skill assessment conducted by the trainer to ensure unlicensed staff demonstrate the ability to safely and correctly follow medication procedures.

Medication administration must be taught by a registered nurse, clinical nurse specialist, certified nurse practitioner, physician assistant, or physician if, at the time of service initiation or any time thereafter, the person has or develops a health care condition that affects the service options available to the person because the condition requires:

(1) specialized or intensive medical or nursing supervision; and

(2) nonmedical service providers to adapt their services to accommodate the health and safety needs of the person.

(e) The staff person must review and receive instruction on the safe and correct operation of medical equipment used by the person to sustain life or to monitor a medical condition that could become life-threatening without proper use of the medical equipment, including but not limited to ventilators, feeding tubes, or endotracheal tubes. The training must be provided by a licensed health care professional or a manufacturer's representative and incorporate an observed skill assessment to ensure staff demonstrate the ability to safely and correctly operate the equipment according to the treatment orders and the manufacturer's instructions.

(f) The staff person must review and receive instruction on mental health crisis response, de-escalation techniques, and suicide intervention when providing direct support to a person with a serious mental illness.

(g) In the event of an emergency service initiation, the license holder must ensure the training required in this subdivision occurs within 72 hours of the direct support staff person first having unsupervised contact with the person receiving services. The license holder must document the reason for the unplanned or emergency service initiation and maintain the documentation in the person's service recipient record.

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(h) License holders who provide direct support services themselves must complete the orientation required in subdivision 4, clauses (3) to ~~(10)~~ (11).

Sec. 8. Minnesota Statutes 2019 Supplement, section 245D.09, subdivision 5, is amended to read:

Subd. 5. **Annual training.** A license holder must provide annual training to direct support staff on the topics identified in subdivision 4, clauses (3) to ~~(10)~~ (11). If the direct support staff has a first aid certification, annual training under subdivision 4, clause (9), is not required as long as the certification remains current.

Sec. 9. **[254A.21] FETAL ALCOHOL SPECTRUM DISORDERS PREVENTION GRANTS.**

(a) The commissioner of human services shall award a grant to a statewide organization that focuses solely on prevention of and intervention with fetal alcohol spectrum disorders. The grant recipient must make subgrants to eligible regional collaboratives in rural and urban areas of the state for the purposes specified in paragraph (c).

(b) "Eligible regional collaboratives" means a partnership between at least one local government or tribal government and at least one community-based organization and, where available, a family home visiting program. For purposes of this paragraph, a local government includes a county or a multicounty organization, a county-based purchasing entity, or a community health board.

(c) Eligible regional collaboratives must use subgrant funds to reduce the incidence of fetal alcohol spectrum disorders and other prenatal drug-related effects in children in Minnesota by identifying and serving pregnant women suspected of or known to use or abuse alcohol or other drugs. Eligible regional collaboratives must provide intensive services to chemically dependent women to increase positive birth outcomes.

(d) An eligible regional collaborative that receives a subgrant under this section must report to the grant recipient by January 15 of each year on the services and programs funded by the subgrant. The report must include measurable outcomes for the previous year, including the number of pregnant women served and the number of toxic-free babies born. The grant recipient must compile the information in the subgrant reports and submit a summary report to the commissioner of human services by February 15 of each year.

Sec. 10. Minnesota Statutes 2018, section 256.975, subdivision 12, is amended to read:

Subd. 12. **Self-directed caregiver grants.** ~~Beginning on July 1, 2019,~~ The Minnesota Board on Aging shall, in consultation with area agencies on aging and other community caregiver stakeholders, administer self-directed caregiver grants to support at-risk family caregivers of older adults or others eligible under the Older Americans Act of 1965, United States Code, title 42, chapter 35, sections 3001 to 3058ff, to sustain family caregivers in the caregivers' roles so older adults can remain at home longer. ~~The board shall give priority to consumers referred under section 256.975, subdivision 7, paragraph (d)~~ The board shall submit by January 15, 2022, and each January 15 thereafter, a progress report on the self-directed caregiver grants program to the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over human services. The progress report must include metrics on the use of the grant program.

Sec. 11. Minnesota Statutes 2019 Supplement, section 256B.056, subdivision 5c, is amended to read:

Subd. 5c. **Excess income standard.** (a) The excess income standard for parents and caretaker relatives, pregnant women, infants, and children ages two through 20 is the standard specified in subdivision 4, paragraph (b).

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(b) The excess income standard for a person whose eligibility is based on blindness, disability, or age of 65 or more years shall equal:

(1) 81 percent of the federal poverty guidelines; and

(2) effective July 1, 2022, ~~100 percent of the federal poverty guidelines~~ the standard specified in subdivision 4, paragraph (a).

Sec. 12. Minnesota Statutes 2019 Supplement, section 256B.0625, subdivision 5m, is amended to read:

Subd. 5m. **Certified community behavioral health clinic services.** (a) Medical assistance covers certified community behavioral health clinic (CCBHC) services that meet the requirements of section 245.735, subdivision 3.

(b) The commissioner shall establish standards and methodologies for a prospective payment system for medical assistance payments for services delivered by a CCBHC, in accordance with guidance issued by the Centers for Medicare and Medicaid Services. The commissioner shall include a quality bonus payment in the prospective payment system based on federal criteria. There is no county share for medical assistance services when reimbursed through the CCBHC prospective payment system.

~~(c) To the extent allowed by federal law, the commissioner may limit the number of CCBHCs for the prospective payment system in paragraph (b) to ensure that the projected claims do not exceed the money appropriated for this purpose. The commissioner shall apply the following priorities, in the order listed, to give preference to clinics that:~~

~~(1) provide a comprehensive range of services and evidence-based practices for all age groups, with services being fully coordinated and integrated;~~

~~(2) are certified as CCBHCs during the federal section 223 CCBHC demonstration period;~~

~~(3) receive CCBHC grants from the United States Department of Health and Human Services; or~~

~~(4) focus on serving individuals in tribal areas and other underserved communities.~~

~~(d)~~ (c) Unless otherwise indicated in applicable federal requirements, the prospective payment system must continue to be based on the federal instructions issued for the federal section 223 CCBHC demonstration, except:

(1) the commissioner shall rebase CCBHC rates at least every three years;

(2) the commissioner shall provide for a 60-day appeals process of the rebasing;

(3) the prohibition against inclusion of new facilities in the demonstration does not apply after the demonstration ends;

(4) the prospective payment rate under this section does not apply to services rendered by CCBHCs to individuals who are dually eligible for Medicare and medical assistance when Medicare is the primary payer for the service. An entity that receives a prospective payment system rate that overlaps with the CCBHC rate is not eligible for the CCBHC rate;

(5) payments for CCBHC services to individuals enrolled in managed care shall be coordinated with the state's phase-out of CCBHC wrap payments;

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(6) initial prospective payment rates for CCBHCs certified after July 1, 2019, shall be based on rates for comparable CCBHCs. If no comparable provider exists, the commissioner shall compute a CCBHC-specific rate based upon the CCBHC's audited costs adjusted for changes in the scope of services; ~~and~~

(7) the prospective payment rate for each CCBHC shall be adjusted annually by the Medicare Economic Index as defined for the federal section 223 CCBHC demonstration~~.~~; and

(8) the commissioner shall seek federal approval for a CCBHC rate methodology that allows for rate modifications based on changes in scope for an individual CCBHC, including for changes to the type, intensity, or duration of services. Upon federal approval, a CCBHC may submit a change of scope request to the commissioner if the change in scope would result in a change of 2.5 percent or more in the prospective payment system rate currently received by the CCBHC. CCBHC change of scope requests must be according to a format and timeline to be determined by the commissioner in consultation with CCBHCs.

(d) Managed care plans and county-based purchasing plans shall reimburse CCBHC providers at the prospective payment rate. The commissioner shall monitor the effect of this requirement on the rate of access to the services delivered by CCBHC providers. If, for any contract year, federal approval is not received for this paragraph, the commissioner must adjust the capitation rates paid to managed care plans and county-based purchasing plans for that contract year to reflect the removal of this provision. Contracts between managed care plans and county-based purchasing plans and providers to whom this paragraph applies must allow recovery of payments from those providers if capitation rates are adjusted in accordance with this paragraph. Payment recoveries must not exceed the amount equal to any increase in rates that results from this provision. This paragraph expires if federal approval is not received for this paragraph at any time.

Sec. 13. Minnesota Statutes 2018, section 256B.0625, subdivision 56a, is amended to read:

Subd. 56a. **~~Post-arrest~~ Officer-involved community-based ~~service~~ care coordination.** (a) Medical assistance covers ~~post-arrest~~ officer-involved community-based ~~service~~ care coordination for an individual who:

(1) has ~~been identified as having~~ screened positive for benefiting from treatment for a mental illness or substance use disorder using a ~~screening~~ tool approved by the commissioner;

(2) does not require the security of a public detention facility and is not considered an inmate of a public institution as defined in Code of Federal Regulations, title 42, section 435.1010;

(3) meets the eligibility requirements in section 256B.056; and

(4) has agreed to participate in ~~post-arrest~~ officer-involved community-based ~~service~~ care coordination ~~through a diversion contract in lieu of incarceration~~.

(b) ~~Post-arrest~~ Officer-involved community-based ~~service~~ care coordination means navigating services to address a client's mental health, chemical health, social, economic, and housing needs, or any other activity targeted at reducing the incidence of jail utilization and connecting individuals with existing covered services available to them, including, but not limited to, targeted case management, waiver case management, or care coordination.

(c) ~~Post-arrest~~ Officer-involved community-based ~~service~~ care coordination must be provided by an individual who is an employee of ~~a county~~ or is under contract with a county, or is an employee of or under contract with an Indian health service facility or facility owned and operated by a tribe or a tribal organization

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operating under Public Law 93-638 as a 638 facility to provide ~~post-arrest~~ officer-involved community-based care coordination and is qualified under one of the following criteria:

(1) a licensed mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (6);

(2) a mental health practitioner as defined in section 245.462, subdivision 17, working under the clinical supervision of a mental health professional; ~~or~~

(3) a certified peer specialist under section 256B.0615, working under the clinical supervision of a mental health professional~~.~~;

(4) an individual qualified as an alcohol and drug counselor under section 245G.11, subdivision 5; or

(5) a recovery peer qualified under section 245G.11, subdivision 8, working under the supervision of an individual qualified as an alcohol and drug counselor under section 245G.11, subdivision 5.

(d) Reimbursement is allowed for up to 60 days following the initial determination of eligibility.

(e) Providers of ~~post-arrest~~ officer-involved community-based ~~service~~ care coordination shall annually report to the commissioner on the number of individuals served, and number of the community-based services that were accessed by recipients. The commissioner shall ensure that services and payments provided under ~~post-arrest~~ officer-involved community-based ~~service~~ care coordination do not duplicate services or payments provided under section 256B.0625, subdivision 20, 256B.0753, 256B.0755, or 256B.0757.

(f) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of cost for ~~post-arrest~~ officer-involved community-based ~~service~~ care coordination services shall be provided by the county providing the services, from sources other than federal funds or funds used to match other federal funds.

Sec. 14. Minnesota Statutes 2018, section 256B.0653, subdivision 4, is amended to read:

Subd. 4. **Skilled nurse visit services.** (a) Skilled nurse visit services must be provided by a registered nurse or a licensed practical nurse under the supervision of a registered nurse, according to the written plan of care and accepted standards of medical and nursing practice according to chapter 148. Skilled nurse visit services must be ordered by a physician, advanced practice registered nurse, or physician assistant and documented in a plan of care that is reviewed and approved by the ordering ~~physician, advanced practice registered nurse, or physician assistant~~ practitioner at least once every 60 days. All skilled nurse visits must be medically necessary and provided in the recipient's home residence or in the community where normal life activities take the recipient, except as allowed under section 256B.0625, subdivision 6a.

(b) Skilled nurse visits include face-to-face and telehomecare visits with a limit of up to two visits per day per recipient. All visits must be based on assessed needs.

(c) Telehomecare skilled nurse visits are allowed when the recipient's health status can be accurately measured and assessed without a need for a face-to-face, hands-on encounter. All telehomecare skilled nurse visits must have authorization and are paid at the same allowable rates as face-to-face skilled nurse visits.

(d) The provision of telehomecare must be made via live, two-way interactive audiovisual technology and may be augmented by utilizing store-and-forward technologies. Individually identifiable patient data obtained through real-time or store-and-forward technology must be maintained as health records according to sections 144.291 to 144.298. If the video is used for research, training, or other purposes unrelated to the care of the patient, the identity of the patient must be concealed.

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(e) Authorization for skilled nurse visits must be completed under section 256B.0652. A total of nine face-to-face skilled nurse visits per calendar year do not require authorization. All telehomecare skilled nurse visits require authorization.

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

Sec. 15. Minnesota Statutes 2018, section 256B.0653, subdivision 5, is amended to read:

Subd. 5. **Home care therapies.** (a) Home care therapies include the following: physical therapy, occupational therapy, respiratory therapy, and speech and language pathology therapy services.

(b) Home care therapies must be:

(1) provided in the recipient's residence or in the community where normal life activities take the recipient after it has been determined the recipient is unable to access outpatient therapy;

(2) prescribed, ordered, or referred by a physician, advanced practice registered nurse, or physician assistant, and documented in a plan of care and reviewed, according to Minnesota Rules, part 9505.0390;

(3) assessed by an appropriate therapist; and

(4) provided by a Medicare-certified home health agency enrolled as a Medicaid provider agency.

(c) Restorative and specialized maintenance therapies must be provided according to Minnesota Rules, part 9505.0390. Physical and occupational therapy assistants may be used as allowed under Minnesota Rules, part 9505.0390, subpart 1, item B.

(d) For both physical and occupational therapies, the therapist and the therapist's assistant may not both bill for services provided to a recipient on the same day.

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

Sec. 16. Minnesota Statutes 2018, section 256B.0653, subdivision 7, is amended to read:

Subd. 7. **Face-to-face encounter.** (a) A face-to-face encounter by a qualifying provider must be completed for all home health services regardless of the need for prior authorization, except when providing a onetime perinatal visit by skilled nursing. The face-to-face encounter may occur through telemedicine as defined in section 256B.0625, subdivision 3b. The encounter must be related to the primary reason the recipient requires home health services and must occur within the 90 days before or the 30 days after the start of services. The face-to-face encounter may be conducted by one of the following practitioners, licensed in Minnesota:

(1) a physician;

(2) ~~a nurse practitioner or clinical nurse specialist;~~ an advanced practice registered nurse; or

~~(3) a certified nurse midwife; or~~

~~(4)~~ (3) a physician assistant.

(b) The allowed ~~nonphysician~~ practitioner, as described in this subdivision, performing the face-to-face encounter but who is not the ordering practitioner must communicate the clinical findings of that face-to-face encounter to the ordering ~~physician~~ practitioner. ~~Those~~ The clinical findings of that face-to-face encounter must be incorporated into a written or electronic document included in the recipient's medical record. To

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assure clinical correlation between the face-to-face encounter and the associated home health services, the ~~physician~~ practitioner responsible for ordering the services must:

(1) document that the face-to-face encounter, which is related to the primary reason the recipient requires home health services, occurred within the required time period; and

(2) indicate the practitioner who conducted the encounter and the date of the encounter.

(c) For home health services requiring authorization, including prior authorization, home health agencies must retain the qualifying documentation of a face-to-face encounter as part of the recipient health service record, and submit the qualifying documentation to the commissioner or the commissioner's designee upon request.

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

Sec. 17. Minnesota Statutes 2018, section 256B.0654, subdivision 1, as amended by Laws 2020, chapter 115, article 4, section 121, is amended to read:

Subdivision 1. **Definitions.** (a) "Complex home care nursing" means home care nursing services provided to recipients who meet the criteria for regular home care nursing and require life-sustaining interventions to reduce the risk of long-term injury or death.

(b) "Home care nursing" means ongoing hourly nursing ordered by a physician ~~or~~, advanced practice registered nurse, or physician assistant and services performed by a registered nurse or licensed practical nurse within the scope of practice as defined by the Minnesota Nurse Practice Act under sections 148.171 to 148.285, in order to maintain or restore a person's health.

(c) "Home care nursing agency" means a medical assistance enrolled provider licensed under chapter 144A to provide home care nursing services.

(d) "Regular home care nursing" means home care nursing provided because:

(1) the recipient requires more individual and continuous care than can be provided during a skilled nurse visit; or

(2) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

(e) "Shared home care nursing" means the provision of home care nursing services by a home care nurse to two recipients at the same time and in the same setting.

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

Sec. 18. Minnesota Statutes 2018, section 256B.0654, subdivision 2a, as amended by Laws 2020, chapter 115, article 4, section 122, is amended to read:

Subd. 2a. **Home care nursing services.** (a) Home care nursing services must be used:

(1) in the recipient's home or outside the home when normal life activities require;

(2) when the recipient requires more individual and continuous care than can be provided during a skilled nurse visit; and

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(3) when the care required is outside of the scope of services that can be provided by a home health aide or personal care assistant.

(b) Home care nursing services must be:

(1) assessed by a registered nurse on a form approved by the commissioner;

(2) ordered by a physician ~~or,~~ advanced practice registered nurse, or physician assistant and documented in a plan of care that is reviewed by the ~~physician~~ ordering practitioner at least once every 60 days; and

(3) authorized by the commissioner under section 256B.0652.

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

Sec. 19. Minnesota Statutes 2018, section 256B.0654, subdivision 3, as amended by Laws 2020, chapter 115, article 4, section 123, is amended to read:

Subd. 3. **Shared home care nursing option.** (a) Medical assistance payments for shared home care nursing services by a home care nurse shall be limited according to this subdivision. Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to home care nursing services apply to shared home care nursing services. Nothing in this subdivision shall be construed to reduce the total number of home care nursing hours authorized for an individual recipient.

(b) Shared home care nursing is the provision of nursing services by a home care nurse to two medical assistance eligible recipients at the same time and in the same setting. This subdivision does not apply when a home care nurse is caring for multiple recipients in more than one setting.

(c) For the purposes of this subdivision, "setting" means:

(1) the home residence or foster care home of one of the individual recipients as defined in section 256B.0651;

(2) a child care program licensed under chapter 245A or operated by a local school district or private school;

(3) an adult day care service licensed under chapter 245A; or

(4) outside the home residence or foster care home of one of the recipients when normal life activities take the recipients outside the home.

(d) The home care nursing agency must offer the recipient the option of shared or one-on-one home care nursing services. The recipient may withdraw from participating in a shared service arrangement at any time.

(e) The recipient or the recipient's legal representative, and the recipient's physician ~~or,~~ advanced practice registered nurse, or physician assistant, in conjunction with the home care nursing agency, shall determine:

(1) whether shared home care nursing care is an appropriate option based on the individual needs and preferences of the recipient; and

(2) the amount of shared home care nursing services authorized as part of the overall authorization of nursing services.

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(f) The recipient or the recipient's legal representative, in conjunction with the home care nursing agency, shall approve the setting, grouping, and arrangement of shared home care nursing care based on the individual needs and preferences of the recipients. Decisions on the selection of recipients to share services must be based on the ages of the recipients, compatibility, and coordination of their care needs.

(g) The following items must be considered by the recipient or the recipient's legal representative and the home care nursing agency, and documented in the recipient's health service record:

(1) the additional training needed by the home care nurse to provide care to two recipients in the same setting and to ensure that the needs of the recipients are met appropriately and safely;

(2) the setting in which the shared home care nursing care will be provided;

(3) the ongoing monitoring and evaluation of the effectiveness and appropriateness of the service and process used to make changes in service or setting;

(4) a contingency plan which accounts for absence of the recipient in a shared home care nursing setting due to illness or other circumstances;

(5) staffing backup contingencies in the event of employee illness or absence; and

(6) arrangements for additional assistance to respond to urgent or emergency care needs of the recipients.

(h) The documentation for shared home care nursing must be on a form approved by the commissioner for each individual recipient sharing home care nursing. The documentation must be part of the recipient's health service record and include:

(1) permission by the recipient or the recipient's legal representative for the maximum number of shared nursing hours per week chosen by the recipient and permission for shared home care nursing services provided in and outside the recipient's home residence;

(2) revocation by the recipient or the recipient's legal representative for the shared home care nursing permission, or services provided to others in and outside the recipient's residence; and

(3) daily documentation of the shared home care nursing services provided by each identified home care nurse, including:

(i) the names of each recipient receiving shared home care nursing services;

(ii) the setting for the shared services, including the starting and ending times that the recipient received shared home care nursing care; and

(iii) notes by the home care nurse regarding changes in the recipient's condition, problems that may arise from the sharing of home care nursing services, and scheduling and care issues.

(i) The commissioner shall provide a rate methodology for shared home care nursing. For two persons sharing nursing care, the rate paid to a provider must not exceed 1.5 times the regular home care nursing rates paid for serving a single individual by a registered nurse or licensed practical nurse. These rates apply only to situations in which both recipients are present and receive shared home care nursing care on the date for which the service is billed.

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

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Sec. 20. Minnesota Statutes 2018, section 256B.0654, subdivision 4, as amended by Laws 2020, chapter 115, article 4, section 124, is amended to read:

Subd. 4. **Hardship criteria; home care nursing.** (a) Payment is allowed for extraordinary services that require specialized nursing skills and are provided by parents of minor children, family foster parents, spouses, and legal guardians who are providing home care nursing care under the following conditions:

(1) the provision of these services is not legally required of the parents, spouses, or legal guardians;

(2) the services are necessary to prevent hospitalization of the recipient; and

(3) the recipient is eligible for state plan home care or a home and community-based waiver and one of the following hardship criteria are met:

(i) the parent, spouse, or legal guardian resigns from a part-time or full-time job to provide nursing care for the recipient;

(ii) the parent, spouse, or legal guardian goes from a full-time to a part-time job with less compensation to provide nursing care for the recipient;

(iii) the parent, spouse, or legal guardian takes a leave of absence without pay to provide nursing care for the recipient; or

(iv) because of labor conditions, special language needs, or intermittent hours of care needed, the parent, spouse, or legal guardian is needed in order to provide adequate home care nursing services to meet the medical needs of the recipient.

(b) Home care nursing may be provided by a parent, spouse, family foster parent, or legal guardian who is a nurse licensed in Minnesota. Home care nursing services provided by a parent, spouse, family foster parent, or legal guardian cannot be used in lieu of nursing services covered and available under liable third-party payors, including Medicare. The home care nursing provided by a parent, spouse, family foster parent, or legal guardian must be included in the service agreement. Authorized nursing services for a single recipient or recipients with the same residence and provided by the parent, spouse, family foster parent, or legal guardian may not exceed 50 percent of the total approved nursing hours, or eight hours per day, whichever is less, up to a maximum of 40 hours per week. A parent or parents, spouse, family foster parent, or legal guardian shall not provide more than 40 hours of services in a seven-day period. For parents, family foster parents, and legal guardians, 40 hours is the total amount allowed regardless of the number of children or adults who receive services. Nothing in this subdivision precludes the parent's, spouse's, or legal guardian's obligation of assuming the nonreimbursed family responsibilities of emergency backup caregiver and primary caregiver.

(c) A parent, family foster parent, or a spouse may not be paid to provide home care nursing care if:

(1) the parent or spouse fails to pass a criminal background check according to chapter 245C;

(2) it has been determined by the home care nursing agency, the case manager, or the physician ~~or~~, advanced practice registered nurse, or physician assistant that the home care nursing provided by the parent, family foster parent, spouse, or legal guardian is unsafe; or

(3) the parent, family foster parent, spouse, or legal guardian does not follow physician ~~or~~, advanced practice registered nurse, or physician assistant orders.

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(d) For purposes of this section, "assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for home care nursing must be conducted by a registered nurse.

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

Sec. 21. Minnesota Statutes 2019 Supplement, section 256B.0711, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section:

(a) "Commissioner" means the commissioner of human services unless otherwise indicated.

(b) "Covered program" means a program to provide direct support services funded in whole or in part by the state of Minnesota, including the community first services and supports program under section 256B.85, subdivision 2, paragraph (e); ~~consumer directed~~ consumer-directed community supports ~~services~~ and extended state plan personal care assistance services available under programs established pursuant to home and community-based service waivers authorized under section 1915(c) of the Social Security Act, and Minnesota Statutes, including, but not limited to, chapter 256S and sections 256B.092 and 256B.49, and under the alternative care program~~, as offered pursuant to~~ under section 256B.0913; the personal care assistance choice program~~, as established pursuant to~~ under section 256B.0659, subdivisions 18 to 20; and any similar program that may provide similar services in the future.

(c) "Direct support services" means personal care assistance services covered by medical assistance under section 256B.0625, subdivisions 19a and 19c; assistance with activities of daily living as defined in section 256B.0659, subdivision 1, paragraph (b), and instrumental activities of daily living as defined in section 256B.0659, subdivision 1, paragraph (i); and other similar, in-home, nonprofessional long-term services and supports provided to an elderly person or person with a disability by the person's employee or the employee of the person's representative to meet such person's daily living needs and ensure that such person may adequately function in the person's home and have safe access to the community.

(d) "Individual provider" means an individual selected by and working under the direction of a participant in a covered program, or a participant's representative, to provide direct support services to the participant, but does not include an employee of a provider agency, subject to the agency's direction and control commensurate with agency employee status.

(e) "Participant" means a person who receives direct support services through a covered program.

(f) "Participant's representative" means a participant's legal guardian or an individual having the authority and responsibility to act on behalf of a participant with respect to the provision of direct support services through a covered program.

Sec. 22. Minnesota Statutes 2018, section 256B.0941, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** (a) An individual who is eligible for mental health treatment services in a psychiatric residential treatment facility must meet all of the following criteria:

(1) before admission, services are determined to be medically necessary ~~by the state's medical review agent~~ according to Code of Federal Regulations, title 42, section 441.152;

(2) is younger than 21 years of age at the time of admission. Services may continue until the individual meets criteria for discharge or reaches 22 years of age, whichever occurs first;

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(3) has a mental health diagnosis as defined in the most recent edition of the Diagnostic and Statistical Manual for Mental Disorders, as well as clinical evidence of severe aggression, or a finding that the individual is a risk to self or others;

(4) has functional impairment and a history of difficulty in functioning safely and successfully in the community, school, home, or job; an inability to adequately care for one's physical needs; or caregivers, guardians, or family members are unable to safely fulfill the individual's needs;

(5) requires psychiatric residential treatment under the direction of a physician to improve the individual's condition or prevent further regression so that services will no longer be needed;

(6) utilized and exhausted other community-based mental health services, or clinical evidence indicates that such services cannot provide the level of care needed; and

(7) was referred for treatment in a psychiatric residential treatment facility by a qualified mental health professional licensed as defined in section 245.4871, subdivision 27, clauses (1) to (6).

(b) ~~A mental health professional making a referral shall submit documentation to the state's medical review agent containing all information necessary to determine medical necessity, including a standard diagnostic assessment completed within 180 days of the individual's admission. Documentation shall include evidence of family participation in the individual's treatment planning and signed consent for services~~ The commissioner shall provide oversight and review the use of referrals for clients admitted to psychiatric residential treatment facilities to ensure that eligibility criteria, clinical services, and treatment planning reflect clinical, state, and federal standards for psychiatric residential treatment facility level of care. The commissioner shall coordinate the production of a statewide list of children and youth who meet the medical necessity criteria for psychiatric residential treatment facility level of care and who are awaiting admission. The commissioner and any recipient of the list shall not use the statewide list to direct admission of children and youth to specific facilities.

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

Sec. 23. Minnesota Statutes 2018, section 256B.0941, subdivision 3, is amended to read:

Subd. 3. **Per diem rate.** (a) The commissioner ~~shall~~ must establish ~~a statewide~~ one per diem rate per provider for psychiatric residential treatment facility services for individuals 21 years of age or younger. The rate for a provider must not exceed the rate charged by that provider for the same service to other payers. Payment must not be made to more than one entity for each individual for services provided under this section on a given day. The commissioner ~~shall~~ must set rates prospectively for the annual rate period. The commissioner ~~shall~~ must require providers to submit annual cost reports on a uniform cost reporting form and ~~shall~~ must use submitted cost reports to inform the rate-setting process. The cost reporting ~~shall~~ must be done according to federal requirements for Medicare cost reports.

(b) The following are included in the rate:

(1) costs necessary for licensure and accreditation, meeting all staffing standards for participation, meeting all service standards for participation, meeting all requirements for active treatment, maintaining medical records, conducting utilization review, meeting inspection of care, and discharge planning. The direct services costs must be determined using the actual cost of salaries, benefits, payroll taxes, and training of direct services staff and service-related transportation; and

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(2) payment for room and board provided by facilities meeting all accreditation and licensing requirements for participation.

(c) A facility may submit a claim for payment outside of the per diem for professional services arranged by and provided at the facility by an appropriately licensed professional who is enrolled as a provider with Minnesota health care programs. Arranged services ~~must be billed by the facility on a separate claim, and the facility shall be responsible for payment to the provider~~ may be billed by either the facility or the licensed professional. These services must be included in the individual plan of care and are subject to prior authorization ~~by the state's medical review agent~~.

(d) Medicaid ~~shall~~ must reimburse for concurrent services as approved by the commissioner to support continuity of care and successful discharge from the facility. "Concurrent services" means services provided by another entity or provider while the individual is admitted to a psychiatric residential treatment facility. Payment for concurrent services may be limited and these services are subject to prior authorization by the state's medical review agent. Concurrent services may include targeted case management, assertive community treatment, clinical care consultation, team consultation, and treatment planning.

(e) Payment rates under this subdivision ~~shall~~ must not include the costs of providing the following services:

(1) educational services;

(2) acute medical care or specialty services for other medical conditions;

(3) dental services; and

(4) pharmacy drug costs.

(f) For purposes of this section, "actual cost" means costs that are allowable, allocable, reasonable, and consistent with federal reimbursement requirements in Code of Federal Regulations, title 48, chapter 1, part 31, relating to for-profit entities, and the Office of Management and Budget Circular Number A-122, relating to nonprofit entities.

EFFECTIVE DATE. This section is effective September 1, 2020, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 24. Minnesota Statutes 2018, section 256B.0944, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Mental health crisis" means a child's behavioral, emotional, or psychiatric situation that, but for the provision of crisis response services to the child, would likely result in significantly reduced levels of functioning in primary activities of daily living, an emergency situation, or the child's placement in a more restrictive setting, including, but not limited to, inpatient hospitalization.

(b) "Mental health emergency" means a child's behavioral, emotional, or psychiatric situation that causes an immediate need for mental health services and is consistent with section 62Q.55. A physician, mental health professional, or crisis mental health practitioner determines a mental health crisis or emergency for medical assistance reimbursement with input from the client and the client's family, if possible.

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(c) "Mental health crisis assessment" means an immediate face-to-face assessment by a physician, mental health professional, or mental health practitioner under the clinical supervision of a mental health professional, following a screening that suggests the child may be experiencing a mental health crisis or mental health emergency situation.

(d) "Mental health mobile crisis intervention services" means face-to-face, short-term intensive mental health services initiated during a mental health crisis or mental health emergency. Mental health mobile crisis services must help the recipient cope with immediate stressors, identify and utilize available resources and strengths, and begin to return to the recipient's baseline level of functioning. Mental health mobile services must be provided on site by a mobile crisis intervention team outside of ~~an emergency room, urgent care, or~~ an inpatient hospital setting.

(e) "Mental health crisis stabilization services" means individualized mental health services provided to a recipient following crisis intervention services that are designed to restore the recipient to the recipient's prior functional level. The individual treatment plan recommending mental health crisis stabilization must be completed by the intervention team or by staff after an inpatient or urgent care visit. Mental health crisis stabilization services may be provided in the recipient's home, the home of a family member or friend of the recipient, schools, another community setting, or a short-term supervised, licensed residential program if the service is not included in the facility's cost pool or per diem. Mental health crisis stabilization is not reimbursable when provided as part of a partial hospitalization or day treatment program.

Sec. 25. Minnesota Statutes 2018, section 256B.0947, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Intensive nonresidential rehabilitative mental health services" means child rehabilitative mental health services as defined in section 256B.0943, except that these services are provided by a multidisciplinary staff using a total team approach consistent with assertive community treatment, as adapted for youth, and are directed to recipients ages 16, 17, 18, 19, or 20 with a serious mental illness or co-occurring mental illness and substance abuse addiction who require intensive services to prevent admission to an inpatient psychiatric hospital or placement in a residential treatment facility or who require intensive services to step down from inpatient or residential care to community-based care.

(b) "Co-occurring mental illness and substance abuse addiction" means a dual diagnosis of at least one form of mental illness and at least one substance use disorder. Substance use disorders include alcohol or drug abuse or dependence, excluding nicotine use.

(c) "Diagnostic assessment" has the meaning given to it in Minnesota Rules, part 9505.0370, subpart 11. A diagnostic assessment must be provided according to Minnesota Rules, part 9505.0372, subpart 1, and for this section must incorporate a determination of the youth's necessary level of care using a standardized functional assessment instrument approved and periodically updated by the commissioner.

(d) "Education specialist" means an individual with knowledge and experience working with youth regarding special education requirements and goals, special education plans, and coordination of educational activities with health care activities.

(e) "Housing access support" means an ancillary activity to help an individual find, obtain, retain, and move to safe and adequate housing. Housing access support does not provide monetary assistance for rent, damage deposits, or application fees.

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(f) "Integrated dual disorders treatment" means the integrated treatment of co-occurring mental illness and substance use disorders by a team of cross-trained clinicians within the same program, and is characterized by assertive outreach, stage-wise comprehensive treatment, treatment goal setting, and flexibility to work within each stage of treatment.

(g) "Medication education services" means services provided individually or in groups, which focus on:

(1) educating the client and client's family or significant nonfamilial supporters about mental illness and symptoms;

(2) the role and effects of medications in treating symptoms of mental illness; and

(3) the side effects of medications.

Medication education is coordinated with medication management services and does not duplicate it. Medication education services are provided by physicians, pharmacists, or registered nurses with certification in psychiatric and mental health care.

(h) "Peer specialist" means an employed team member who is a mental health certified peer specialist according to section 256B.0615 and also a former children's mental health consumer who:

(1) provides direct services to clients including social, emotional, and instrumental support and outreach;

(2) assists younger peers to identify and achieve specific life goals;

(3) works directly with clients to promote the client's self-determination, personal responsibility, and empowerment;

(4) assists youth with mental illness to regain control over their lives and their developmental process in order to move effectively into adulthood;

(5) provides training and education to other team members, consumer advocacy organizations, and clients on resiliency and peer support; and

(6) meets the following criteria:

(i) is at least 22 years of age;

(ii) has had a diagnosis of mental illness, as defined in Minnesota Rules, part 9505.0370, subpart 20, or co-occurring mental illness and substance abuse addiction;

(iii) is a former consumer of child and adolescent mental health services, or a former or current consumer of adult mental health services for a period of at least two years;

(iv) has at least a high school diploma or equivalent;

(v) has successfully completed training requirements determined and periodically updated by the commissioner;

(vi) is willing to disclose the individual's own mental health history to team members and clients; and

(vii) must be free of substance use problems for at least one year.

(i) "Provider agency" means a for-profit or nonprofit organization established to administer an assertive community treatment for youth team.

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(j) "Substance use disorders" means one or more of the disorders defined in the diagnostic and statistical manual of mental disorders, current edition.

(k) "Transition services" means:

(1) activities, materials, consultation, and coordination that ensures continuity of the client's care in advance of and in preparation for the client's move from one stage of care or life to another by maintaining contact with the client and assisting the client to establish provider relationships;

(2) providing the client with knowledge and skills needed posttransition;

(3) establishing communication between sending and receiving entities;

(4) supporting a client's request for service authorization and enrollment; and

(5) establishing and enforcing procedures and schedules.

A youth's transition from the children's mental health system and services to the adult mental health system and services and return to the client's home and entry or re-entry into community-based mental health services following discharge from an out-of-home placement or inpatient hospital stay.

(l) "Treatment team" means all staff who provide services to recipients under this section.

(m) "Family peer specialist" means a staff person qualified under section 256B.0616.

Sec. 26. Minnesota Statutes 2018, section 256B.0947, subdivision 4, is amended to read:

Subd. 4. **Provider contract requirements.** (a) The intensive nonresidential rehabilitative mental health services provider agency shall have a contract with the commissioner to provide intensive transition youth rehabilitative mental health services.

(b) The commissioner shall develop ~~administrative and clinical contract standards and~~ performance evaluation criteria for providers, including county providers, and may require applicants and providers to submit documentation as needed to allow the commissioner to determine whether the ~~standards~~ criteria are met.

Sec. 27. Minnesota Statutes 2018, section 256B.0947, subdivision 5, is amended to read:

Subd. 5. **Standards for intensive nonresidential rehabilitative providers.** (a) Services must be provided by a provider entity as provided in subdivision 4.

(b) The treatment team for intensive nonresidential rehabilitative mental health services comprises both permanently employed core team members and client-specific team members as follows:

(1) The core treatment team is an entity that operates under the direction of an independently licensed mental health professional, who is qualified under Minnesota Rules, part 9505.0371, subpart 5, item A, and that assumes comprehensive clinical responsibility for clients. Based on professional qualifications and client needs, clinically qualified core team members are assigned on a rotating basis as the client's lead worker to coordinate a client's care. The core team must comprise at least four full-time equivalent direct care staff and must include, but is not limited to:

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(i) an independently licensed mental health professional, qualified under Minnesota Rules, part 9505.0371, subpart 5, item A, who serves as team leader to provide administrative direction and clinical supervision to the team;

(ii) an advanced-practice registered nurse with certification in psychiatric or mental health care or a board-certified child and adolescent psychiatrist, either of which must be credentialed to prescribe medications;

(iii) a licensed alcohol and drug counselor who is also trained in mental health interventions; and

(iv) a peer specialist as defined in subdivision 2, paragraph (h).

(2) The core team may also include any of the following:

(i) additional mental health professionals;

(ii) a vocational specialist;

(iii) an educational specialist;

(iv) a child and adolescent psychiatrist who may be retained on a consultant basis;

(v) a mental health practitioner, as defined in section 245.4871, subdivision 26;

(vi) a ~~mental health manager~~ case management service provider, as defined in section 245.4871, subdivision 4; ~~and~~

(vii) a housing access specialist; and

(viii) a family peer specialist as defined in subdivision 2, paragraph (m).

(3) A treatment team may include, in addition to those in clause (1) or (2), ad hoc members not employed by the team who consult on a specific client and who must accept overall clinical direction from the treatment team for the duration of the client's placement with the treatment team and must be paid by the provider agency at the rate for a typical session by that provider with that client or at a rate negotiated with the client-specific member. Client-specific treatment team members may include:

(i) the mental health professional treating the client prior to placement with the treatment team;

(ii) the client's current substance abuse counselor, if applicable;

(iii) a lead member of the client's individualized education program team or school-based mental health provider, if applicable;

(iv) a representative from the client's health care home or primary care clinic, as needed to ensure integration of medical and behavioral health care;

(v) the client's probation officer or other juvenile justice representative, if applicable; and

(vi) the client's current vocational or employment counselor, if applicable.

(c) The clinical supervisor shall be an active member of the treatment team and shall function as a practicing clinician at least on a part-time basis. The treatment team shall meet with the clinical supervisor at least weekly to discuss recipients' progress and make rapid adjustments to meet recipients' needs. The team meeting must include client-specific case reviews and general treatment discussions among team

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members. Client-specific case reviews and planning must be documented in the individual client's treatment record.

(d) The staffing ratio must not exceed ten clients to one full-time equivalent treatment team position.

(e) The treatment team shall serve no more than 80 clients at any one time. Should local demand exceed the team's capacity, an additional team must be established rather than exceed this limit.

(f) Nonclinical staff shall have prompt access in person or by telephone to a mental health practitioner or mental health professional. The provider shall have the capacity to promptly and appropriately respond to emergent needs and make any necessary staffing adjustments to ~~assure~~ ensure the health and safety of clients.

(g) The intensive nonresidential rehabilitative mental health services provider shall participate in evaluation of the assertive community treatment for youth (Youth ACT) model as conducted by the commissioner, including the collection and reporting of data and the reporting of performance measures as specified by contract with the commissioner.

(h) A regional treatment team may serve multiple counties.

Sec. 28. Minnesota Statutes 2018, section 256B.0947, subdivision 6, is amended to read:

Subd. 6. **Service standards.** The standards in this subdivision apply to intensive nonresidential rehabilitative mental health services.

(a) The treatment team ~~shall~~ must use team treatment, not an individual treatment model.

(b) Services must be available at times that meet client needs.

(c) Services must be age-appropriate and meet the specific needs of the client.

~~(c)~~ (d) The initial functional assessment must be completed within ten days of intake and updated at least every ~~three~~ six months or prior to discharge from the service, whichever comes first.

~~(d)~~ (e) An individual treatment plan must ~~be completed for each client, according to criteria specified in section 256B.0943, subdivision 6, paragraph (b), clause (2), and, additionally, must~~:

(1) be based on the information in the client's diagnostic assessment and baselines;

(2) identify goals and objectives of treatment, a treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individuals responsible for providing treatment services and supports;

(3) be developed after completion of the client's diagnostic assessment by a mental health professional or clinical trainee and before the provision of children's therapeutic services and supports;

(4) be developed through a child-centered, family-driven, culturally appropriate planning process, including allowing parents and guardians to observe or participate in individual and family treatment services, assessments, and treatment planning;

(5) be reviewed at least once every six months and revised to document treatment progress on each treatment objective and next goals or, if progress is not documented, to document changes in treatment;

(6) be signed by the clinical supervisor and by the client or by the client's parent or other person authorized by statute to consent to mental health services for the client. A client's parent may approve the client's

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individual treatment plan by secure electronic signature or by documented oral approval that is later verified by written signature;

~~(1)~~ (7) be completed in consultation with the client's current therapist and key providers and provide for ongoing consultation with the client's current therapist to ensure therapeutic continuity and to facilitate the client's return to the community. For clients under the age of 18, the treatment team must consult with parents and guardians in developing the treatment plan;

~~(2)~~ (8) if a need for substance use disorder treatment is indicated by validated assessment:

(i) identify goals, objectives, and strategies of substance use disorder treatment; develop a schedule for accomplishing treatment goals and objectives; and identify the individuals responsible for providing treatment services and supports;

(ii) be reviewed at least once every 90 days and revised, if necessary;

~~(3)~~ (9) be signed by the clinical supervisor and by the client and, if the client is a minor, by the client's parent or other person authorized by statute to consent to mental health treatment and substance use disorder treatment for the client; and

~~(4)~~ (10) provide for the client's transition out of intensive nonresidential rehabilitative mental health services by defining the team's actions to assist the client and subsequent providers in the transition to less intensive or "stepped down" services.

~~(e)~~ (f) The treatment team shall actively and assertively engage the client's family members and significant others by establishing communication and collaboration with the family and significant others and educating the family and significant others about the client's mental illness, symptom management, and the family's role in treatment, unless the team knows or has reason to suspect that the client has suffered or faces a threat of suffering any physical or mental injury, abuse, or neglect from a family member or significant other.

~~(f)~~ (g) For a client age 18 or older, the treatment team may disclose to a family member, other relative, or a close personal friend of the client, or other person identified by the client, the protected health information directly relevant to such person's involvement with the client's care, as provided in Code of Federal Regulations, title 45, part 164.502(b). If the client is present, the treatment team shall obtain the client's agreement, provide the client with an opportunity to object, or reasonably infer from the circumstances, based on the exercise of professional judgment, that the client does not object. If the client is not present or is unable, by incapacity or emergency circumstances, to agree or object, the treatment team may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the client and, if so, disclose only the protected health information that is directly relevant to the family member's, relative's, friend's, or client-identified person's involvement with the client's health care. The client may orally agree or object to the disclosure and may prohibit or restrict disclosure to specific individuals.

~~(g)~~ (h) The treatment team shall provide interventions to promote positive interpersonal relationships.

Sec. 29. Minnesota Statutes 2018, section 256B.49, subdivision 16, is amended to read:

Subd. 16. **Services and supports.** (a) Services and supports included in the home and community-based waivers for persons with disabilities ~~shall~~ must meet the requirements set out in United States Code, title 42, section 1396n. The services and supports, which are offered as alternatives to institutional care, ~~shall~~ must promote consumer choice, community inclusion, self-sufficiency, and self-determination.

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(b) ~~Beginning January 1, 2003,~~ The commissioner ~~shall~~ must simplify and improve access to home and community-based waivered services, to the extent possible, through the establishment of a common service menu that is available to eligible recipients regardless of age, disability type, or waiver program.

(c) ~~Consumer directed community support services shall~~ Consumer-directed community supports must be offered as an option to all persons eligible for services under subdivision 11~~, by January 1, 2002~~.

(d) Services and supports ~~shall~~ must be arranged and provided consistent with individualized written plans of care for eligible waiver recipients.

(e) A transitional supports allowance ~~shall~~ must be available to all persons under a home and community-based waiver who are moving from a licensed setting to a community setting. "Transitional supports allowance" means a onetime payment of up to $3,000, to cover the costs, not covered by other sources, associated with moving from a licensed setting to a community setting. Covered costs include:

(1) lease or rent deposits;

(2) security deposits;

(3) utilities setup costs, including telephone;

(4) essential furnishings and supplies; and

(5) personal supports and transports needed to locate and transition to community settings.

(f) The state of Minnesota and county agencies that administer home and community-based waivered services for persons with disabilities, ~~shall~~ must not be liable for damages, injuries, or liabilities sustained through the purchase of supports by the individual, the individual's family, legal representative, or the authorized representative with funds received through ~~the~~ consumer-directed community ~~support service~~ supports under this section. Liabilities include but are not limited to~~:~~ workers' compensation liability, the Federal Insurance Contributions Act (FICA), or the Federal Unemployment Tax Act (FUTA).

Sec. 30. **[256B.4911] CONSUMER-DIRECTED COMMUNITY SUPPORTS.**

Subdivision 1. **Federal authority.** Consumer-directed community supports, as referenced in sections 256B.0913, subdivision 5, clause (17); 256B.092, subdivision 1b, clause (4); 256B.49, subdivision 16, paragraph (c); and chapter 256S are governed, in whole, by the federally-approved waiver plans for home and community-based services.

Subd. 2. **Costs associated with physical activities.** The expenses allowed for adults under the consumer-directed community supports option must include the costs at the lowest rate available considering daily, monthly, semiannual, annual, or membership rates, including transportation, associated with physical exercise or other physical activities to maintain or improve the person's health and functioning.

Subd. 3. **Expansion and increase of budget exceptions.** (a) The commissioner of human services must provide up to 30 percent more funds for either:

(1) consumer-directed community supports participants under sections 256B.092 and 256B.49 who have a coordinated service and support plan which identifies the need for more services or supports under consumer-directed community supports than the amount the participants are currently receiving under the consumer-directed community supports budget methodology to:

(i) increase the amount of time a person works or otherwise improves employment opportunities;

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(ii) plan a transition to, move to, or live in a setting described in section 256D.44, subdivision 5, paragraph (g), clause (1), item (iii); or

(iii) develop and implement a positive behavior support plan; or

(2) home and community-based waiver participants under sections 256B.092 and 256B.49 who are currently using licensed providers for: (i) employment supports or services during the day; or (ii) residential services, either of which cost more annually than the person would spend under a consumer-directed community supports plan for any or all of the supports needed to meet a goal identified in clause (1), item (i), (ii), or (iii).

(b) The exception under paragraph (a), clause (1), is limited to persons who can demonstrate that they will have to discontinue using consumer-directed community supports and accept other non-self-directed waiver services because their supports needed for a goal described in paragraph (a), clause (1), item (i), (ii), or (iii), cannot be met within the consumer-directed community supports budget limits.

(c) The exception under paragraph (a), clause (2), is limited to persons who can demonstrate that, upon choosing to become a consumer-directed community supports participant, the total cost of services, including the exception, will be less than the cost of current waiver services.

Subd. 4. **Budget exception for persons leaving institutions and crisis residential settings.** (a) The commissioner must establish an institutional and crisis bed consumer-directed community supports budget exception process in the home and community-based services waivers under sections 256B.092 and 256B.49. This budget exception process must be available for any individual who:

(1) is not offered available and appropriate services within 60 days since approval for discharge from the individual's current institutional setting; and

(2) requires services that are more expensive than appropriate services provided in a noninstitutional setting using the consumer-directed community supports option.

(b) Institutional settings for purposes of this exception include intermediate care facilities for persons with developmental disabilities; nursing facilities; acute care hospitals; Anoka Metro Regional Treatment Center; Minnesota Security Hospital; and crisis beds.

(c) The budget exception must be limited to no more than the amount of appropriate services provided in a noninstitutional setting as determined by the lead agency managing the individual's home and community-based services waiver. The lead agency must notify the Department of Human Services of the budget exception.

Subd. 5. **Shared services.** (a) Medical assistance payments for shared services under consumer-directed community supports are limited to this subdivision.

(b) For purposes of this subdivision, "shared services" means services provided at the same time by the same direct care worker for individuals who have entered into an agreement to share consumer-directed community support services.

(c) Shared services may include services in the personal assistance category as outlined in the consumer-directed community supports community support plan and shared services agreement, except:

(1) services for more than three individuals provided by one worker at one time;

(2) use of more than one worker for the shared services; and

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(3) a child care program licensed under chapter 245A or operated by a local school district or private school.

(d) The individuals, or as needed the individuals' representatives, must develop the plan for shared services when developing or amending the consumer-directed community supports plan, and must follow the consumer-directed community supports process for approval of the plan by the lead agency. The plan for shared services in an individual's consumer-directed community supports plan must include the intention to utilize shared services based on individuals' needs and preferences.

(e) Individuals sharing services must use the same financial management services provider.

(f) Individuals whose consumer-directed community supports community support plans include an intent to utilize shared services must jointly develop, with the support of the individuals' representatives as needed, a shared services agreement. This agreement must include:

(1) the names of the individuals receiving shared services;

(2) the individuals' representative, if identified in their consumer-directed community supports plans, and their duties;

(3) the names of the case managers;

(4) the financial management services provider;

(5) the shared services that must be provided;

(6) the schedule for shared services;

(7) the location where shared services must be provided;

(8) the training specific to each individual served;

(9) the training specific to providing shared services to the individuals identified in the agreement;

(10) instructions to follow all required documentation for time and services provided;

(11) a contingency plan for each individual that accounts for service provision and billing in the absence of one of the individuals in a shared services setting due to illness or other circumstances;

(12) signatures of all parties involved in the shared services; and

(13) agreement by each individual who is sharing services on the number of shared hours for services provided.

(g) Any individual or any individual's representative may withdraw from participating in a shared services agreement at any time.

(h) The lead agency for each individual must authorize the use of the shared services option based on the criteria that the shared service is appropriate to meet the needs, health, and safety of each individual for whom they provide case management or care coordination.

(i) This subdivision must not be construed to reduce the total authorized consumer-directed community supports budget for an individual.

(j) No later than September 30, 2019, the commissioner of human services must:

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(1) submit an amendment to the Centers for Medicare and Medicaid Services for the home and community-based services waivers authorized under sections 256B.0913, 256B.092, and 256B.49, and chapter 256S, to allow for a shared services option under consumer-directed community supports; and

(2) with stakeholder input, develop guidance for shared services in consumer-directed community supports within the community-based services manual. Guidance must include:

(i) recommendations for negotiating payment for one-to-two and one-to-three services; and

(ii) a template of the shared services agreement.

EFFECTIVE DATE. This section is effective the day following final enactment, except for subdivision 5, paragraphs (a) to (i), which are effective the day following final enactment or upon federal approval, whichever occurs later. The commissioner of human services must notify the revisor of statutes when federal approval is obtained.

Sec. 31. Minnesota Statutes 2019 Supplement, section 256S.01, subdivision 6, is amended to read:

Subd. 6. **Immunity; consumer-directed community supports.** The state of Minnesota, or a county, managed care plan, county-based purchasing plan, or tribal government under contract to administer the elderly waiver, is not liable for damages, injuries, or liabilities sustained as a result of the participant, the participant's family, or the participant's authorized representatives purchasing direct supports or goods with funds received through consumer-directed community ~~support services~~ supports under the elderly waiver. Liabilities include, but are not limited to, workers' compensation liability, Federal Insurance Contributions Act under United States Code, title 26, subtitle c, chapter 21, or Federal Unemployment Tax Act under Internal Revenue Code, chapter 23.

Sec. 32. Minnesota Statutes 2019 Supplement, section 256S.19, subdivision 4, is amended to read:

Subd. 4. **Calculation of monthly conversion budget cap with consumer-directed community supports.** For the elderly waiver monthly conversion budget cap for the cost of elderly waiver services with consumer-directed community ~~support services~~ supports, the nursing facility case mix adjusted total payment rate used under subdivision 3 to calculate the monthly conversion budget cap for elderly waiver services without consumer-directed community supports must be reduced by a percentage equal to the percentage difference between the consumer-directed ~~services~~ community supports budget limit that would be assigned according to the elderly waiver plan and the corresponding monthly case mix budget cap under this chapter, but not to exceed 50 percent.

Sec. 33. Laws 2019, First Special Session chapter 9, article 14, section 2, subdivision 33, is amended to read:

Subd. 33. **Grant Programs; Chemical Dependency Treatment Support Grants**

	Appropriations by Fund	
General	2,636,000	2,636,000
Lottery Prize	1,733,000	1,733,000

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(a) **Problem Gambling.** $225,000 in fiscal year 2020 and $225,000 in fiscal year 2021 are from the lottery prize fund for a grant to the state affiliate recognized by the National Council on Problem Gambling. The affiliate must provide services to increase public awareness of problem gambling, education, and training for individuals and organizations providing effective treatment services to problem gamblers and their families, and research related to problem gambling.

(b) **Fetal Alcohol Spectrum Disorders Grants for Fiscal Year 2020.** (1) $500,000 in fiscal year 2020 ~~and $500,000 in fiscal year 2021 are from~~ is from the general fund for a grant to Proof Alliance. Of this appropriation, Proof Alliance shall make grants to eligible regional collaboratives for the purposes specified in clause (3).

(2) "Eligible regional collaboratives" means a partnership between at least one local government or tribal government and at least one community-based organization and, where available, a family home visiting program. For purposes of this clause, a local government includes a county or multicounty organization, ~~a tribal government,~~ a county-based purchasing entity, or a community health board.

(3) Eligible regional collaboratives must use grant funds to reduce the incidence of fetal alcohol spectrum disorders and other prenatal drug-related effects in children in Minnesota by identifying and serving pregnant women suspected of or known to use or abuse alcohol or other drugs. Eligible regional collaboratives must provide intensive services to chemically dependent women to increase positive birth outcomes.

(4) Proof Alliance must make grants to eligible regional collaboratives from both rural and urban areas of the state.

(5) An eligible regional collaborative that receives a grant under this paragraph must report to Proof Alliance by January 15 of each year on the services and programs funded by the grant. The report must include measurable outcomes for the previous year, including the number of pregnant women served and the number of toxic-free babies born. Proof Alliance must compile the information in these reports and

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report that information to the commissioner of human services by February 15 of each year.

(c) **Fetal Alcohol Spectrum Disorders Grants for Fiscal Year 2021.** $500,000 in fiscal year 2021 is from the general fund for a grant under Minnesota Statutes, section 254A.21, to a statewide organization that focuses solely on prevention of and intervention with fetal alcohol spectrum disorders.

Sec. 34. **TREATMENT OF PREVIOUSLY OBTAINED FEDERAL APPROVALS.**

This act must not be construed to require the commissioner to seek federal approval for provisions for which the commissioner has already received federal approval. Federal approvals the commissioner previously obtained for provisions repealed in section 33 survive and apply to the corresponding subdivisions of Minnesota Statutes, section 256B.4911.

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

Sec. 35. **REPEALER.**

(a) Laws 2005, First Special Session chapter 4, article 7, section 50, is repealed.

(b) Laws 2005, First Special Session chapter 4, article 7, section 51, is repealed.

(c) Laws 2012, chapter 247, article 4, section 47, as amended by Laws 2014, chapter 312, article 27, section 72, Laws 2015, chapter 71, article 7, section 58, Laws 2016, chapter 144, section 1, Laws 2017, First Special Session chapter 6, article 1, section 43, Laws 2017, First Special Session chapter 6, article 1, section 54, is repealed.

(d) Laws 2015, chapter 71, article 7, section 54, as amended by Laws 2017, First Special Session chapter 6, article 1, section 54, is repealed.

(e) Laws 2017, First Special Session chapter 6, article 1, section 44, as amended by Laws 2019, First Special Session chapter 9, article 5, section 80, is repealed.

(f) Laws 2017, First Special Session chapter 6, article 1, section 45, as amended by Laws 2019, First Special Session chapter 9, article 5, section 81, is repealed.

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

Sec. 36. **EFFECTIVE DATE; PREVIOUS ENACTMENT.**

The amendments made to Minnesota Statutes, section 256B.0654, subdivisions 1, 2a, 3, and 4, by Laws 2020, chapter 115, article 4, sections 121 to 124, are effective the day following final enactment of this act.

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ARTICLE 3

DISABILITY POLICY STATEMENTS

Section 1. **[256B.4905] HOME AND COMMUNITY-BASED SERVICES POLICY STATEMENT.**

Subdivision 1. **Employment first policy.** It is the policy of this state that all working-age Minnesotans with disabilities can work, want to work, and can achieve competitive integrated employment, and that each working-age Minnesotan with a disability be offered the opportunity to work and earn a competitive wage before being offered other supports and services.

Subd. 2. **Employment first implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) the disability waivers under sections 256B.092 and 256B.49 support the presumption that all working-age Minnesotans with disabilities can work, want to work, and can achieve competitive integrated employment; and

(2) each waiver recipient of working age be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to work and earn a competitive wage before being offered exclusively day services as defined in section 245D.03, subdivision 1, paragraph (c), clause (4), or successor provisions.

Subd. 3. **Independent living first policy.** It is the policy of this state that all adult Minnesotans with disabilities can and want to live independently with proper supports and services; and that each adult Minnesotan with a disability be offered the opportunity to live as independently as possible before being offered supports and services in provider-controlled settings.

Subd. 4. **Independent living first implementation for disability waiver services.** The commissioner of human services shall ensure that:

(1) the disability waivers under sections 256B.092 and 256B.49 support the presumption that all adult Minnesotans with disabilities can and want to live independently with proper services and supports as needed; and

(2) each adult waiver recipient be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to live as independently as possible before being offered customized living services provided in a single family home or residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), or successor provisions, unless the residential supports and services are provided in a family adult foster care residence under a shared living option as described in Laws 2013, chapter 108, article 7, section 62.

Subd. 5. **Self-direction first policy.** It is the policy of this state that adult Minnesotans with disabilities and families of children with disabilities can and want to use self-directed services and supports; and that each adult Minnesotan with a disability and each family of the child with a disability be offered the opportunity to choose self-directed services and supports before being offered services and supports that are not self-directed.

Subd. 6. **Self-directed first implementation for disability waiver services.** The commissioner of human services shall ensure that:

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(1) the disability waivers under sections 256B.092 and 256B.49 support the presumption that adult Minnesotans with disabilities and families of children with disabilities can and want to use self-directed services and supports, including self-directed funding options; and

(2) each waiver recipient be offered, after an informed decision-making process and during a person-centered planning process, the opportunity to choose self-directed services and supports, including self-directed funding options, before being offered services and supports that are not self-directed.

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

Sec. 2. Laws 2019, First Special Session chapter 9, article 5, section 86, is amended to read:

Sec. 86. **DISABILITY WAIVER RECONFIGURATION.**

Subdivision 1. **Intent.** It is the intent of the legislature to reform the medical assistance waiver programs for people with disabilities to simplify administration of the programs~~,~~. Disability waiver reconfiguration must incentivize inclusive, person-centered, individualized supports~~,~~ and services; enhance each person's self-determination and personal authority over the person's service choice~~,~~; align benefits across waivers~~, encourage~~; ensure equity across programs and populations~~, and~~; promote long-term sustainability of ~~needed~~ waiver services~~. To the maximum extent possible, the Disability waiver reconfiguration must~~; and maintain service stability and continuity of care~~,~~ while prioritizing, promoting ~~the most~~, and creating incentives for independent ~~and~~, integrated, and individualized supports ~~of each person's choosing in both short- and long-term~~ and services chosen by each person through an informed decision-making process and person-centered planning.

Subd. 2. **Report.** By January 15, 2021, the commissioner of human services shall submit a report to the members of the legislative committees with jurisdiction over human services on any necessary waivers, state plan amendments, requests for new funding or realignment of existing funds, any changes to state statute or rule, and any other federal authority necessary to implement this section. The report must include information about the commissioner's work to collect feedback and input from providers, persons accessing home and community-based services waivers and their families, and client advocacy organizations.

Subd. 3. **Proposal.** By January 15, 2021, the commissioner shall develop a proposal to reconfigure the medical assistance waivers provided in sections 256B.092 and 256B.49. The proposal shall include all necessary plans for implementing two home and community-based services waiver programs, as authorized under section 1915(c) of the Social Security Act that serve persons who are determined to require the levels of care provided in a nursing home, a hospital, a neurobehavioral hospital, or an intermediate care facility for persons with developmental disabilities. The proposal must include in each home and community-based waiver program options to self-direct services. Before submitting the final report to the legislature, the commissioner shall publish a draft report with sufficient time for interested persons to offer additional feedback.

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

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ARTICLE 4

ASSESSMENT, CASE MANAGEMENT, AND SERVICE PLANNING MODIFICATIONS

Section 1. Minnesota Statutes 2019 Supplement, section 245D.071, subdivision 5, is amended to read:

Subd. 5. **Service plan review and evaluation.** (a) The license holder must give the person or the person's legal representative ~~and~~, case manager, and other people as identified by the person or the person's legal representative, an opportunity to participate in the ongoing review and development of the service plan and the methods used to support the person and accomplish outcomes identified in subdivisions 3 and 4. At least once per year, or within 30 days of a written request by the person, the person's legal representative, or the case manager, the license holder, in coordination with the person's support team or expanded support team, must meet with the person, the person's legal representative, ~~and~~ the case manager, and other people as identified by the person or the person's legal representative, and participate in service plan review meetings following stated timelines established in the person's coordinated service and support plan or coordinated service and support plan addendum. The purpose of the service plan review is to determine whether changes are needed to the service plan based on the assessment information, the license holder's evaluation of progress ~~towards~~ toward accomplishing outcomes, or other information provided by the support team or expanded support team.

(b) At least once per year, the license holder, in coordination with the person's support team or expanded support team, must meet with the person, the person's legal representative, ~~and~~ the case manager, and other people as identified by the person or the person's legal representative to discuss how technology might be used to meet the person's desired outcomes. The coordinated service and support plan addendum must include a summary of this discussion. The summary must include a statement regarding any decision made related to the use of technology and a description of any further research that must be completed before a decision regarding the use of technology can be made. Nothing in this paragraph requires the coordinated service and support plan addendum to include the use of technology for the provision of services.

(c) At least once per year, the license holder, in coordination with the person's support team or expanded support team, must meet with a person receiving residential supports and services, the person's legal representative, the case manager, and other people as identified by the person or the person's legal representative to discuss options for transitioning out of a community setting controlled by a provider and into a setting not controlled by a provider.

(d) The coordinated service and support plan addendum must include a summary of the discussion required in paragraph (c). The summary must include a statement about any decision made regarding transitioning out of a provider-controlled setting and a description of any further research or education that must be completed before a decision regarding transitioning out of a provider-controlled setting can be made.

(e) At least once per year, the license holder, in coordination with the person's support team or expanded support team, must meet with a person receiving day services, the person's legal representative, the case manager, and other people as identified by the person or the person's legal representative to discuss options for transitioning to an employment service described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7).

(f) The coordinated service and support plan addendum must include a summary of the discussion required in paragraph (e). The summary must include a statement about any decision made concerning transition to an employment service and a description of any further research or education that must be completed before a decision regarding transitioning to an employment service can be made.

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(g) The license holder must summarize the person's status and progress toward achieving the identified outcomes and make recommendations and identify the rationale for changing, continuing, or discontinuing implementation of supports and methods identified in subdivision 4 in a report available at the time of the progress review meeting. The report must be sent at least five working days prior to the progress review meeting if requested by the team in the coordinated service and support plan or coordinated service and support plan addendum.

~~(d)~~ (h) The license holder must send the coordinated service and support plan addendum to the person, the person's legal representative, and the case manager by mail within ten working days of the progress review meeting. Within ten working days of the mailing of the coordinated service and support plan addendum, the license holder must obtain dated signatures from the person or the person's legal representative and the case manager to document approval of any changes to the coordinated service and support plan addendum.

~~(e)~~ (i) If, within ten working days of submitting changes to the coordinated service and support plan and coordinated service and support plan addendum, the person or the person's legal representative or case manager has not signed and returned to the license holder the coordinated service and support plan or coordinated service and support plan addendum or has not proposed written modifications to the license holder's submission, the submission is deemed approved and the coordinated service and support plan addendum becomes effective and remains in effect until the legal representative or case manager submits a written request to revise the coordinated service and support plan addendum.

Sec. 2. Minnesota Statutes 2018, section 256B.0911, subdivision 1, is amended to read:

Subdivision 1. **Purpose and goal.** (a) The purpose of long-term care consultation services is to assist persons with long-term or chronic care needs in making care decisions and selecting support and service options that meet their needs and reflect their preferences. The availability of, and access to, information and other types of assistance, including long-term care consultation assessment and community support planning, is also intended to prevent or delay institutional placements and to provide access to transition assistance after ~~admission~~ placement. Further, the goal of ~~these~~ long-term care consultation services is to contain costs associated with unnecessary institutional admissions. Long-term consultation services must be available to any person regardless of public program eligibility.

(b) The commissioner of human services shall seek to maximize use of available federal and state funds and establish the broadest program possible within the funding available.

~~(b) These~~ (c) Long-term care consultation services must be coordinated with long-term care options counseling provided under subdivision 4d, section 256.975, subdivisions 7 to 7c, and section 256.01, subdivision 24.

(d) The lead agency providing long-term care consultation services shall encourage the use of volunteers from families, religious organizations, social clubs, and similar civic and service organizations to provide community-based services.

Sec. 3. Minnesota Statutes 2019 Supplement, section 256B.0911, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** For purposes of this section, the following definitions apply:

(a) Until additional requirements apply under paragraph (b), "long-term care consultation services" means:

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(1) intake for and access to assistance in identifying services needed to maintain an individual in the most inclusive environment;

(2) providing recommendations for and referrals to cost-effective community services that are available to the individual;

(3) development of an individual's person-centered community support plan;

(4) providing information regarding eligibility for Minnesota health care programs;

(5) face-to-face long-term care consultation assessments, which may be completed in a hospital, nursing facility, intermediate care facility for persons with developmental disabilities (ICF/DDs), regional treatment centers, or the person's current or planned residence;

(6) determination of home and community-based waiver and other service eligibility as required under chapter 256S and sections 256B.0913, 256B.092, and 256B.49, including level of care determination for individuals who need an institutional level of care as determined under subdivision 4e, based on a long-term care consultation assessment and community support plan development, appropriate referrals to obtain necessary diagnostic information, and including an eligibility determination for consumer-directed community supports;

(7) providing recommendations for institutional placement when there are no cost-effective community services available;

(8) providing access to assistance to transition people back to community settings after institutional admission; ~~and~~

(9) providing information about competitive employment, with or without supports, for school-age youth and working-age adults and referrals to the Disability Linkage Line and Disability Benefits 101 to ensure that an informed choice about competitive employment can be made. For the purposes of this subdivision, "competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities~~.~~;

(10) providing information about independent living to ensure that an informed choice about independent living can be made; and

(11) providing information about self-directed services and supports, including self-directed funding options, to ensure that an informed choice about self-directed options can be made.

(b) Upon statewide implementation of lead agency requirements in subdivisions 2b, 2c, and 3a, "long-term care consultation services" also means:

(1) service eligibility determination for the following state plan services ~~identified in~~:

(i) personal care assistance services under section 256B.0625, subdivisions 19a and 19c;

(ii) consumer support grants under section 256.476; or

(iii) community first services and supports under section 256B.85;

(2) notwithstanding provisions in Minnesota Rules, parts 9525.0004 to 9525.0024, gaining access to:

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(i) relocation targeted case management services available under ~~sections~~ section 256B.0621, subdivision 2, clause (4)~~,~~;

(ii) case management services targeted to vulnerable adults or developmental disabilities under section 256B.0924~~,~~; and

(iii) case management services targeted to people with developmental disabilities under Minnesota Rules, part 9525.0016;

(3) determination of eligibility for semi-independent living services under section 252.275; and

(4) obtaining necessary diagnostic information to determine eligibility under clauses (2) and (3).

(c) "Long-term care options counseling" means the services provided by the linkage lines as mandated by sections 256.01, subdivision 24, and 256.975, subdivision 7, and also includes telephone assistance and follow up once a long-term care consultation assessment has been completed.

(d) "Minnesota health care programs" means the medical assistance program under this chapter and the alternative care program under section 256B.0913.

(e) "Lead agencies" means counties administering or tribes and health plans under contract with the commissioner to administer long-term care consultation ~~assessment and support planning~~ services.

(f) "Person-centered planning" is a process that includes the active participation of a person in the planning of the person's services, including in making meaningful and informed choices about the person's own goals, talents, and objectives, as well as making meaningful and informed choices about the services the person receives~~. For the purposes of this section~~, the settings in which the person receives the services, and the setting in which the person lives.

(g) "Informed choice" means a voluntary choice of services, settings, living arrangement, and work by a person from all available service and setting options based on accurate and complete information concerning all available service and setting options and concerning the person's own preferences, abilities, goals, and objectives. In order for a person to make an informed choice, all available options must be developed and presented to the person in a way the person can understand to empower the person to make ~~decisions~~ fully informed choices.

(h) "Available service and setting options" or "available options," with respect to the home and community-based waivers under chapter 256S and sections 256B.092 and 256B.49, means all services and settings defined under the waiver plan for which a waiver applicant or waiver participant is eligible.

(i) "Independent living" means living in a setting that is not controlled by a provider.

Sec. 4. Minnesota Statutes 2019 Supplement, section 256B.0911, subdivision 3a, is amended to read:

Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services planning, or other assistance intended to support community-based living, including persons who need assessment in order to determine waiver or alternative care program eligibility, must be visited by a long-term care consultation team within 20 calendar days after the date on which an assessment was requested or recommended. Upon statewide implementation of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person requesting personal care assistance services. The commissioner shall provide at least a 90-day notice to lead agencies prior to the effective date of this requirement. Face-to-face assessments must be conducted according to paragraphs (b) to (i).

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(b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified assessors to conduct the assessment. For a person with complex health care needs, a public health or registered nurse from the team must be consulted.

(c) The MnCHOICES assessment provided by the commissioner to lead agencies must be used to complete a comprehensive, conversation-based, person-centered assessment. The assessment must include the health, psychological, functional, environmental, and social needs of the individual necessary to develop a person-centered community support plan that meets the individual's needs and preferences.

(d) The assessment must be conducted by a certified assessor in a face-to-face conversational interview with the person being assessed. The person's legal representative must provide input during the assessment process and may do so remotely if requested. At the request of the person, other individuals may participate in the assessment to provide information on the needs, strengths, and preferences of the person necessary to develop a community support plan that ensures the person's health and safety. Except for legal representatives or family members invited by the person, persons participating in the assessment may not be a provider of service or have any financial interest in the provision of services. For persons who are to be assessed for elderly waiver customized living or adult day services under chapter 256S, with the permission of the person being assessed or the person's designated or legal representative, the client's current or proposed provider of services may submit a copy of the provider's nursing assessment or written report outlining its recommendations regarding the client's care needs. The person conducting the assessment must notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment prior to the assessment. For a person who is to be assessed for waiver services under section 256B.092 or 256B.49, with the permission of the person being assessed or the person's designated legal representative, the person's current provider of services may submit a written report outlining recommendations regarding the person's care needs the person completed in consultation with someone who is known to the person and has interaction with the person on a regular basis. The provider must submit the report at least 60 days before the end of the person's current service agreement. The certified assessor must consider the content of the submitted report prior to finalizing the person's assessment or reassessment.

(e) The certified assessor and the individual responsible for developing the coordinated service and support plan must complete the community support plan and the coordinated service and support plan no more than 60 calendar days from the assessment visit. The person or the person's legal representative must be provided with a written community support plan within the timelines established by the commissioner, regardless of whether the person is eligible for Minnesota health care programs.

(f) For a person being assessed for elderly waiver services under chapter 256S, a provider who submitted information under paragraph (d) shall receive the final written community support plan when available and the Residential Services Workbook.

(g) The written community support plan must include:

(1) a summary of assessed needs as defined in paragraphs (c) and (d);

(2) the individual's options and choices to meet identified needs, including:

(i) all available options for case management services and providers~~, including~~;

(ii) all available options for employment services, settings, and providers;

(iii) all available options for living arrangements;

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(iv) all available options for self-directed services and supports, including self-directed budget options; and

(v) service provided in a non-disability-specific setting;

(3) identification of health and safety risks and how those risks will be addressed, including personal risk management strategies;

(4) referral information; and

(5) informal caregiver supports, if applicable.

For a person determined eligible for state plan home care under subdivision 1a, paragraph (b), clause (1), the person or person's representative must also receive a copy of the home care service plan developed by the certified assessor.

(h) A person may request assistance in identifying community supports without participating in a complete assessment. Upon a request for assistance identifying community support, the person must be transferred or referred to long-term care options counseling services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for telephone assistance and follow up.

(i) The person has the right to make the final decision:

(1) between institutional placement and community placement after the recommendations have been provided, except as provided in section 256.975, subdivision 7a, paragraph (d) ~~.~~;

(2) between community placement in a setting controlled by a provider and living independently in a setting not controlled by a provider;

(3) between day services and employment services; and

(4) regarding available options for self-directed services and supports, including self-directed funding options.

(j) The lead agency must give the person receiving ~~assessment or support planning,~~ long-term care consultation services or the person's legal representative, materials, and forms supplied by the commissioner containing the following information:

(1) written recommendations for community-based services and consumer-directed options;

(2) documentation that the most cost-effective alternatives available were offered to the individual. For purposes of this clause, "cost-effective" means community services and living arrangements that cost the same as or less than institutional care. For an individual found to meet eligibility criteria for home and community-based service programs under chapter 256S or section 256B.49, "cost-effectiveness" has the meaning found in the federally approved waiver plan for each program;

(3) the need for and purpose of preadmission screening conducted by long-term care options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects nursing facility placement. If the individual selects nursing facility placement, the lead agency shall forward information needed to complete the level of care determinations and screening for developmental disability and mental illness collected during the assessment to the long-term care options counselor using forms provided by the commissioner;

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(4) the role of long-term care consultation assessment and support planning in eligibility determination for waiver and alternative care programs, and state plan home care, case management, and other services as defined in subdivision 1a, paragraphs (a), clause (6), and (b);

(5) information about Minnesota health care programs;

(6) the person's freedom to accept or reject the recommendations of the team;

(7) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;

(8) the certified assessor's decision regarding the person's need for institutional level of care as determined under criteria established in subdivision 4e and the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clause (6), and (b); ~~and~~

(9) the person's right to appeal the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and (8), and (b), and incorporating the decision regarding the need for institutional level of care or the lead agency's final decisions regarding public programs eligibility according to section 256.045, subdivision 3. The certified assessor must verbally communicate this appeal right to the person and must visually point out where in the document the right to appeal is stated~~.~~; and

(10) documentation that available options for employment services, independent living, and self-directed services and supports were described to the individual.

(k) Face-to-face assessment completed as part of an eligibility determination for multiple programs for the alternative care, elderly waiver, developmental disabilities, community access for disability inclusion, community alternative care, and brain injury waiver programs under chapter 256S and sections 256B.0913, 256B.092, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of assessment.

(l) The effective eligibility start date for programs in paragraph (k) can never be prior to the date of assessment. If an assessment was completed more than 60 days before the effective waiver or alternative care program eligibility start date, assessment and support plan information must be updated and documented in the department's Medicaid Management Information System (MMIS). Notwithstanding retroactive medical assistance coverage of state plan services, the effective date of eligibility for programs included in paragraph (k) cannot be prior to the date the most recent updated assessment is completed.

(m) If an eligibility update is completed within 90 days of the previous face-to-face assessment and documented in the department's Medicaid Management Information System (MMIS), the effective date of eligibility for programs included in paragraph (k) is the date of the previous face-to-face assessment when all other eligibility requirements are met.

(n) At the time of reassessment, the certified assessor shall assess each person receiving waiver residential supports and services currently residing in a community residential setting, ~~or~~ licensed adult foster care home that is either not the primary residence of the license holder~~,~~ or in which the license holder is not the primary caregiver, family adult foster care residence, customized living setting, or supervised living facility to determine if that person would prefer to be served in a community-living setting as defined in section 256B.49, subdivision 23, in a setting not controlled by a provider, or to receive integrated community supports as described in section 245D.03, subdivision 1, paragraph (c), clause (8). The certified assessor shall offer the person, through a person-centered planning process, the option to receive alternative housing and service options.

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(o) At the time of reassessment, the certified assessor shall assess each person receiving waiver day services to determine if that person would prefer to receive employment services as described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7). The certified assessor shall describe to the person through a person-centered planning process the option to receive employment services.

(p) At the time of reassessment, the certified assessor shall assess each person receiving non-self-directed waiver services to determine if that person would prefer an available service and setting option that would permit self-directed services and supports. The certified assessor shall describe to the person through a person-centered planning process the option to receive self-directed services and supports.

Sec. 5. Minnesota Statutes 2019 Supplement, section 256B.0911, subdivision 3f, is amended to read:

Subd. 3f. **Long-term care reassessments and community support plan updates.** (a) Prior to a face-to-face reassessment, the certified assessor must review the person's most recent assessment. Reassessments must be tailored using the professional judgment of the assessor to the person's known needs, strengths, preferences, and circumstances. Reassessments provide information to support the person's informed choice and opportunities to express choice regarding activities that contribute to quality of life, as well as information and opportunity to identify goals related to desired employment, community activities, and preferred living environment. Reassessments require a review of the most recent assessment, review of the current coordinated service and support plan's effectiveness, monitoring of services, and the development of an updated person-centered community support plan. Reassessments must verify continued eligibility ~~or~~, offer alternatives as warranted, and provide an opportunity for quality assurance of service delivery. Face-to-face reassessments must be conducted annually or as required by federal and state laws and rules. For reassessments, the certified assessor and the individual responsible for developing the coordinated service and support plan must ensure the continuity of care for the person receiving services and complete the updated community support plan and the updated coordinated service and support plan no more than 60 days from the reassessment visit.

(b) The commissioner shall develop mechanisms for providers and case managers to share information with the assessor to facilitate a reassessment and support planning process tailored to the person's current needs and preferences.

Sec. 6. Minnesota Statutes 2018, section 256B.092, subdivision 1a, is amended to read:

Subd. 1a. **Case management services.** (a) Each recipient of a home and community-based waiver shall be provided case management services by qualified vendors as described in the federally approved waiver application.

(b) Case management service activities provided to or arranged for a person include:

(1) development of the person-centered coordinated service and support plan under subdivision 1b;

(2) informing the individual or the individual's legal guardian or conservator, or parent if the person is a minor, of service options, including all service options available under the waiver plan;

(3) consulting with relevant medical experts or service providers;

(4) assisting the person in the identification of potential providers of chosen services, including:

(i) providers of services provided in a non-disability-specific setting;

(ii) employment service providers;

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(iii) providers of services provided in settings that are not controlled by a provider; and

(iv) providers of financial management services;

(5) assisting the person to access services and assisting in appeals under section 256.045;

(6) coordination of services, if coordination is not provided by another service provider;

(7) evaluation and monitoring of the services identified in the coordinated service and support plan, which must incorporate at least one annual face-to-face visit by the case manager with each person; and

(8) reviewing coordinated service and support plans and providing the lead agency with recommendations for service authorization based upon the individual's needs identified in the coordinated service and support plan.

(c) Case management service activities that are provided to the person with a developmental disability shall be provided directly by county agencies or under contract. Case management services must be provided by a public or private agency that is enrolled as a medical assistance provider determined by the commissioner to meet all of the requirements in the approved federal waiver plans. Case management services must not be provided to a recipient by a private agency that has a financial interest in the provision of any other services included in the recipient's coordinated service and support plan. For purposes of this section, "private agency" means any agency that is not identified as a lead agency under section 256B.0911, subdivision 1a, paragraph (e).

(d) Case managers are responsible for service provisions listed in paragraphs (a) and (b). Case managers shall collaborate with consumers, families, legal representatives, and relevant medical experts and service providers in the development and annual review of the person-centered coordinated service and support plan and habilitation plan.

(e) For persons who need a positive support transition plan as required in chapter 245D, the case manager shall participate in the development and ongoing evaluation of the plan with the expanded support team. At least quarterly, the case manager, in consultation with the expanded support team, shall evaluate the effectiveness of the plan based on progress evaluation data submitted by the licensed provider to the case manager. The evaluation must identify whether the plan has been developed and implemented in a manner to achieve the following within the required timelines:

(1) phasing out the use of prohibited procedures;

(2) acquisition of skills needed to eliminate the prohibited procedures within the plan's timeline; and

(3) accomplishment of identified outcomes.

If adequate progress is not being made, the case manager shall consult with the person's expanded support team to identify needed modifications and whether additional professional support is required to provide consultation.

(f) The Department of Human Services shall offer ongoing education in case management to case managers. Case managers shall receive no less than ten hours of case management education and disability-related training each year. The education and training must include person-centered planning. For the purposes of this section, "person-centered planning" or "person-centered" has the meaning given in section 256B.0911, subdivision 1a, paragraph (f).

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Sec. 7. Minnesota Statutes 2019 Supplement, section 256B.092, subdivision 1b, is amended to read:

Subd. 1b. **Coordinated service and support plan.** (a) Each recipient of home and community-based waivered services shall be provided a copy of the written person-centered coordinated service and support plan that:

(1) is developed with and signed by the recipient within the timelines established by the commissioner and section 256B.0911, subdivision 3a, paragraph (e);

(2) includes the person's need for service, including identification of service needs that will be or that are met by the person's relatives, friends, and others, as well as community services used by the general public;

(3) reasonably ensures the health and welfare of the recipient;

(4) identifies the person's preferences for services as stated by the person, the person's legal guardian or conservator, or the parent if the person is a minor, including the person's choices made on self-directed options ~~and on~~, services and supports to achieve employment goals, and living arrangements;

(5) provides for an informed choice, as defined in section 256B.77, subdivision 2, paragraph (o), of service and support providers, and identifies all available options for case management services and providers;

(6) identifies long-range and short-range goals for the person;

(7) identifies specific services and the amount and frequency of the services to be provided to the person based on assessed needs, preferences, and available resources. The person-centered coordinated service and support plan shall also specify other services the person needs that are not available;

(8) identifies the need for an individual program plan to be developed by the provider according to the respective state and federal licensing and certification standards, and additional assessments to be completed or arranged by the provider after service initiation;

(9) identifies provider responsibilities to implement and make recommendations for modification to the coordinated service and support plan;

(10) includes notice of the right to request a conciliation conference or a hearing under section 256.045;

(11) is agreed upon and signed by the person, the person's legal guardian or conservator, or the parent if the person is a minor, and the authorized county representative;

(12) is reviewed by a health professional if the person has overriding medical needs that impact the delivery of services; and

(13) includes the authorized annual and monthly amounts for the services.

(b) In developing the person-centered coordinated service and support plan, the case manager is encouraged to include the use of volunteers, religious organizations, social clubs, and civic and service organizations to support the individual in the community. The lead agency must be held harmless for damages or injuries sustained through the use of volunteers and agencies under this paragraph, including workers' compensation liability.

(c) Approved, written, and signed changes to a consumer's services that meet the criteria in this subdivision shall be an addendum to that consumer's individual service plan.

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Sec. 8. Minnesota Statutes 2019 Supplement, section 256B.49, subdivision 13, is amended to read:

Subd. 13. **Case management.** (a) Each recipient of a home and community-based waiver shall be provided case management services by qualified vendors as described in the federally approved waiver application. The case management service activities provided must include:

(1) finalizing the person-centered written coordinated service and support plan within the timelines established by the commissioner and section 256B.0911, subdivision 3a, paragraph (e);

(2) informing the recipient or the recipient's legal guardian or conservator of service options, including all service options available under the waiver plans;

(3) assisting the recipient in the identification of potential service providers ~~and~~ of chosen services, including:

(i) available options for case management service and providers~~, including~~;

(ii) providers of services provided in a non-disability-specific setting;

(iii) employment service providers;

(iv) providers of services provided in settings that are not community residential settings; and

(v) providers of financial management services;

(4) assisting the recipient to access services and assisting with appeals under section 256.045; and

(5) coordinating, evaluating, and monitoring of the services identified in the service plan.

(b) The case manager may delegate certain aspects of the case management service activities to another individual provided there is oversight by the case manager. The case manager may not delegate those aspects which require professional judgment including:

(1) finalizing the person-centered coordinated service and support plan;

(2) ongoing assessment and monitoring of the person's needs and adequacy of the approved person-centered coordinated service and support plan; and

(3) adjustments to the person-centered coordinated service and support plan.

(c) Case management services must be provided by a public or private agency that is enrolled as a medical assistance provider determined by the commissioner to meet all of the requirements in the approved federal waiver plans. Case management services must not be provided to a recipient by a private agency that has any financial interest in the provision of any other services included in the recipient's coordinated service and support plan. For purposes of this section, "private agency" means any agency that is not identified as a lead agency under section 256B.0911, subdivision 1a, paragraph (e).

(d) For persons who need a positive support transition plan as required in chapter 245D, the case manager shall participate in the development and ongoing evaluation of the plan with the expanded support team. At least quarterly, the case manager, in consultation with the expanded support team, shall evaluate the effectiveness of the plan based on progress evaluation data submitted by the licensed provider to the case manager. The evaluation must identify whether the plan has been developed and implemented in a manner to achieve the following within the required timelines:

(1) phasing out the use of prohibited procedures;

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(2) acquisition of skills needed to eliminate the prohibited procedures within the plan's timeline; and

(3) accomplishment of identified outcomes.

If adequate progress is not being made, the case manager shall consult with the person's expanded support team to identify needed modifications and whether additional professional support is required to provide consultation.

(e) The Department of Human Services shall offer ongoing education in case management to case managers. Case managers shall receive no less than ten hours of case management education and disability-related training each year. The education and training must include person-centered planning. For the purposes of this section, "person-centered planning" or "person-centered" has the meaning given in section 256B.0911, subdivision 1a, paragraph (f).

Sec. 9. Minnesota Statutes 2019 Supplement, section 256B.49, subdivision 14, is amended to read:

Subd. 14. **Assessment and reassessment.** (a) Assessments and reassessments shall be conducted by certified assessors according to section 256B.0911, subdivision 2b. ~~The certified assessor, with the permission of the recipient or the recipient's designated legal representative, may invite other individuals to attend the assessment. With the permission of the recipient or the recipient's designated legal representative, the recipient's current provider of services may submit a written report outlining their recommendations regarding the recipient's care needs prepared by a direct service employee who is familiar with the person. The provider must submit the report at least 60 days before the end of the person's current service agreement. The certified assessor must consider the content of the submitted report prior to finalizing the person's assessment or reassessment.~~

(b) There must be a determination that the client requires a hospital level of care or a nursing facility level of care as defined in section 256B.0911, subdivision 4e, at initial and subsequent assessments to initiate and maintain participation in the waiver program.

(c) Regardless of other assessments identified in section 144.0724, subdivision 4, as appropriate to determine nursing facility level of care for purposes of medical assistance payment for nursing facility services, only face-to-face assessments conducted according to section 256B.0911, subdivisions 3a, 3b, and 4d, that result in a hospital level of care determination or a nursing facility level of care determination must be accepted for purposes of initial and ongoing access to waiver services payment.

(d) Recipients who are found eligible for home and community-based services under this section before their 65th birthday may remain eligible for these services after their 65th birthday if they continue to meet all other eligibility factors.

Sec. 10. Minnesota Statutes 2018, section 256B.49, subdivision 23, is amended to read:

Subd. 23. **Community-living settings.** (a) For the purposes of this chapter, "community-living settings" means a single-family home or ~~apartment~~ multifamily dwelling unit where ~~the~~ a service recipient or ~~their~~ a service recipient's family owns or rents, and maintains control over the individual unit as demonstrated by ~~the~~ a lease agreement~~, or has a plan for transition of a lease from a service provider to the individual. Within two years of signing the initial lease, the service provider shall transfer the lease to the individual. In the event the landlord denies the transfer, the commissioner may approve an exception within sufficient time to ensure the continued occupancy by the individual~~. Community-living settings does not include a home or dwelling unit that the service provider owns, operates, or leases or in which the service provider has a direct or indirect financial interest.

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(b) To ensure a service recipient or the service recipient's family maintains control over the home or dwelling unit, community-living settings are subject to the following requirements:

(1) ~~individuals are~~ service recipients must not be required to receive services or share services;

(2) ~~individuals are~~ service recipients must not be required to have a disability or specific diagnosis to live in the community-living setting;

(3) ~~individuals~~ service recipients may hire service providers of their choice;

(4) ~~individuals~~ service recipients may choose whether to share their household and with whom;

(5) the home or ~~apartment~~ multifamily dwelling unit must include living, sleeping, bathing, and cooking areas;

(6) ~~individuals~~ service recipients must have lockable access and egress;

(7) ~~individuals~~ service recipients must be free to receive visitors and leave the settings at times and for durations of their own choosing;

(8) leases must ~~not reserve the right to assign units or change unit assignments~~ comply with chapter 504B; ~~and~~

(9) landlords must not charge different rents to tenants who are receiving home and community-based services; and

(10) access to the greater community must be easily facilitated based on the ~~individual's~~ service recipient's needs and preferences.

(c) Nothing in this section prohibits a service recipient from having another person or entity not affiliated with the service provider cosign a lease. Nothing in this section prohibits a service recipient, during any period in which a service provider has cosigned the service recipient's lease, from modifying services with an existing cosigning service provider and, subject to the approval of the landlord, maintaining a lease cosigned by the service provider. Nothing in this section prohibits a service recipient, during any period in which a service provider has cosigned the service recipient's lease, from terminating services with the cosigning service provider, receiving services from a new service provider, and, subject to the approval of the landlord, maintaining a lease cosigned by the new service provider.

(d) A lease cosigned by a service provider meets the requirements of paragraph (a) if the service recipient and service provider develop and implement a transition plan which must provide that, within two years of cosigning the initial lease, the service provider shall transfer the lease to the service recipient and other cosigners, if any.

(e) In the event the landlord has not approved the transfer of the lease within two years of the service provider cosigning the initial lease, the service provider must submit a time-limited extension request to the commissioner of human services to continue the cosigned lease arrangement. The extension request must include:

(1) the reason the landlord denied the transfer;

(2) the plan to overcome the denial to transfer the lease;

(3) the length of time needed to successfully transfer the lease, not to exceed an additional two years;

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(4) a description of how the transition plan was followed, what occurred that led to the landlord denying the transfer, and what changes in circumstances or condition, if any, the service recipient experienced; and

(5) a revised transition plan to transfer the cosigned lease between the service provider and the service recipient to the service recipient.

The commissioner must approve an extension within sufficient time to ensure the continued occupancy by the service recipient.

ARTICLE 5

DEPARTMENT OF HUMAN SERVICES POLICY PROPOSALS

Section 1. Minnesota Statutes 2018, section 245.4871, is amended by adding a subdivision to read:

Subd. 32a. **Responsible social services agency.** "Responsible social services agency" is defined in section 260C.007, subdivision 27a.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 2. Minnesota Statutes 2018, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. **Admission criteria.** (a) Prior to admission or placement, except in the case of an emergency ~~admission~~, all children referred for treatment of severe emotional disturbance in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center shall undergo an assessment to determine the appropriate level of care if public funds are used to pay for the services.

(b) The ~~county board~~ responsible social services agency shall determine the appropriate level of care for a child when county-controlled funds are used to pay for the child's services or placement in a qualified residential treatment facility under chapter 260C and licensed by the commissioner under chapter 245A. In accordance with section 260C.157, a juvenile treatment screening team shall conduct a screening before the team may recommend whether to place a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d. When a social services agency does not have responsibility for a child's placement and the child is enrolled in a prepaid health program under section 256B.69, the enrolled child's contracted health plan must determine the appropriate level of care. When Indian Health Services funds or funds of a tribally owned facility funded under the Indian Self-Determination and Education Assistance Act, Public Law 93-638, are to be used, the Indian Health Services or 638 tribal health facility must determine the appropriate level of care. When more than one entity bears responsibility for coverage, the entities shall coordinate level of care determination activities to the extent possible.

(c) The responsible social services agency must make the level of care determination ~~shall~~ available to the juvenile treatment screening team, as permitted under chapter 13. The level of care determination shall inform the juvenile treatment screening team process and the assessment in section 260C.704 when considering whether to place the child in a qualified residential treatment program. When the responsible social services agency is not involved in determining a child's placement, the child's level of care determination shall determine whether the proposed treatment:

(1) is necessary;

(2) is appropriate to the child's individual treatment needs;

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(3) cannot be effectively provided in the child's home; and

(4) provides a length of stay as short as possible consistent with the individual child's need.

(d) When a level of care determination is conducted, the responsible social services agency or other entity may not determine that a screening under section 260C.157 or referral or admission to a treatment foster care setting or residential treatment facility is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment goals in the less restrictive setting. The level of care determination must be based on a diagnostic assessment that includes a functional assessment which evaluates family, school, and community living situations; and an assessment of the child's need for care out of the home using a validated tool which assesses a child's functional status and assigns an appropriate level of care. The validated tool must be approved by the commissioner of human services. If a diagnostic assessment including a functional assessment has been completed by a mental health professional within the past 180 days, a new diagnostic assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the level of care determination process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether or not these services are available and accessible to the child and family.

(e) During the level of care determination process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

(f) ~~The level of care determination shall comply with section 260C.212. The parent shall be consulted in the process, unless clinically detrimental to the child.~~ When the responsible social services agency has authority, the agency must engage the child's parents in case planning under sections 260C.212 and 260C.708 unless a court terminates the parent's rights or court orders restrict the parent from participating in case planning, visitation, or parental responsibilities.

(g) The level of care determination, and placement decision, and recommendations for mental health services must be documented in the child's record, as required in chapters 260C.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 3. Minnesota Statutes 2019 Supplement, section 245.4889, subdivision 1, is amended to read:

Subdivision 1. **Establishment and authority.** (a) The commissioner is authorized to make grants from available appropriations to assist:

(1) counties;

(2) Indian tribes;

(3) children's collaboratives under section 124D.23 or 245.493; or

(4) mental health service providers.

(b) The following services are eligible for grants under this section:

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(1) services to children with emotional disturbances as defined in section 245.4871, subdivision 15, and their families;

(2) transition services under section 245.4875, subdivision 8, for young adults under age 21 and their families;

(3) respite care services for children with emotional disturbances or severe emotional disturbances who are at risk of out-of-home placement. A child is not required to have case management services to receive respite care services;

(4) children's mental health crisis services;

(5) mental health services for people from cultural and ethnic minorities;

(6) children's mental health screening and follow-up diagnostic assessment and treatment;

(7) services to promote and develop the capacity of providers to use evidence-based practices in providing children's mental health services;

(8) school-linked mental health services under section 245.4901;

(9) building evidence-based mental health intervention capacity for children birth to age five;

(10) suicide prevention and counseling services that use text messaging statewide;

(11) mental health first aid training;

(12) training for parents, collaborative partners, and mental health providers on the impact of adverse childhood experiences and trauma and development of an interactive website to share information and strategies to promote resilience and prevent trauma;

(13) transition age services to develop or expand mental health treatment and supports for adolescents and young adults 26 years of age or younger;

(14) early childhood mental health consultation;

(15) evidence-based interventions for youth at risk of developing or experiencing a first episode of psychosis, and a public awareness campaign on the signs and symptoms of psychosis;

(16) psychiatric consultation for primary care practitioners; and

(17) providers to begin operations and meet program requirements when establishing a new children's mental health program. These may be start-up grants.

(c) Services under paragraph (b) must be designed to help each child to function and remain with the child's family in the community and delivered consistent with the child's treatment plan. Transition services to eligible young adults under this paragraph must be designed to foster independent living in the community.

(d) As a condition of receiving grant funds, a grantee shall obtain all available third-party reimbursement sources, if applicable.

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

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Sec. 4. Minnesota Statutes 2019 Supplement, section 245A.03, subdivision 7, is amended to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. The commissioner shall not issue an initial license for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) foster care settings that are required to be registered under chapter 144D;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital level care; or

(5) ~~new foster care licenses or community residential setting licenses determined to be needed by the commissioner for the transition of people from personal care assistance to the home and community-based services;~~

~~(6) new foster care licenses or community residential setting licenses determined to be needed by the commissioner for the transition of people from the residential care waiver services to foster care services. This exception applies only when:~~

~~(i) the person's case manager provided the person with information about the choice of service, service provider, and location of service to help the person make an informed choice; and~~

~~(ii) the person's foster care services are less than or equal to the cost of the person's services delivered in the residential care waiver service setting as determined by the lead agency; or~~

~~(7)~~ new foster care licenses or community residential setting licenses for people receiving services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and for which a license is required. This exception does not apply to people living in their own home. For purposes of this clause, there is a presumption that a foster care or community residential setting license is required for services provided to three or more people in a dwelling unit when the setting is controlled by the provider. A license holder subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final

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and not subject to appeal under chapter 14. The exception is available until June 30, 2018. This exception is available when:

(i) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(ii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the unlicensed setting as determined by the lead agency.

(b) The commissioner shall determine the need for newly licensed foster care homes or community residential settings as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(c) When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to section 256B.49, subdivision 15, paragraph (f), or the adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for adult foster care settings.

(d) Residential settings that would otherwise be subject to the decreased license capacity established in paragraph (c) shall be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(e) A resource need determination process, managed at the state level, using the available reports required by section 144A.351, and other data and information shall be used to determine where the reduced capacity determined under section 256B.493 will be implemented. The commissioner shall consult with the stakeholders described in section 144A.351, and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term services and supports reports and statewide data and information.

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

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(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493. Annually, by August 1, the commissioner shall provide information and data on capacity of licensed long-term services and supports, actions taken under the subdivision to manage statewide long-term services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over the health and human services budget.

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

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

Sec. 5. Minnesota Statutes 2018, section 245C.02, subdivision 5, is amended to read:

Subd. 5. **Background study.** "Background study" means the review of records conducted by the commissioner to determine whether a subject is disqualified from direct contact with persons served by a program and, where specifically provided in statutes, whether a subject is disqualified from having access to persons served by a program and from working in a children's residential facility or foster residence setting.

Sec. 6. Minnesota Statutes 2018, section 245C.02, is amended by adding a subdivision to read:

Subd. 11a. **Foster family setting.** "Foster family setting" has the meaning given in Minnesota Rules, chapter 2960.3010, subpart 23.

Sec. 7. Minnesota Statutes 2018, section 245C.02, is amended by adding a subdivision to read:

Subd. 11b. **Foster residence setting.** "Foster residence setting" has the meaning given in Minnesota Rules, chapter 2960.3010, subpart 26, and includes settings licensed by the commissioner of corrections or the commissioner of human services.

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Sec. 8. Minnesota Statutes 2018, section 245C.02, is amended by adding a subdivision to read:

Subd. 21. **Title IV-E eligible.** "Title IV-E eligible" means a children's residential facility or foster residence setting that is designated by the commissioner as eligible to receive Title IV-E payments for a child placed at the children's residential facility or foster residence setting.

Sec. 9. Minnesota Statutes 2019 Supplement, section 245C.03, subdivision 1, is amended to read:

Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background study on:

(1) the person or persons applying for a license;

(2) an individual age 13 and over living in the household where the licensed program will be provided who is not receiving licensed services from the program;

(3) current or prospective employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;

(4) volunteers or student volunteers who will have direct contact with persons served by the program to provide program services if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);

(5) an individual age ten to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause as defined in section 245C.02, subdivision 15;

(6) an individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from a program, when the commissioner has reasonable cause as defined in section 245C.02, subdivision 15;

(7) all controlling individuals as defined in section 245A.02, subdivision 5a;

(8) notwithstanding the other requirements in this subdivision, child care background study subjects as defined in section 245C.02, subdivision 6a; and

(9) notwithstanding clause (3), for children's residential facilities and foster residence settings, any adult working in the facility, whether or not the individual will have direct contact with persons served by the facility.

(b) For child foster care when the license holder resides in the home where foster care services are provided, a short-term substitute caregiver providing direct contact services for a child for less than 72 hours of continuous care is not required to receive a background study under this chapter.

Sec. 10. Minnesota Statutes 2018, section 245C.03, is amended by adding a subdivision to read:

Subd. 13. **Providers of housing support services.** The commissioner shall conduct background studies on any individual required under section 256B.051 to have a background study completed under this chapter.

Sec. 11. Minnesota Statutes 2018, section 245C.04, subdivision 1, as amended by Laws 2020, chapter 115, article 4, section 80, is amended to read:

Subdivision 1. **Licensed programs; other child care programs.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at least upon application for initial license for all license types.

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(b) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, including a child care background study subject as defined in section 245C.02, subdivision 6a, in a family child care program, licensed child care center, certified license-exempt child care center, or legal nonlicensed child care provider, on a schedule determined by the commissioner. Except as provided in section 245C.05, subdivision 5a, a child care background study must include submission of fingerprints for a national criminal history record check and a review of the information under section 245C.08. A background study for a child care program must be repeated within five years from the most recent study conducted under this paragraph.

(c) At reapplication for a family child care license:

(1) for a background study affiliated with a licensed family child care center or legal nonlicensed child care provider, the individual shall provide information required under section 245C.05, subdivision 1, paragraphs (a), (b), and (d), to the county agency, and be fingerprinted and photographed under section 245C.05, subdivision 5;

(2) the county agency shall verify the information received under clause (1) and forward the information to the commissioner to complete the background study; and

(3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08.

(d) The commissioner is not required to conduct a study of an individual at the time of reapplication for a license if the individual's background study was completed by the commissioner of human services and the following conditions are met:

(1) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder;

(2) the individual has been continuously affiliated with the license holder since the last study was conducted; and

(3) the last study of the individual was conducted on or after October 1, 1995.

(e) The commissioner of human services shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with a child foster ~~care~~ family setting license holder:

(1) the county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1 and 5, when the child foster ~~care~~ family setting applicant or license holder resides in the home where child foster care services are provided; and

~~(2) the child foster care license holder or applicant shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1 and 5, when the applicant or license holder does not reside in the home where child foster care services are provided; and~~

~~(3)~~ (2) the background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, 3, and 4.

(f) The commissioner shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with an adult foster care or family adult day services and with a family child care license holder or a legal nonlicensed child care provider authorized under chapter 119B and:

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(1) except as provided in section 245C.05, subdivision 5a, the county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a), (b), and (d), for background studies conducted by the commissioner for all family adult day services, for adult foster care when the adult foster care license holder resides in the adult foster care residence, and for family child care and legal nonlicensed child care authorized under chapter 119B;

(2) the license holder shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and

(3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), and subdivisions 3 and 4.

(g) Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study requests to the commissioner using the electronic system known as NETStudy before individuals specified in section 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.

(h) For an individual who is not on the entity's active roster, the entity must initiate a new background study through NETStudy when:

(1) an individual returns to a position requiring a background study following an absence of 120 or more consecutive days; or

(2) a program that discontinued providing licensed direct contact services for 120 or more consecutive days begins to provide direct contact licensed services again.

The license holder shall maintain a copy of the notification provided to the commissioner under this paragraph in the program's files. If the individual's disqualification was previously set aside for the license holder's program and the new background study results in no new information that indicates the individual may pose a risk of harm to persons receiving services from the license holder, the previous set-aside shall remain in effect.

(i) For purposes of this section, a physician licensed under chapter 147 or advanced practice registered nurse licensed under chapter 148 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's or advanced practice registered nurse's background study results.

(j) For purposes of family child care, a substitute caregiver must receive repeat background studies at the time of each license renewal.

(k) A repeat background study at the time of license renewal is not required if the family child care substitute caregiver's background study was completed by the commissioner on or after October 1, 2017, and the substitute caregiver is on the license holder's active roster in NETStudy 2.0.

(l) Before and after school programs authorized under chapter 119B, are exempt from the background study requirements under section 123B.03, for an employee for whom a background study under this chapter has been completed.

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Sec. 12. Minnesota Statutes 2018, section 245C.04, is amended by adding a subdivision to read:

Subd. 11. **Children's residential facilities and foster residence settings.** Applicants and license holders for children's residential facilities and foster residence settings must submit a background study request to the commissioner using the electronic system known as NETStudy 2.0:

(1) before the commissioner issues a license to an applicant;

(2) before an individual age 13 or older, who is not currently receiving services from the licensed facility or setting, may live in the licensed program or setting;

(3) before a volunteer has unsupervised direct contact with persons that the program serves;

(4) before an individual becomes a controlling individual as defined in section 245A.02, subdivision 5a;

(5) before an adult, regardless of whether or not the individual will have direct contact with persons served by the facility, begins working in the facility or setting;

(6) when directed to by the commissioner for an individual who resides in the household as described in section 245C.03, subdivision 1, paragraph (a), clause (5); and

(7) when directed to by the commissioner for an individual who may have unsupervised access to children or vulnerable adults as described in section 245C.03, subdivision 1, paragraph (a), clause (6).

Sec. 13. Minnesota Statutes 2019 Supplement, section 245C.05, subdivision 4, is amended to read:

Subd. 4. **Electronic transmission.** (a) For background studies conducted by the Department of Human Services, the commissioner shall implement a secure system for the electronic transmission of:

(1) background study information to the commissioner;

(2) background study results to the license holder;

(3) background study results to ~~county and private agencies~~ counties for background studies conducted by the commissioner for child foster care; and

(4) background study results to county agencies for background studies conducted by the commissioner for adult foster care and family adult day services and, upon implementation of NETStudy 2.0, family child care and legal nonlicensed child care authorized under chapter 119B.

(b) Unless the commissioner has granted a hardship variance under paragraph (c), a license holder or an applicant must use the electronic transmission system known as NETStudy or NETStudy 2.0 to submit all requests for background studies to the commissioner as required by this chapter.

(c) A license holder or applicant whose program is located in an area in which high-speed Internet is inaccessible may request the commissioner to grant a variance to the electronic transmission requirement.

(d) Section 245C.08, subdivision 3, paragraph (c), applies to results transmitted under this subdivision.

Sec. 14. Minnesota Statutes 2019 Supplement, section 245C.08, subdivision 1, is amended to read:

Subdivision 1. **Background studies conducted by Department of Human Services.** (a) For a background study conducted by the Department of Human Services, the commissioner shall review:

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(1) information related to names of substantiated perpetrators of maltreatment of vulnerable adults that has been received by the commissioner as required under section 626.557, subdivision 9c, paragraph (j);

(2) the commissioner's records relating to the maltreatment of minors in licensed programs, and from findings of maltreatment of minors as indicated through the social service information system;

(3) information from juvenile courts as required in subdivision 4 for individuals listed in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;

(4) information from the Bureau of Criminal Apprehension, including information regarding a background study subject's registration in Minnesota as a predatory offender under section 243.166;

(5) except as provided in clause (6), information received as a result of submission of fingerprints for a national criminal history record check, as defined in section 245C.02, subdivision 13c, when the commissioner has reasonable cause for a national criminal history record check as defined under section 245C.02, subdivision 15a, or as required under section 144.057, subdivision 1, clause (2);

(6) for a background study related to a child foster ~~care~~ family setting application for licensure, foster residence settings, children's residential facilities, a transfer of permanent legal and physical custody of a child under sections 260C.503 to 260C.515, or adoptions, and for a background study required for family child care, certified license-exempt child care, child care centers, and legal nonlicensed child care authorized under chapter 119B, the commissioner shall also review:

(i) information from the child abuse and neglect registry for any state in which the background study subject has resided for the past five years;

(ii) when the background study subject is 18 years of age or older, or a minor under section 245C.05, subdivision 5a, paragraph (c), information received following submission of fingerprints for a national criminal history record check; and

(iii) when the background study subject is 18 years of age or older or a minor under section 245C.05, subdivision 5a, paragraph (d), for licensed family child care, certified license-exempt child care, licensed child care centers, and legal nonlicensed child care authorized under chapter 119B, information obtained using non-fingerprint-based data including information from the criminal and sex offender registries for any state in which the background study subject resided for the past five years and information from the national crime information database and the national sex offender registry; and

(7) for a background study required for family child care, certified license-exempt child care centers, licensed child care centers, and legal nonlicensed child care authorized under chapter 119B, the background study shall also include, to the extent practicable, a name and date-of-birth search of the National Sex Offender Public website.

(b) Notwithstanding expungement by a court, the commissioner may consider information obtained under paragraph (a), clauses (3) and (4), unless the commissioner received notice of the petition for expungement and the court order for expungement is directed specifically to the commissioner.

(c) The commissioner shall also review criminal case information received according to section 245C.04, subdivision 4a, from the Minnesota court information system that relates to individuals who have already been studied under this chapter and who remain affiliated with the agency that initiated the background study.

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(d) When the commissioner has reasonable cause to believe that the identity of a background study subject is uncertain, the commissioner may require the subject to provide a set of classifiable fingerprints for purposes of completing a fingerprint-based record check with the Bureau of Criminal Apprehension. Fingerprints collected under this paragraph shall not be saved by the commissioner after they have been used to verify the identity of the background study subject against the particular criminal record in question.

(e) The commissioner may inform the entity that initiated a background study under NETStudy 2.0 of the status of processing of the subject's fingerprints.

Sec. 15. Minnesota Statutes 2018, section 245C.10, is amended by adding a subdivision to read:

Subd. 16. **Providers of housing support services.** The commissioner shall recover the cost of background studies initiated by providers of housing support services under section 256B.051 through a fee of no more than $20 per study. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 16. Minnesota Statutes 2019 Supplement, section 245C.13, subdivision 2, is amended to read:

Subd. 2. ~~**Direct contact**~~ **Activities pending completion of background study.** The subject of a background study may not perform any activity requiring a background study under paragraph (c) until the commissioner has issued one of the notices under paragraph (a).

(a) Notices from the commissioner required prior to activity under paragraph ~~(b)~~ (c) include:

(1) a notice of the study results under section 245C.17 stating that:

(i) the individual is not disqualified; or

(ii) more time is needed to complete the study but the individual is not required to be removed from direct contact or access to people receiving services prior to completion of the study as provided under section 245C.17, subdivision 1, paragraph (b) or (c). The notice that more time is needed to complete the study must also indicate whether the individual is required to be under continuous direct supervision prior to completion of the background study. When more time is necessary to complete a background study of an individual affiliated with a Title IV-E eligible children's residential facility or foster residence setting, the individual may not work in the facility or setting regardless of whether or not the individual is supervised;

(2) a notice that a disqualification has been set aside under section 245C.23; or

(3) a notice that a variance has been granted related to the individual under section 245C.30.

(b) For a background study affiliated with a licensed child care center or certified license-exempt child care center, the notice sent under paragraph (a), clause (1), item (ii), must require the individual to be under continuous direct supervision prior to completion of the background study except as permitted in subdivision 3.

(c) Activities prohibited prior to receipt of notice under paragraph (a) include:

(1) being issued a license;

(2) living in the household where the licensed program will be provided;

(3) providing direct contact services to persons served by a program unless the subject is under continuous direct supervision;

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(4) having access to persons receiving services if the background study was completed under section 144.057, subdivision 1, or 245C.03, subdivision 1, paragraph (a), clause (2), (5), or (6), unless the subject is under continuous direct supervision; ~~or~~

(5) for licensed child care centers and certified license-exempt child care centers, providing direct contact services to persons served by the program~~.~~; or

(6) for children's residential facilities or foster residence settings, working in the facility or setting.

Sec. 17. Minnesota Statutes 2018, section 245C.14, is amended by adding a subdivision to read:

Subd. 3. **Disqualification from working in children's residential facilities and foster residence settings.** (a) For a background study affiliated with a children's residential facility or foster residence setting, if an individual is disqualified from direct contact under subdivision 1, the commissioner must also disqualify the individual from working in the children's residential facility or foster residence setting and from having access to a person receiving services from the facility or setting.

(b) Notwithstanding any other requirement of this chapter, for a background study affiliated with a Title IV-E eligible children's residential facility or foster residence setting, if an individual is disqualified, the individual may not work in the facility or setting until the commissioner has issued a notice stating that:

(1) the individual is not disqualified;

(2) a disqualification has been set aside under section 245C.23; or

(3) a variance has been granted related to the individual under section 245C.30.

Sec. 18. Minnesota Statutes 2018, section 245C.16, subdivision 1, is amended to read:

Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people receiving services.

(b) The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm:

(1) the recency of the disqualifying characteristic;

(2) the recency of discharge from probation for the crimes;

(3) the number of disqualifying characteristics;

(4) the intrusiveness or violence of the disqualifying characteristic;

(5) the vulnerability of the victim involved in the disqualifying characteristic;

(6) the similarity of the victim to the persons served by the program where the individual studied will have direct contact;

(7) whether the individual has a disqualification from a previous background study that has not been set aside; and

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(8) if the individual has a disqualification which may not be set aside because it is a permanent bar under section 245C.24, subdivision 1, or the individual is a child care background study subject who has a felony-level conviction for a drug-related offense in the last five years, the commissioner may order the immediate removal of the individual from any position allowing direct contact with, or access to, persons receiving services from the program and from working in a children's residential facility or foster residence setting.

(c) This section does not apply when the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the subject is determined to be responsible for substantiated maltreatment under section 626.556 or 626.557.

(d) This section does not apply to a background study related to an initial application for a child foster ~~care~~ family setting license.

(e) Except for paragraph (f), this section does not apply to a background study that is also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for a personal care assistant or a qualified professional as defined in section 256B.0659, subdivision 1.

(f) If the commissioner has reason to believe, based on arrest information or an active maltreatment investigation, that an individual poses an imminent risk of harm to persons receiving services, the commissioner may order that the person be continuously supervised or immediately removed pending the conclusion of the maltreatment investigation or criminal proceedings.

Sec. 19. Minnesota Statutes 2018, section 245C.16, subdivision 2, is amended to read:

Subd. 2. **Findings.** (a) After evaluating the information immediately available under subdivision 1, the commissioner may have reason to believe one of the following:

(1) the individual poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact or access to persons served by the program or where the individual studied will work;

(2) the individual poses a risk of harm requiring continuous, direct supervision while providing direct contact services during the period in which the subject may request a reconsideration; or

(3) the individual does not pose an imminent risk of harm or a risk of harm requiring continuous, direct supervision while providing direct contact services during the period in which the subject may request a reconsideration.

(b) After determining an individual's risk of harm under this section, the commissioner must notify the subject of the background study and the applicant or license holder as required under section 245C.17.

(c) For Title IV-E eligible children's residential facilities and foster residence settings, the commissioner is prohibited from making the findings in paragraph (a), clause (2) or (3).

Sec. 20. Minnesota Statutes 2018, section 245C.17, subdivision 1, is amended to read:

Subdivision 1. **Time frame for notice of study results and auditing system access.** (a) Within three working days after the commissioner's receipt of a request for a background study submitted through the commissioner's NETStudy or NETStudy 2.0 system, the commissioner shall notify the background study subject and the license holder or other entity as provided in this chapter in writing or by electronic transmission

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of the results of the study or that more time is needed to complete the study. The notice to the individual shall include the identity of the entity that initiated the background study.

(b) Before being provided access to NETStudy 2.0, the license holder or other entity under section 245C.04 shall sign an acknowledgment of responsibilities form developed by the commissioner that includes identifying the sensitive background study information person, who must be an employee of the license holder or entity. All queries to NETStudy 2.0 are electronically recorded and subject to audit by the commissioner. The electronic record shall identify the specific user. A background study subject may request in writing to the commissioner a report listing the entities that initiated a background study on the individual.

(c) When the commissioner has completed a prior background study on an individual that resulted in an order for immediate removal and more time is necessary to complete a subsequent study, the notice that more time is needed that is issued under paragraph (a) shall include an order for immediate removal of the individual from any position allowing direct contact with or access to people receiving services and from working in a children's residential facility or foster residence setting pending completion of the background study.

Sec. 21. Minnesota Statutes 2018, section 245C.17, is amended by adding a subdivision to read:

Subd. 7. **Disqualification notice to children's residential facilities and foster residence settings.** (a) For children's residential facilities and foster residence settings, all notices under this section that order the license holder to immediately remove the individual studied from any position allowing direct contact with, or access to a person served by the program, must also order the license holder to immediately remove the individual studied from working in the program, facility, or setting.

(b) For Title IV-E eligible children's residential facilities and foster residence settings, notices under this section must not allow an individual to work in the program, facility, or setting under supervision.

Sec. 22. Minnesota Statutes 2018, section 245C.18, is amended to read:

245C.18 OBLIGATION TO REMOVE DISQUALIFIED INDIVIDUAL FROM DIRECT CONTACT AND FROM WORKING IN A PROGRAM, FACILITY, OR SETTING.

(a) Upon receipt of notice from the commissioner, the license holder must remove a disqualified individual from direct contact with persons served by the licensed program if:

(1) the individual does not request reconsideration under section 245C.21 within the prescribed time;

(2) the individual submits a timely request for reconsideration, the commissioner does not set aside the disqualification under section 245C.22, subdivision 4, and the individual does not submit a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14; or

(3) the individual submits a timely request for a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14, and the commissioner does not set aside or rescind the disqualification under section 245A.08, subdivision 5, or 256.045.

(b) For children's residential facility and foster residence setting license holders, upon receipt of notice from the commissioner under paragraph (a), the license holder must also remove the disqualified individual from working in the program, facility, or setting and from access to persons served by the licensed program.

(c) For Title IV-E eligible children's residential facility and foster residence setting license holders, upon receipt of notice from the commissioner under paragraph (a), the license holder must also remove the

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disqualified individual from working in the program and from access to persons served by the program and must not allow the individual to work in the facility or setting until the commissioner has issued a notice stating that:

(1) the individual is not disqualified;

(2) a disqualification has been set aside under section 245C.23; or

(3) a variance has been granted related to the individual under section 245C.30.

Sec. 23. Minnesota Statutes 2018, section 245D.04, subdivision 3, is amended to read:

Subd. 3. **Protection-related rights.** (a) A person's protection-related rights include the right to:

(1) have personal, financial, service, health, and medical information kept private, and be advised of disclosure of this information by the license holder;

(2) access records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule;

(3) be free from maltreatment;

(4) be free from restraint, time out, seclusion, restrictive intervention, or other prohibited procedure identified in section 245D.06, subdivision 5, or successor provisions, except for: (i) emergency use of manual restraint to protect the person from imminent danger to self or others according to the requirements in section 245D.061 or successor provisions; or (ii) the use of safety interventions as part of a positive support transition plan under section 245D.06, subdivision 8, or successor provisions;

(5) receive services in a clean and safe environment when the license holder is the owner, lessor, or tenant of the service site;

(6) be treated with courtesy and respect and receive respectful treatment of the person's property;

(7) reasonable observance of cultural and ethnic practice and religion;

(8) be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual orientation;

(9) be informed of and use the license holder's grievance policy and procedures, including knowing how to contact persons responsible for addressing problems and to appeal under section 256.045;

(10) know the name, telephone number, and the website, e-mail, and street addresses of protection and advocacy services, including the appropriate state-appointed ombudsman, and a brief description of how to file a complaint with these offices;

(11) assert these rights personally, or have them asserted by the person's family, authorized representative, or legal representative, without retaliation;

(12) give or withhold written informed consent to participate in any research or experimental treatment;

(13) associate with other persons of the person's choice, in the community;

(14) personal privacy, including the right to use the lock on the person's bedroom or unit door;

(15) engage in chosen activities; and

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(16) access to the person's personal possessions at any time, including financial resources.

(b) For a person residing in a residential site licensed according to chapter 245A, or where the license holder is the owner, lessor, or tenant of the residential service site, protection-related rights also include the right to:

(1) have daily, private access to and use of a non-coin-operated telephone for local calls and long-distance calls made collect or paid for by the person;

(2) receive and send, without interference, uncensored, unopened mail or electronic correspondence or communication;

(3) have use of and free access to common areas in the residence and the freedom to come and go from the residence at will;

(4) choose the person's visitors and time of visits and have privacy for visits with the person's spouse, next of kin, legal counsel, religious adviser, or others, in accordance with section 363A.09 of the Human Rights Act, including privacy in the person's bedroom;

(5) have access to three nutritionally balanced meals and nutritious snacks between meals each day;

(6) have freedom and support to access food and potable water at any time;

(7) have the freedom to furnish and decorate the person's bedroom or living unit;

(8) a setting that is clean and free from accumulation of dirt, grease, garbage, peeling paint, mold, vermin, and insects;

(9) a setting that is free from hazards that threaten the person's health or safety; and

(10) a setting that meets the definition of a dwelling unit within a residential occupancy as defined in the State Fire Code.

(c) Restriction of a person's rights under paragraph (a), clauses (13) to (16), or paragraph (b) is allowed only if determined necessary to ensure the health, safety, and well-being of the person. Any restriction of those rights must be documented in the person's coordinated service and support plan or coordinated service and support plan addendum. The restriction must be implemented in the least restrictive alternative manner necessary to protect the person and provide support to reduce or eliminate the need for the restriction in the most integrated setting and inclusive manner. The documentation must include the following information:

(1) the justification for the restriction based on an assessment of the person's vulnerability related to exercising the right without restriction;

(2) the objective measures set as conditions for ending the restriction;

(3) a schedule for reviewing the need for the restriction based on the conditions for ending the restriction to occur semiannually from the date of initial approval, at a minimum, or more frequently if requested by the person, the person's legal representative, if any, and case manager; and

(4) signed and dated approval for the restriction from the person, or the person's legal representative, if any. A restriction may be implemented only when the required approval has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the right must be immediately and fully restored.

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Sec. 24. Minnesota Statutes 2018, section 245D.06, subdivision 2, is amended to read:

Subd. 2. **Environment and safety.** The license holder must:

(1) ensure the following when the license holder is the owner, lessor, or tenant of the service site:

(i) the service site is a safe and hazard-free environment;

(ii) that toxic substances or dangerous items are inaccessible to persons served by the program only to protect the safety of a person receiving services when a known safety threat exists and not as a substitute for staff supervision or interactions with a person who is receiving services. If toxic substances or dangerous items are made inaccessible, the license holder must document an assessment of the physical plant, its environment, and its population identifying the risk factors which require toxic substances or dangerous items to be inaccessible and a statement of specific measures to be taken to minimize the safety risk to persons receiving services and to restore accessibility to all persons receiving services at the service site;

(iii) doors are locked from the inside to prevent a person from exiting only when necessary to protect the safety of a person receiving services and not as a substitute for staff supervision or interactions with the person. If doors are locked from the inside, the license holder must document an assessment of the physical plant, the environment and the population served, identifying the risk factors which require the use of locked doors, and a statement of specific measures to be taken to minimize the safety risk to persons receiving services at the service site; ~~and~~

(iv) a staff person is available at the service site who is trained in basic first aid and, when required in a person's coordinated service and support plan or coordinated service and support plan addendum, cardiopulmonary resuscitation (CPR) whenever persons are present and staff are required to be at the site to provide direct support service. The CPR training must include instruction, hands-on practice, and an observed skills assessment under the direct supervision of a CPR instructor; and

(v) that sharpened or metal knives are presumed to be inaccessible to an individual provisionally discharged from a commitment as mentally ill and dangerous who is residing in a licensed state-operated community-based program and whose provisional discharge plan restricts access to inherently dangerous instruments, including but not limited to knives, firearms, and explosives or incendiary material or devices, unless unsupervised access is approved by the individual, county case manager, and the individual's support team. Approval must be reflected in the coordinated service and support plan, the coordinated service and support plan addendum, or the self-management assessment. This provision does not apply to an individual who has been fully discharged from a commitment;

(2) maintain equipment, vehicles, supplies, and materials owned or leased by the license holder in good condition when used to provide services;

(3) follow procedures to ensure safe transportation, handling, and transfers of the person and any equipment used by the person, when the license holder is responsible for transportation of a person or a person's equipment;

(4) be prepared for emergencies and follow emergency response procedures to ensure the person's safety in an emergency; and

(5) follow universal precautions and sanitary practices, including hand washing, for infection prevention and control, and to prevent communicable diseases.

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Sec. 25. Minnesota Statutes 2018, section 245D.10, subdivision 3a, is amended to read:

Subd. 3a. **Service termination.** (a) The license holder must establish policies and procedures for service termination that promote continuity of care and service coordination with the person and the case manager and with other licensed caregivers, if any, who also provide support to the person. The policy must include the requirements specified in paragraphs (b) to (f).

(b) The license holder must permit each person to remain in the program and must not terminate services unless:

(1) the termination is necessary for the person's welfare and the facility cannot meet the person's needs ~~cannot be met in the facility~~;

(2) the safety of the person or others in the program is endangered and positive support strategies were attempted and have not achieved and effectively maintained safety for the person or others;

(3) the health of the person or others in the program would otherwise be endangered;

(4) the program has not been paid for services;

(5) the program ceases to operate; ~~or~~

(6) the person has been terminated by the lead agency from waiver eligibility~~.~~; or

(7) for state-operated community-based services, the person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 252.50, subdivision 5, paragraph (a), clause (1).

(c) Prior to giving notice of service termination, the license holder must document actions taken to minimize or eliminate the need for termination. Action taken by the license holder must include, at a minimum:

(1) consultation with the person's support team or expanded support team to identify and resolve issues leading to issuance of the termination notice; ~~and~~

(2) a request to the case manager for intervention services identified in section 245D.03, subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention services to support the person in the program. This requirement does not apply to notices of service termination issued under paragraph (b), ~~clause (4).~~ clauses (4) and (7); and

(3) for state-operated community-based services terminating services under paragraph (b), clause (7), the state-operated community-based services must engage in consultation with the person's support team or expanded support team to:

(i) identify that the person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 252.50, subdivision 5, paragraph (a), clause (1);

(ii) provide notice of intent to issue a termination of services to the lead agency when a finding has been made that a person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 252.50, subdivision 5, paragraph (a), clause (1);

(iii) assist the lead agency and case manager in developing a person-centered transition plan to a private community-based provider to ensure continuity of care; and

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(iv) coordinate with the lead agency to ensure the private community-based service provider is able to meet the person's needs and criteria established in a person's person-centered transition plan.

If, based on the best interests of the person, the circumstances at the time of the notice were such that the license holder was unable to take the action specified in clauses (1) and (2), the license holder must document the specific circumstances and the reason for being unable to do so.

(d) The notice of service termination must meet the following requirements:

(1) the license holder must notify the person or the person's legal representative and the case manager in writing of the intended service termination. If the service termination is from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), the license holder must also notify the commissioner in writing; and

(2) the notice must include:

(i) the reason for the action;

(ii) except for a service termination under paragraph (b), clause (5), a summary of actions taken to minimize or eliminate the need for service termination or temporary service suspension as required under paragraph (c), and why these measures failed to prevent the termination or suspension;

(iii) the person's right to appeal the termination of services under section 256.045, subdivision 3, paragraph (a); and

(iv) the person's right to seek a temporary order staying the termination of services according to the procedures in section 256.045, subdivision 4a or 6, paragraph (c).

(e) Notice of the proposed termination of service, including those situations that began with a temporary service suspension, must be given at least 90 days prior to termination of services under paragraph (b), clause (7), 60 days prior to termination when a license holder is providing intensive supports and services identified in section 245D.03, subdivision 1, paragraph (c), and 30 days prior to termination for all other services licensed under this chapter. This notice may be given in conjunction with a notice of temporary service suspension under subdivision 3.

(f) During the service termination notice period, the license holder must:

(1) work with the support team or expanded support team to develop reasonable alternatives to protect the person and others and to support continuity of care;

(2) provide information requested by the person or case manager; and

(3) maintain information about the service termination, including the written notice of intended service termination, in the service recipient record.

(g) For notices issued under paragraph (b), clause (7), the lead agency shall provide notice to the commissioner and state-operated services at least 30 days before the conclusion of the 90-day termination period, if an appropriate alternative provider cannot be secured. Upon receipt of this notice, the commissioner and state-operated services shall reassess whether a private community-based service can meet the person's needs. If the commissioner determines that a private provider can meet the person's needs, state-operated services shall, if necessary, extend notice of service termination until placement can be made. If the commissioner determines that a private provider cannot meet the person's needs, state-operated services

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shall rescind the notice of service termination and re-engage with the lead agency in service planning for the person.

(h) For state-operated community-based services, the license holder shall prioritize the capacity created within the existing service site by the termination of services under paragraph (b), clause (7), to serve persons described in section 252.50, subdivision 5, paragraph (a), clause (1).

Sec. 26. Minnesota Statutes 2018, section 245F.02, subdivision 7, is amended to read:

Subd. 7. **Clinically managed program.** "Clinically managed program" means a residential setting with staff comprised of a medical director and a licensed practical nurse. A licensed practical nurse must be on site 24 hours a day, seven days a week. A ~~qualified medical professional~~ licensed practitioner must be available by telephone or in person for consultation 24 hours a day. Patients admitted to this level of service receive medical observation, evaluation, and stabilization services during the detoxification process; access to medications administered by trained, licensed staff to manage withdrawal; and a comprehensive assessment pursuant to section ~~245G.05~~ 245F.06.

Sec. 27. Minnesota Statutes 2018, section 245F.02, subdivision 14, is amended to read:

Subd. 14. **Medically monitored program.** "Medically monitored program" means a residential setting with staff that includes a registered nurse and a medical director. A registered nurse must be on site 24 hours a day. A ~~medical director~~ licensed practitioner must be ~~on site~~ available seven days a week, and patients must have the ability to be seen by a ~~medical director~~ licensed practitioner within 24 hours. Patients admitted to this level of service receive medical observation, evaluation, and stabilization services during the detoxification process; medications administered by trained, licensed staff to manage withdrawal; and a comprehensive assessment pursuant to ~~Minnesota Rules, part 9530.6422~~ section 245F.06.

Sec. 28. Minnesota Statutes 2018, section 245F.06, subdivision 2, is amended to read:

Subd. 2. **Comprehensive assessment and assessment summary.** (a) Prior to a medically stable discharge, but not later than 72 hours following admission, a license holder must provide a comprehensive assessment and assessment summary according to sections 245.4863, paragraph (a), and 245G.05, for each patient who has a positive screening for a substance use disorder. If a patient's medical condition prevents a comprehensive assessment from being completed within 72 hours, the license holder must document why the assessment was not completed. The comprehensive assessment must include documentation of the appropriateness of an involuntary referral through the civil commitment process.

(b) If available to the program, a patient's previous comprehensive assessment may be used in the patient record. If a previously completed comprehensive assessment is used, its contents must be reviewed to ensure the assessment is accurate and current and complies with the requirements of this chapter. The review must be completed by a staff person qualified according to section 245G.11, subdivision 5. The license holder must document that the review was completed and that the previously completed assessment is accurate and current, or the license holder must complete an updated or new assessment.

Sec. 29. Minnesota Statutes 2018, section 245F.12, subdivision 2, is amended to read:

Subd. 2. **Services provided at clinically managed programs.** In addition to the services listed in subdivision 1, clinically managed programs must:

(1) have a licensed practical nurse on site 24 hours a day and a medical director;

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(2) provide an initial health assessment conducted by a nurse upon admission;

(3) provide daily on-site medical evaluation by a nurse;

(4) have a registered nurse available by telephone or in person for consultation 24 hours a day;

(5) have a ~~qualified medical professional~~ licensed practitioner available by telephone or in person for consultation 24 hours a day; and

(6) have appropriately licensed staff available to administer medications according to prescriber-approved orders.

Sec. 30. Minnesota Statutes 2018, section 245F.12, subdivision 3, is amended to read:

Subd. 3. **Services provided at medically monitored programs.** In addition to the services listed in subdivision 1, medically monitored programs must have a registered nurse on site 24 hours a day and a medical director. Medically monitored programs must provide intensive inpatient withdrawal management services which must include:

(1) an initial health assessment conducted by a registered nurse upon admission;

(2) the availability of a medical evaluation and consultation with a registered nurse 24 hours a day;

(3) the availability of a ~~qualified medical professional~~ licensed practitioner by telephone or in person for consultation 24 hours a day;

(4) the ability to be seen within 24 hours or sooner by a ~~qualified medical professional~~ licensed practitioner if the initial health assessment indicates the need to be seen;

(5) the availability of on-site monitoring of patient care seven days a week by a ~~qualified medical professional~~ licensed practitioner; and

(6) appropriately licensed staff available to administer medications according to prescriber-approved orders.

Sec. 31. Minnesota Statutes 2018, section 245G.02, subdivision 2, is amended to read:

Subd. 2. **Exemption from license requirement.** This chapter does not apply to a county or recovery community organization that is providing a service for which the county or recovery community organization is an eligible vendor under section 254B.05. This chapter does not apply to an organization whose primary functions are information, referral, diagnosis, case management, and assessment for the purposes of client placement, education, support group services, or self-help programs. This chapter does not apply to the activities of a licensed professional in private practice. A license holder providing the initial set of substance use disorder services allowable under section 254A.03, subdivision 3, paragraph (c), to an individual referred to a licensed nonresidential substance use disorder treatment program after a positive screen for alcohol or substance misuse is exempt from sections 245G.05; 245G.06, subdivisions 1, 2, and 4; 245G.07, subdivisions 1, paragraph (a), clauses (2) to (4), and 2, clauses (1) to (7); and 245G.17.

Sec. 32. Minnesota Statutes 2018, section 245G.09, subdivision 1, is amended to read:

Subdivision 1. **Client records required.** (a) A license holder must maintain a file of current and accurate client records on the premises where the treatment service is provided or coordinated. For services

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provided off site, client records must be available at the program and adhere to the same clinical and administrative policies and procedures as services provided on site. The content and format of client records must be uniform and entries in each record must be signed and dated by the staff member making the entry. Client records must be protected against loss, tampering, or unauthorized disclosure according to section 254A.09, chapter 13, and Code of Federal Regulations, title 42, chapter 1, part 2, subpart B, sections 2.1 to 2.67, and title 45, parts 160 to 164.

(b) The program must have a policy and procedure that identifies how the program will track and record client attendance at treatment activities, including the date, duration, and nature of each treatment service provided to the client.

(c) The program must identify in the client record designation of an individual who is receiving services under section 254A.03, subdivision 3, including the start date and end date of services eligible under section 254A.03, subdivision 3.

Sec. 33. Minnesota Statutes 2019 Supplement, section 254A.03, subdivision 3, as amended by Laws 2020, chapter 74, article 3, section 3, is amended to read:

Subd. 3. **Rules for substance use disorder care.** (a) The commissioner of human services shall establish by rule criteria to be used in determining the appropriate level of chemical dependency care for each recipient of public assistance seeking treatment for substance misuse or substance use disorder. Upon federal approval of a comprehensive assessment as a Medicaid benefit, or on July 1, 2018, whichever is later, and notwithstanding the criteria in Minnesota Rules, parts 9530.6600 to 9530.6655, an eligible vendor of comprehensive assessments under section 254B.05 may determine and approve the appropriate level of substance use disorder treatment for a recipient of public assistance. The process for determining an individual's financial eligibility for the consolidated chemical dependency treatment fund or determining an individual's enrollment in or eligibility for a publicly subsidized health plan is not affected by the individual's choice to access a comprehensive assessment for placement.

(b) The commissioner shall develop and implement a utilization review process for publicly funded treatment placements to monitor and review the clinical appropriateness and timeliness of all publicly funded placements in treatment.

(c) If a screen result is positive for alcohol or substance misuse, a brief screening for alcohol or substance use disorder that is provided to a recipient of public assistance within a primary care clinic, hospital, or other medical setting or school setting establishes medical necessity and approval for an initial set of substance use disorder services identified in section 254B.05, subdivision 5. The initial set of services approved for a recipient whose screen result is positive may include any combination of up to four hours of individual or group substance use disorder treatment, two hours of substance use disorder treatment coordination, or two hours of substance use disorder peer support services provided by a qualified individual according to chapter 245G. A recipient must obtain an assessment pursuant to paragraph (a) to be approved for additional treatment services. Minnesota Rules, parts 9530.6600 to 9530.6655, and a comprehensive assessment pursuant to section 245G.05 are not applicable to the initial set of services allowed under this subdivision. A positive screen result establishes eligibility for the initial set of services allowed under this subdivision.

(d) Notwithstanding Minnesota Rules, parts 9530.6600 to 9530.6655, an individual may choose to obtain a comprehensive assessment as provided in section 245G.05. Individuals obtaining a comprehensive assessment may access any enrolled provider that is licensed to provide the level of service authorized pursuant to section 254A.19, subdivision 3, paragraph (d). If the individual is enrolled in a prepaid health

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plan, the individual must comply with any provider network requirements or limitations. This paragraph expires July 1, 2022.

Sec. 34. Minnesota Statutes 2019 Supplement, section 254B.05, subdivision 1, is amended to read:

Subdivision 1. **Licensure required.** (a) Programs licensed by the commissioner are eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245A.03. American Indian programs that provide substance use disorder treatment, extended care, transitional residence, or outpatient treatment services, and are licensed by tribal government are eligible vendors.

(b) A licensed professional in private practice as defined in section 245G.01, subdivision 17, who meets the requirements of section 245G.11, subdivisions 1 and 4, is an eligible vendor of a comprehensive assessment and assessment summary provided according to section 245G.05, and treatment services provided according to sections 245G.06 and 245G.07, subdivision 1, paragraphs (a), clauses (1) to ~~(4)~~ (5), and (b); and subdivision 2, clauses (1) to (6).

(c) A county is an eligible vendor for a comprehensive assessment and assessment summary when provided by an individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 5, and completed according to the requirements of section 245G.05. A county is an eligible vendor of care coordination services when provided by an individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 7, and provided according to the requirements of section 245G.07, subdivision 1, paragraph (a), clause (5).

(d) A recovery community organization that meets certification requirements identified by the commissioner is an eligible vendor of peer support services.

(e) Detoxification programs licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, are not eligible vendors. Programs that are not licensed as a residential or nonresidential substance use disorder treatment or withdrawal management program by the commissioner or by tribal government or do not meet the requirements of subdivisions 1a and 1b are not eligible vendors.

Sec. 35. Minnesota Statutes 2018, section 256.0112, subdivision 10, is amended to read:

Subd. 10. **Contracts for child foster care services.** When local agencies negotiate lead county contracts or purchase of service contracts for child foster care services, the foster care maintenance payment made on behalf of the child shall follow the provisions of Northstar Care for Children, chapter 256N. Foster care maintenance payments as defined in section 256N.02, subdivision 15, represent costs for activities similar in nature to those expected of parents and do not cover services rendered by the licensed or tribally approved foster parent~~, facility,~~ or administrative costs or fees. Payments made to foster parents must follow the requirements of section 256N.26, subdivision 15. The legally responsible agency must provide foster parents with the assessment and notice as specified in section 256N.24. The financially responsible agency is permitted to make additional payments for specific services provided by the foster parents ~~or facility~~, as permitted in section 256N.21, subdivision 5. These additional payments are not considered foster care maintenance.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 36. Minnesota Statutes 2018, section 256.82, subdivision 2, is amended to read:

Subd. 2. **Foster care maintenance payments.** (a) For the purpose of foster care maintenance payments under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the county or

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American Indian child welfare initiative tribes under section 256.01, subdivision 14b, paying the maintenance costs must be reimbursed for the costs from the federal money available for the purpose. Beginning July 1, 1997, for the purposes of determining a child's eligibility under title IV-E of the Social Security Act, the placing agency shall use AFDC requirements in effect on July 16, 1996.

(b) For the purpose of foster care maintenance payments under title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, the state is responsible for approving of child care institutions for the county paying the facility's maintenance costs to be reimbursed from the federal money available for the purpose. The facility must be licensed by the state or approved or licensed by a tribe.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 37. Minnesota Statutes 2018, section 256.87, subdivision 8, is amended to read:

Subd. 8. **Disclosure prohibited.** ~~Notwithstanding statutory or other authorization for~~ The public authority ~~to~~ shall not release private data on the location of a party to the action~~, information on the location of one party may not be released to the other party by the public authority~~ or the joint child if:

(1) the public authority has knowledge that one party is currently subject to a protective order with respect to the other party ~~has been entered~~ or the joint child, and the protected party or guardian of the joint child has not authorized disclosure; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to ~~the other~~ a party or the joint child.

Sec. 38. Minnesota Statutes 2018, section 256B.0625, subdivision 5l, is amended to read:

Subd. 5l. **Intensive mental health outpatient treatment.** Medical assistance covers intensive mental health outpatient treatment for dialectical behavioral therapy ~~for adults~~. The commissioner shall establish:

(1) certification procedures to ensure that providers of these services are qualified; and

(2) treatment protocols including required service components and criteria for admission, continued treatment, and discharge.

Sec. 39. Minnesota Statutes 2019 Supplement, section 256B.064, subdivision 2, is amended to read:

Subd. 2. **Imposition of monetary recovery and sanctions.** (a) The commissioner shall determine any monetary amounts to be recovered and sanctions to be imposed upon a vendor of medical care under this section. Except as provided in paragraphs (b) and (d), neither a monetary recovery nor a sanction will be imposed by the commissioner without prior notice and an opportunity for a hearing, according to chapter 14, on the commissioner's proposed action, provided that the commissioner may suspend or reduce payment to a vendor of medical care, except a nursing home or convalescent care facility, after notice and prior to the hearing if in the commissioner's opinion that action is necessary to protect the public welfare and the interests of the program.

(b) Except when the commissioner finds good cause not to suspend payments under Code of Federal Regulations, title 42, section 455.23 (e) or (f), the commissioner shall withhold or reduce payments to a vendor of medical care without providing advance notice of such withholding or reduction if either of the following occurs:

(1) the vendor is convicted of a crime involving the conduct described in subdivision 1a; or

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(2) the commissioner determines there is a credible allegation of fraud for which an investigation is pending under the program. A credible allegation of fraud is an allegation which has been verified by the state, from any source, including but not limited to:

(i) fraud hotline complaints;

(ii) claims data mining; and

(iii) patterns identified through provider audits, civil false claims cases, and law enforcement investigations.

Allegations are considered to be credible when they have an indicia of reliability and the state agency has reviewed all allegations, facts, and evidence carefully and acts judiciously on a case-by-case basis.

(c) The commissioner must send notice of the withholding or reduction of payments under paragraph (b) within five days of taking such action unless requested in writing by a law enforcement agency to temporarily withhold the notice. The notice must:

(1) state that payments are being withheld according to paragraph (b);

(2) set forth the general allegations as to the nature of the withholding action, but need not disclose any specific information concerning an ongoing investigation;

(3) except in the case of a conviction for conduct described in subdivision 1a, state that the withholding is for a temporary period and cite the circumstances under which withholding will be terminated;

(4) identify the types of claims to which the withholding applies; and

(5) inform the vendor of the right to submit written evidence for consideration by the commissioner.

The withholding or reduction of payments will not continue after the commissioner determines there is insufficient evidence of fraud by the vendor, or after legal proceedings relating to the alleged fraud are completed, unless the commissioner has sent notice of intention to impose monetary recovery or sanctions under paragraph (a). Upon conviction for a crime related to the provision, management, or administration of a health service under medical assistance, a payment held pursuant to this section by the commissioner or a managed care organization that contracts with the commissioner under section 256B.035 is forfeited to the commissioner or managed care organization, regardless of the amount charged in the criminal complaint or the amount of criminal restitution ordered.

(d) The commissioner shall suspend or terminate a vendor's participation in the program without providing advance notice and an opportunity for a hearing when the suspension or termination is required because of the vendor's exclusion from participation in Medicare. Within five days of taking such action, the commissioner must send notice of the suspension or termination. The notice must:

(1) state that suspension or termination is the result of the vendor's exclusion from Medicare;

(2) identify the effective date of the suspension or termination; and

(3) inform the vendor of the need to be reinstated to Medicare before reapplying for participation in the program.

(e) Upon receipt of a notice under paragraph (a) that a monetary recovery or sanction is to be imposed, a vendor may request a contested case, as defined in section 14.02, subdivision 3, by filing with the commissioner a written request of appeal. The appeal request must be received by the commissioner no later

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than 30 days after the date the notification of monetary recovery or sanction was mailed to the vendor. The appeal request must specify:

(1) each disputed item, the reason for the dispute, and an estimate of the dollar amount involved for each disputed item;

(2) the computation that the vendor believes is correct;

(3) the authority in statute or rule upon which the vendor relies for each disputed item;

(4) the name and address of the person or entity with whom contacts may be made regarding the appeal; and

(5) other information required by the commissioner.

(f) The commissioner may order a vendor to forfeit a fine for failure to fully document services according to standards in this chapter and Minnesota Rules, chapter 9505. The commissioner may assess fines if specific required components of documentation are missing. The fine for incomplete documentation shall equal 20 percent of the amount paid on the claims for reimbursement submitted by the vendor, or up to $5,000, whichever is less. If the commissioner determines that a vendor repeatedly violated this chapter, chapter 254B or 245G, or Minnesota Rules, chapter 9505, related to the provision of services to program recipients and the submission of claims for payment, the commissioner may order a vendor to forfeit a fine based on the nature, severity, and chronicity of the violations, in an amount of up to $5,000 or 20 percent of the value of the claims, whichever is greater.

(g) The vendor shall pay the fine assessed on or before the payment date specified. If the vendor fails to pay the fine, the commissioner may withhold or reduce payments and recover the amount of the fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

Sec. 40. Minnesota Statutes 2018, section 256B.0652, subdivision 10, is amended to read:

Subd. 10. **Authorization for foster care setting.** (a) Home care services provided in an adult or child foster care setting must receive authorization by the commissioner according to the limits established in subdivision 11.

(b) The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement, ~~difficulty of care rate as of January 1, 2010~~ assessment under sections 256N.24 and 260C.4411, and administrative rules;

(2) personal care assistance services when the foster care license holder is also the personal care provider or personal care assistant, unless the foster home is the licensed provider's primary residence as defined in section 256B.0625, subdivision 19a; or

(3) personal care assistant and home care nursing services when the licensed capacity is greater than ~~four~~ six, unless all conditions for a variance under section 245A.04, subdivision 9a, are satisfied for a sibling, as defined in section 260C.007, subdivision 32.

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

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Sec. 41. Minnesota Statutes 2018, section 256B.0949, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given in this subdivision.

(b) "Agency" means the legal entity that is enrolled with Minnesota health care programs as a medical assistance provider according to Minnesota Rules, part 9505.0195, to provide EIDBI services and that has the legal responsibility to ensure that its employees or contractors carry out the responsibilities defined in this section. Agency includes a licensed individual professional who practices independently and acts as an agency.

(c) "Autism spectrum disorder or a related condition" or "ASD or a related condition" means either autism spectrum disorder (ASD) as defined in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or a condition that is found to be closely related to ASD, as identified under the current version of the DSM, and meets all of the following criteria:

(1) is severe and chronic;

(2) results in impairment of adaptive behavior and function similar to that of a person with ASD;

(3) requires treatment or services similar to those required for a person with ASD; and

(4) results in substantial functional limitations in three core developmental deficits of ASD: social or interpersonal interaction; functional communication, including nonverbal or social communication; and restrictive~~,~~ or repetitive behaviors or hyperreactivity or hyporeactivity to sensory input; and may include deficits or a high level of support in one or more of the following domains:

(i) behavioral challenges and self-regulation;

(ii) cognition;

(iii) learning and play;

~~(ii)~~(iv) self-care; or

~~(iii) behavioral challenges;~~

~~(iv) expressive communication;~~

~~(v) receptive communication;~~

~~(vi) cognitive functioning; or~~

~~(vii)~~(v) safety.

(d) "Person" means a person under 21 years of age.

(e) "Clinical supervision" means the overall responsibility for the control and direction of EIDBI service delivery, including individual treatment planning, staff supervision, individual treatment plan progress monitoring, and treatment review for each person. Clinical supervision is provided by a qualified supervising professional (QSP) who takes full professional responsibility for the service provided by each supervisee.

(f) "Commissioner" means the commissioner of human services, unless otherwise specified.

(g) "Comprehensive multidisciplinary evaluation" or "CMDE" means a comprehensive evaluation of a person to determine medical necessity for EIDBI services based on the requirements in subdivision 5.

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(h) "Department" means the Department of Human Services, unless otherwise specified.

(i) "Early intensive developmental and behavioral intervention benefit" or "EIDBI benefit" means a variety of individualized, intensive treatment modalities approved and published by the commissioner that are based in behavioral and developmental science consistent with best practices on effectiveness.

(j) "Generalizable goals" means results or gains that are observed during a variety of activities over time with different people, such as providers, family members, other adults, and people, and in different environments including, but not limited to, clinics, homes, schools, and the community.

(k) "Incident" means when any of the following occur:

(1) an illness, accident, or injury that requires first aid treatment;

(2) a bump or blow to the head; or

(3) an unusual or unexpected event that jeopardizes the safety of a person or staff, including a person leaving the agency unattended.

(l) "Individual treatment plan" or "ITP" means the person-centered, individualized written plan of care that integrates and coordinates person and family information from the CMDE for a person who meets medical necessity for the EIDBI benefit. An individual treatment plan must meet the standards in subdivision 6.

(m) "Legal representative" means the parent of a child who is under 18 years of age, a court-appointed guardian, or other representative with legal authority to make decisions about service for a person. For the purpose of this subdivision, "other representative with legal authority to make decisions" includes a health care agent or an attorney-in-fact authorized through a health care directive or power of attorney.

(n) "Mental health professional" has the meaning given in section 245.4871, subdivision 27, clauses (1) to (6).

(o) "Person-centered" means a service that both responds to the identified needs, interests, values, preferences, and desired outcomes of the person or the person's legal representative and respects the person's history, dignity, and cultural background and allows inclusion and participation in the person's community.

(p) "Qualified EIDBI provider" means a person who is a QSP or a level I, level II, or level III treatment provider.

Sec. 42. Minnesota Statutes 2018, section 256B.0949, subdivision 5, is amended to read:

Subd. 5. **Comprehensive multidisciplinary evaluation.** (a) A CMDE must be completed to determine medical necessity of EIDBI services. For the commissioner to authorize EIDBI services, the CMDE provider must submit the CMDE to the commissioner and the person or the person's legal representative as determined by the commissioner. Information and assessments must be performed, reviewed, and relied upon for the eligibility determination, treatment and services recommendations, and treatment plan development for the person.

(b) The CMDE provider must review the diagnostic assessment to confirm the person has an eligible diagnosis and the diagnostic assessment meets standards required under subdivision 4. If the CMDE provider elects to complete the diagnostic assessment at the same time as the CMDE, the CMDE provider must certify that the CMDE meets all standards as required under subdivision 4.

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~~(b)~~(c) The CMDE must:

(1) include an assessment of the person's developmental skills, functional behavior, needs, and capacities based on direct observation of the person which must be administered by a CMDE provider, include medical or assessment information from the person's physician or advanced practice registered nurse, and may also include input from family members, school personnel, child care providers, or other caregivers, as well as any medical or assessment information from other licensed professionals such as rehabilitation or habilitation therapists, licensed school personnel, or mental health professionals;

(2) include and document the person's legal representative's or primary caregiver's preferences for involvement in the person's treatment; and

(3) provide information about the range of current EIDBI treatment modalities recognized by the commissioner.

Sec. 43. Minnesota Statutes 2018, section 256B.0949, subdivision 6, is amended to read:

Subd. 6. **Individual treatment plan.** (a) The QSP, level I treatment provider, or level II treatment provider who integrates and coordinates person and family information from the CMDE and ITP progress monitoring process to develop the ITP must develop and monitor the ITP.

(b) Each person's ITP must be:

(1) culturally and linguistically appropriate, as required under subdivision 3a, individualized, and person-centered; and

(2) based on the diagnosis and CMDE information specified in subdivisions 4 and 5.

(c) The ITP must specify:

(1) the medically necessary treatment and service;

(2) the treatment modality that shall be used to meet the goals and objectives, including:

(i) baseline measures and projected dates of accomplishment;

(ii) the frequency, intensity, location, and duration of each service provided;

(iii) the level of legal representative or primary caregiver training and counseling;

(iv) any change or modification to the physical and social environments necessary to provide a service;

(v) significant changes in the person's condition or family circumstance;

~~(vi) any specialized equipment or material required;~~

~~(vii)~~ (vi) techniques that support and are consistent with the person's communication mode and learning style;

~~(viii)~~ (vii) the name of the QSP; and

~~(ix)~~ (viii) progress monitoring results and goal mastery data; and

(3) the discharge criteria that ~~shall~~ must be used and a defined transition plan that meets the requirement of paragraph (g).

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(d) Implementation of the ITP must be supervised by a QSP.

(e) The ITP must be submitted to the commissioner and the person or the person's legal representative for approval in a manner determined by the commissioner for this purpose.

(f) A service included in the ITP must meet all applicable requirements for medical necessity and coverage.

(g) To terminate service, the provider must send notice of termination to the person or the person's legal representative. The transition period begins when the person or the person's legal representative receives notice of termination from the EIDBI service and ends when the EIDBI service is terminated. Up to 30 days of continued service is allowed during the transition period. Services during the transition period shall be consistent with the ITP. The transition plan ~~shall~~ must include:

(1) protocols for changing service when medically necessary;

(2) how the transition will occur;

(3) the time allowed to make the transition; and

(4) a description of how the person or the person's legal representative will be informed of and involved in the transition.

Sec. 44. Minnesota Statutes 2018, section 256B.0949, subdivision 9, is amended to read:

Subd. 9. **Revision of treatment options.** (a) The commissioner may revise covered treatment ~~options~~ modalities as needed based on outcome data and other evidence. EIDBI treatment modalities approved by the department must:

(1) cause no harm to the person or the person's family;

(2) be individualized and person-centered;

(3) be developmentally appropriate and highly structured, with well-defined goals and objectives that provide a strategic direction for treatment;

(4) be based in recognized principles of developmental and behavioral science;

(5) utilize sound practices that are replicable across providers and maintain the fidelity of the specific modality;

(6) demonstrate an evidentiary basis;

(7) have goals and objectives that are measurable, achievable, and regularly evaluated and adjusted to ensure that adequate progress is being made;

(8) be provided intensively with a high staff-to-person ratio; and

(9) include participation by the person and the person's legal representative in decision making, knowledge building and capacity building, and developing and implementing the person's ITP.

(b) Before revisions in department recognized treatment modalities become effective, the commissioner must provide public notice of the changes, the reasons for the change, and a 30-day public comment period to those who request notice through an electronic list accessible to the public on the department's website.

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Sec. 45. Minnesota Statutes 2018, section 256B.0949, subdivision 13, is amended to read:

Subd. 13. **Covered services.** (a) The services described in paragraphs (b) to ~~(i)~~ (l) are eligible for reimbursement by medical assistance under this section. Services must be provided by a qualified EIDBI provider and supervised by a QSP. An EIDBI service must address the person's medically necessary treatment goals and must be targeted to develop, enhance, or maintain the individual developmental skills of a person with ASD or a related condition to improve functional communication, including nonverbal or social communication, social or interpersonal interaction, restrictive or repetitive behaviors, hyperreactivity or hyporeactivity to sensory input, behavioral challenges and self-regulation, cognition, learning and play, self-care, and safety.

(b) EIDBI ~~modalities include, but are not limited to:~~ treatment must be delivered consistent with the standards of an approved modality, as published by the commissioner. EIDBI modalities include:

(1) applied behavior analysis (ABA);

(2) developmental individual-difference relationship-based model (DIR/Floortime);

(3) early start Denver model (ESDM);

(4) PLAY project; ~~or~~

(5) relationship development intervention (RDI)~~.~~; or

(6) additional modalities not listed in clauses (1) to (5) upon approval by the commissioner.

(c) An EIDBI provider may use one or more of the EIDBI modalities in paragraph (b), clauses (1) to (5), as the primary modality for treatment as a covered service, or several EIDBI modalities in combination as the primary modality of treatment, as approved by the commissioner. An EIDBI provider that identifies and provides assurance of qualifications for a single specific treatment modality must document the required qualifications to meet fidelity to the specific model. ~~Additional EIDBI modalities not listed in paragraph (b) may be covered upon approval by the commissioner.~~

(d) Each qualified EIDBI provider must identify and provide assurance of qualifications for professional licensure certification, or training in evidence-based treatment methods, and must document the required qualifications outlined in subdivision 15 in a manner determined by the commissioner.

~~(d)~~ (e) CMDE is a comprehensive evaluation of the person's developmental status to determine medical necessity for EIDBI services and meets the requirements of subdivision 5. The services must be provided by a qualified CMDE provider.

~~(e)~~ (f) EIDBI intervention observation and direction is the clinical direction and oversight of EIDBI services by the QSP, level I treatment provider, or level II treatment provider, including developmental and behavioral techniques, progress measurement, data collection, function of behaviors, and generalization of acquired skills for the direct benefit of a person. EIDBI intervention observation and direction informs any modification of the ~~methods~~ current treatment protocol to support the outcomes outlined in the ITP. ~~EIDBI intervention observation and direction provides a real-time response to EIDBI interventions to maximize the benefit to the person.~~

(g) Intervention is medically necessary direct treatment provided to a person with ASD or a related condition as outlined in their ITP. All intervention services must be provided under the direction of a QSP. Intervention may take place across multiple settings. The frequency and intensity of intervention services are provided based on the number of treatment goals, person and family or caregiver preferences, and other

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factors. Intervention services may be provided individually or in a group. Intervention with a higher provider ratio may occur when deemed medically necessary through the person's ITP.

(1) Individual intervention is treatment by protocol administered by a single qualified EIDBI provider delivered face-to-face to one person.

(2) Group intervention is treatment by protocol provided by one or more qualified EIDBI providers, delivered to at least two people who receive EIDBI services.

~~(f)~~ (h) ITP development and ITP progress monitoring is development of the initial, annual, and progress monitoring of an ITP. ITP development and ITP progress monitoring documents~~, provides~~ provide oversight and ongoing evaluation of a person's treatment and progress on targeted goals and objectives~~,~~ and ~~integrates~~ integrate and ~~coordinates~~ coordinate the person's and the person's legal representative's information from the CMDE and ITP progress monitoring. This service must be reviewed and completed by the QSP, and may include input from a level I ~~treatment~~ provider or a level II ~~treatment~~ provider.

~~(g)~~ (i) Family caregiver training and counseling is specialized training and education for a family or primary caregiver to understand the person's developmental status and help with the person's needs and development. This service must be provided by the QSP, level I ~~treatment~~ provider, or level II ~~treatment~~ provider.

~~(h)~~ (j) A coordinated care conference is a voluntary face-to-face meeting with the person and the person's family to review the CMDE or ITP progress monitoring and to integrate and coordinate services across providers and service-delivery systems to develop the ITP. This service must be provided by the QSP and may include the CMDE provider or a level I ~~treatment~~ provider or a level II ~~treatment~~ provider.

~~(i)~~ (k) Travel time is allowable billing for traveling to and from the person's home, school, a community setting, or place of service outside of an EIDBI center, clinic, or office from a specified location to provide face-to-face EIDBI intervention, observation and direction, or family caregiver training and counseling. The person's ITP must specify the reasons the provider must travel to the person.

~~(j)~~ (l) Medical assistance covers medically necessary EIDBI services and consultations delivered by a licensed health care provider via telemedicine, as defined under section 256B.0625, subdivision 3b, in the same manner as if the service or consultation was delivered in person. ~~Medical assistance coverage is limited to three telemedicine services per person per calendar week.~~

Sec. 46. Minnesota Statutes 2018, section 256B.0949, subdivision 14, is amended to read:

Subd. 14. **Person's rights.** A person or the person's legal representative has the right to:

(1) protection as defined under the health care bill of rights under section 144.651;

(2) designate an advocate to be present in all aspects of the person's and person's family's services at the request of the person or the person's legal representative;

(3) be informed of the agency policy on assigning staff to a person;

(4) be informed of the opportunity to observe the person while receiving services;

(5) be informed of services in a manner that respects and takes into consideration the person's and the person's legal representative's culture, values, and preferences in accordance with subdivision 3a;

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(6) be free from seclusion and restraint, except for emergency use of manual restraint in emergencies as defined in section 245D.02, subdivision 8a;

(7) be under the supervision of a responsible adult at all times;

(8) be notified by the agency within 24 hours if an incident occurs or the person is injured while receiving services, including what occurred and how agency staff responded to the incident;

(9) request a voluntary coordinated care conference; ~~and~~

(10) request a CMDE provider of the person's or the person's legal representative's choice~~.~~; and

(11) be free of all prohibitions as defined in Minnesota Rules, part 9544.0060.

Sec. 47. Minnesota Statutes 2018, section 256B.0949, subdivision 15, is amended to read:

Subd. 15. **EIDBI provider qualifications.** (a) A QSP must be employed by an agency and be:

(1) a licensed mental health professional who has at least 2,000 hours of supervised clinical experience or training in examining or treating people with ASD or a related condition or equivalent documented coursework at the graduate level by an accredited university in ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child development; or

(2) a developmental or behavioral pediatrician who has at least 2,000 hours of supervised clinical experience or training in examining or treating people with ASD or a related condition or equivalent documented coursework at the graduate level by an accredited university in the areas of ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child development.

(b) A level I treatment provider must be employed by an agency and:

(1) have at least 2,000 hours of supervised clinical experience or training in examining or treating people with ASD or a related condition or equivalent documented coursework at the graduate level by an accredited university in ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child development or an equivalent combination of documented coursework or hours of experience; and

(2) have or be at least one of the following:

(i) a master's degree in behavioral health or child development or related fields including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy from an accredited college or university;

(ii) a bachelor's degree in a behavioral health, child development, or related field including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy, from an accredited college or university, and advanced certification in a treatment modality recognized by the department;

(iii) a board-certified behavior analyst; or

(iv) a board-certified assistant behavior analyst with 4,000 hours of supervised clinical experience that meets all registration, supervision, and continuing education requirements of the certification.

(c) A level II treatment provider must be employed by an agency and must be:

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(1) a person who has a bachelor's degree from an accredited college or university in a behavioral or child development science or related field including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy; and ~~meet~~ meets at least one of the following:

(i) has at least 1,000 hours of supervised clinical experience or training in examining or treating people with ASD or a related condition or equivalent documented coursework at the graduate level by an accredited university in ASD diagnostics, ASD developmental and behavioral treatment strategies, and typical child development or a combination of coursework or hours of experience;

(ii) has certification as a board-certified assistant behavior analyst from the Behavior Analyst Certification Board;

(iii) is a registered behavior technician as defined by the Behavior Analyst Certification Board; or

(iv) is certified in one of the other treatment modalities recognized by the department; or

(2) a person who has:

(i) an associate's degree in a behavioral or child development science or related field including, but not limited to, mental health, special education, social work, psychology, speech pathology, or occupational therapy from an accredited college or university; and

(ii) at least 2,000 hours of supervised clinical experience in delivering treatment to people with ASD or a related condition. Hours worked as a mental health behavioral aide or level III treatment provider may be included in the required hours of experience; or

(3) a person who has at least 4,000 hours of supervised clinical experience in delivering treatment to people with ASD or a related condition. Hours worked as a mental health behavioral aide or level III treatment provider may be included in the required hours of experience; or

(4) a person who is a graduate student in a behavioral science, child development science, or related field and is receiving clinical supervision by a QSP affiliated with an agency to meet the clinical training requirements for experience and training with people with ASD or a related condition; or

(5) a person who is at least 18 years of age and who:

(i) is fluent in a non-English language;

(ii) completed the level III EIDBI training requirements; and

(iii) receives observation and direction from a QSP or level I treatment provider at least once a week until the person meets 1,000 hours of supervised clinical experience.

(d) A level III treatment provider must be employed by an agency, have completed the level III training requirement, be at least 18 years of age, and have at least one of the following:

(1) a high school diploma or commissioner of education-selected high school equivalency certification;

(2) fluency in a non-English language; ~~or~~

(3) one year of experience as a primary personal care assistant, community health worker, waiver service provider, or special education assistant to a person with ASD or a related condition within the previous five years~~.~~; or

(4) completion of all required EIDBI training within six months of employment.

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Sec. 48. Minnesota Statutes 2018, section 256B.0949, subdivision 16, is amended to read:

Subd. 16. **Agency duties.** (a) An agency delivering an EIDBI service under this section must:

(1) enroll as a medical assistance Minnesota health care program provider according to Minnesota Rules, part 9505.0195, and section 256B.04, subdivision 21, and meet all applicable provider standards and requirements;

(2) demonstrate compliance with federal and state laws for EIDBI service;

(3) verify and maintain records of a service provided to the person or the person's legal representative as required under Minnesota Rules, parts 9505.2175 and 9505.2197;

(4) demonstrate that while enrolled or seeking enrollment as a Minnesota health care program provider the agency did not have a lead agency contract or provider agreement discontinued because of a conviction of fraud; or did not have an owner, board member, or manager fail a state or federal criminal background check or appear on the list of excluded individuals or entities maintained by the federal Department of Human Services Office of Inspector General;

(5) have established business practices including written policies and procedures, internal controls, and a system that demonstrates the organization's ability to deliver quality EIDBI services;

(6) have an office located in Minnesota or a border state;

(7) conduct a criminal background check on an individual who has direct contact with the person or the person's legal representative;

(8) report maltreatment according to sections 626.556 and 626.557;

(9) comply with any data requests consistent with the Minnesota Government Data Practices Act, sections 256B.064 and 256B.27;

(10) provide training for all agency staff on the requirements and responsibilities listed in the Maltreatment of Minors Act, section 626.556, and the Vulnerable Adult Protection Act, section 626.557, including mandated and voluntary reporting, nonretaliation, and the agency's policy for all staff on how to report suspected abuse and neglect;

(11) have a written policy to resolve issues collaboratively with the person and the person's legal representative when possible. The policy must include a timeline for when the person and the person's legal representative will be notified about issues that arise in the provision of services;

(12) provide the person's legal representative with prompt notification if the person is injured while being served by the agency. An incident report must be completed by the agency staff member in charge of the person. A copy of all incident and injury reports must remain on file at the agency for at least five years from the report of the incident; and

(13) before starting a service, provide the person or the person's legal representative a description of the treatment modality that the person shall receive, including the staffing certification levels and training of the staff who shall provide a treatment.

(b) When delivering the ITP, and annually thereafter, an agency must provide the person or the person's legal representative with:

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(1) a written copy and a verbal explanation of the person's or person's legal representative's rights and the agency's responsibilities;

(2) documentation in the person's file the date that the person or the person's legal representative received a copy and explanation of the person's or person's legal representative's rights and the agency's responsibilities; and

(3) reasonable accommodations to provide the information in another format or language as needed to facilitate understanding of the person's or person's legal representative's rights and the agency's responsibilities.

Sec. 49. Minnesota Statutes 2018, section 256D.02, subdivision 17, is amended to read:

Subd. 17. **Professional certification.** "Professional certification" means a statement about a person's illness, injury, or incapacity that is signed by a "qualified professional" as defined in section ~~256J.08, subdivision 73a~~ 256P.01, subdivision 6a.

Sec. 50. Minnesota Statutes 2018, section 256I.03, subdivision 3, is amended to read:

Subd. 3. **Housing support.** "Housing support" means ~~a group living situation~~ assistance that provides at a minimum room and board to ~~unrelated~~ persons who meet the eligibility requirements of section 256I.04. To receive payment for ~~a group residence rate~~ housing support, the residence must meet the requirements under section 256I.04, subdivisions 2a to 2f.

Sec. 51. Minnesota Statutes 2018, section 256I.03, subdivision 14, is amended to read:

Subd. 14. **Qualified professional.** "Qualified professional" means an individual as defined in section ~~256J.08, subdivision 73a, or~~ 245G.11, subdivision 3, 4, or 5, or 256P.01, subdivision 6a; or an individual approved by the director of human services or a designee of the director.

Sec. 52. Minnesota Statutes 2019 Supplement, section 256I.04, subdivision 2b, is amended to read:

Subd. 2b. **Housing support agreements.** (a) Agreements between agencies and providers of housing support must be in writing on a form developed and approved by the commissioner and must specify the name and address under which the establishment subject to the agreement does business and under which the establishment, or service provider, if different from the ~~group residential housing~~ establishment, is licensed by the Department of Health or the Department of Human Services; the specific license or registration from the Department of Health or the Department of Human Services held by the provider and the number of beds subject to that license; the address of the location or locations at which ~~group residential~~ housing support is provided under this agreement; the per diem and monthly rates that are to be paid from housing support funds for each eligible resident at each location; the number of beds at each location which are subject to the agreement; whether the license holder is a not-for-profit corporation under section 501(c)(3) of the Internal Revenue Code; and a statement that the agreement is subject to the provisions of sections 256I.01 to 256I.06 and subject to any changes to those sections.

(b) Providers are required to verify the following minimum requirements in the agreement:

(1) current license or registration, including authorization if managing or monitoring medications;

(2) all staff who have direct contact with recipients meet the staff qualifications;

(3) the provision of housing support;

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(4) the provision of supplementary services, if applicable;

(5) reports of adverse events, including recipient death or serious injury;

(6) submission of residency requirements that could result in recipient eviction; and

(7) confirmation that the provider will not limit or restrict the number of hours an applicant or recipient chooses to be employed, as specified in subdivision 5.

(c) Agreements may be terminated with or without cause by the commissioner, the agency, or the provider with two calendar months prior notice. The commissioner may immediately terminate an agreement under subdivision 2d.

Sec. 53. Minnesota Statutes 2018, section 256I.05, subdivision 1c, is amended to read:

Subd. 1c. **Rate increases.** An agency may not increase the rates negotiated for housing support above those in effect on June 30, 1993, except as provided in paragraphs (a) to (f).

(a) An agency may increase the rates for room and board to the MSA equivalent rate for those settings whose current rate is below the MSA equivalent rate.

(b) An agency may increase the rates for residents in adult foster care whose difficulty of care has increased. The total housing support rate for these residents must not exceed the maximum rate specified in subdivisions 1 and 1a. Agencies must not include nor increase difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding by home and community-based waiver programs under title XIX of the Social Security Act.

(c) The room and board rates will be increased each year when the MSA equivalent rate is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less the amount of the increase in the medical assistance personal needs allowance under section 256B.35.

(d) When housing support pays for an individual's room and board, or other costs necessary to provide room and board, the rate payable to the residence must continue for up to 18 calendar days per incident that the person is temporarily absent from the residence, not to exceed 60 days in a calendar year, if the absence or absences ~~have received the prior approval of~~ are reported in advance to the county agency's social service staff. ~~Prior approval~~ Advance reporting is not required for emergency absences due to crisis, illness, or injury.

(e) For facilities meeting substantial change criteria within the prior year. Substantial change criteria exists if the establishment experiences a 25 percent increase or decrease in the total number of its beds, if the net cost of capital additions or improvements is in excess of 15 percent of the current market value of the residence, or if the residence physically moves, or changes its licensure, and incurs a resulting increase in operation and property costs.

(f) Until June 30, 1994, an agency may increase by up to five percent the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in residences that are licensed by the commissioner of health as a boarding care home, but are not certified for the purposes of the medical assistance program. However, an increase under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical assistance reimbursement rate for nursing home resident class A, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0051 to 9549.0058.

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Sec. 54. Minnesota Statutes 2018, section 256I.05, subdivision 1n, is amended to read:

Subd. 1n. **Supplemental rate; Mahnomen County.** Notwithstanding the provisions of this section, for the rate period July 1, 2010, to June 30, 2011, a county agency shall negotiate a supplemental service rate in addition to the rate specified in subdivision 1, not to exceed $753 per month or the existing rate, including any legislative authorized inflationary adjustments, for a ~~group residential~~ housing support provider located in Mahnomen County that operates a 28-bed facility providing 24-hour care to individuals who are homeless, disabled, chemically dependent, mentally ill, or chronically homeless.

Sec. 55. Minnesota Statutes 2018, section 256I.05, subdivision 8, is amended to read:

Subd. 8. **State participation.** For a ~~resident of a group residence~~ person who is eligible under section 256I.04, subdivision 1, paragraph (b), state participation in the ~~group residential~~ housing support payment is determined according to section 256D.03, subdivision 2. For a ~~resident of a group residence~~ person who is eligible under section 256I.04, subdivision 1, paragraph (a), state participation in the ~~group residential~~ housing support rate is determined according to section 256D.36.

Sec. 56. Minnesota Statutes 2018, section 256I.06, subdivision 2, is amended to read:

Subd. 2. **Time of payment.** A county agency may make payments in advance for an individual whose stay is expected to last beyond the calendar month for which the payment is made. Housing support payments made by a county agency on behalf of an individual who is not expected to remain in the ~~group residence~~ establishment beyond the month for which payment is made must be made subsequent to the individual's departure from the residence.

Sec. 57. Minnesota Statutes 2018, section 256I.06, is amended by adding a subdivision to read:

Subd. 10. **Correction of overpayments and underpayments.** The agency shall make an adjustment to housing support payments issued to individuals consistent with requirements of federal law and regulation and state law and rule and shall issue or recover benefits as appropriate. A recipient or former recipient is not responsible for overpayments due to agency error, unless the amount of the overpayment is large enough that a reasonable person would know it is an error.

Sec. 58. Minnesota Statutes 2018, section 256J.08, subdivision 73a, as amended by Laws 2020, chapter 115, article 4, section 131, is amended to read:

Subd. 73a. **Qualified professional.** ~~(a) For physical illness, injury, or incapacity, a "qualified professional" means a licensed physician, a physician assistant, an advanced practice registered nurse, or a licensed chiropractor.~~ "Qualified professional" means an individual as defined in section 256P.01, subdivision 6a.

~~(b) For developmental disability and intelligence testing, a "qualified professional" means an individual qualified by training and experience to administer the tests necessary to make determinations, such as tests of intellectual functioning, assessments of adaptive behavior, adaptive skills, and developmental functioning. These professionals include licensed psychologists, certified school psychologists, or certified psychometrists working under the supervision of a licensed psychologist.~~

~~(c) For learning disabilities, a "qualified professional" means a licensed psychologist or school psychologist with experience determining learning disabilities.~~

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~~(d) For mental health, a "qualified professional" means a licensed physician or a qualified mental health professional. A "qualified mental health professional" means:~~

~~(1) for children, in psychiatric nursing, a registered nurse or advanced practice registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in child and adolescent psychiatric or mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;~~

~~(2) for adults, in psychiatric nursing, a registered nurse or advanced practice registered nurse who is licensed under sections 148.171 to 148.285, and who is certified as a clinical specialist in adult psychiatric and mental health nursing by a national nurse certification organization or who has a master's degree in nursing or one of the behavioral sciences or related fields from an accredited college or university or its equivalent, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;~~

~~(3) in clinical social work, a person licensed as an independent clinical social worker under chapter 148D, or a person with a master's degree in social work from an accredited college or university, with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness;~~

~~(4) in psychology, an individual licensed by the Board of Psychology under sections 148.88 to 148.98, who has stated to the Board of Psychology competencies in the diagnosis and treatment of mental illness;~~

~~(5) in psychiatry, a physician licensed under chapter 147 and certified by the American Board of Psychiatry and Neurology or eligible for board certification in psychiatry;~~

~~(6) in marriage and family therapy, the mental health professional must be a marriage and family therapist licensed under sections 148B.29 to 148B.39, with at least two years of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness; and~~

~~(7) in licensed professional clinical counseling, the mental health professional shall be a licensed professional clinical counselor under section 148B.5301 with at least 4,000 hours of post-master's supervised experience in the delivery of clinical services in the treatment of mental illness.~~

Sec. 59. **[256K.451] MINOR CONSENT TO HOMELESS AND SEXUALLY EXPLOITED YOUTH SERVICES.**

A minor living separately from the minor's parent or legal guardian may give consent to receive homeless youth services and services for sexually exploited youth. A minor's consent to receive services does not affect a parent or legal guardian's custody of the minor.

Sec. 60. Minnesota Statutes 2018, section 256N.02, subdivision 14a, is amended to read:

Subd. 14a. **Licensed child foster parent.** "Licensed child foster parent" means ~~a person~~ an individual or family who is licensed for child foster care under Minnesota Rules, ~~parts 2960.3000 to 2960.3340~~ chapter 2960, excluding foster residence settings licensed under Minnesota Rules, parts 2960.3200 to 2960.3230, or licensed or approved by a Minnesota tribe in accordance with tribal standards with whom the foster child resides.

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EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 61. Minnesota Statutes 2018, section 256N.21, subdivision 2, is amended to read:

Subd. 2. **Placement in foster care.** To be eligible for foster care benefits under this section, the child must be in placement away from the child's legal parent, guardian, or Indian custodian as defined in section 260.755, subdivision 10, and must meet one of the criteria in clause (1) and either clause (2) or (3):

(1) the legally responsible agency must have placement authority to place the child with: (i) a voluntary placement agreement or a court order, consistent with sections 260B.198, 260C.001, and 260D.01, or consistent with section 260C.451 for a child 18 years old or older and under age 21 who maintains eligibility for foster care; or (ii) a voluntary placement agreement or court order by a Minnesota tribe that is consistent with United States Code, title 42, section 672(a)(2); and

(2) the child is placed with a licensed child foster parent who resides with the child; or

(3) the child is placed in one of the following unlicensed child foster care settings:

(i) an emergency relative placement under tribal licensing regulations or section 245A.035, with the legally responsible agency ensuring the relative completes the required child foster care application process;

(ii) a licensed adult foster home with an approved age variance under section 245A.16 for no more than six months where the license holder resides with the child;

(iii) for a child 18 years old or older and under age 21 who is eligible for extended foster care under section 260C.451, an unlicensed supervised independent living setting approved by the agency responsible for the child's care; or

(iv) a preadoptive placement in a home specified in section 245A.03, subdivision 2, paragraph (a), clause (9), with an approved adoption home study and signed adoption placement agreement.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 62. Minnesota Statutes 2018, section 256N.21, subdivision 5, is amended to read:

Subd. 5. **Excluded activities.** The basic and supplemental difficulty of care payment represents costs for activities similar in nature to those expected of parents, and does not cover services rendered by the licensed or tribally approved foster parent~~, facility,~~ or administrative costs or fees. The financially responsible agency may pay an additional fee for specific services provided by the licensed foster parent ~~or facility~~. A foster parent ~~or residence setting~~ must distinguish such a service from the daily care of the child as assessed through the process under section 256N.24.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 63. Minnesota Statutes 2018, section 256N.24, subdivision 4, is amended to read:

Subd. 4. **Extraordinary levels.** (a) The assessment tool established under subdivision 2 must provide a mechanism through which up to five levels can be added to the supplemental difficulty of care for a particular child under section 256N.26, subdivision 4. In establishing the assessment tool, the commissioner must design the tool so that the levels applicable to the portions of the assessment other than the extraordinary levels can accommodate the requirements of this subdivision.

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(b) These extraordinary levels are available when all of the following circumstances apply:

(1) the child has extraordinary needs as determined by the assessment tool provided for under subdivision 2, and the child meets other requirements established by the commissioner, such as a minimum score on the assessment tool;

(2) the child's extraordinary needs require extraordinary care and intense supervision that is provided by the child's caregiver as part of the parental duties as described in the supplemental difficulty of care rate, section 256N.02, subdivision 21. This extraordinary care provided by the caregiver is required so that the child can be safely cared for in the home and community, and prevents residential placement;

(3) the child is physically living in a foster family setting, as defined in Minnesota Rules, part 2960.3010, subpart 23, ~~in a foster residence setting,~~ or physically living in the home with the adoptive parent or relative custodian; and

(4) the child is receiving the services for which the child is eligible through medical assistance programs or other programs that provide necessary services for children with disabilities or other medical and behavioral conditions to live with the child's family, but the agency with caregiver's input has identified a specific support gap that cannot be met through home and community support waivers or other programs that are designed to provide support for children with special needs.

(c) The agency completing an assessment, under subdivision 2, that suggests an extraordinary level must document as part of the assessment, the following:

(1) the assessment tool that determined that the child's needs or disabilities require extraordinary care and intense supervision;

(2) a summary of the extraordinary care and intense supervision that is provided by the caregiver as part of the parental duties as described in the supplemental difficulty of care rate, section 256N.02, subdivision 21;

(3) confirmation that the child is currently physically residing ~~in the foster family setting or~~ in the home with the foster parent, adoptive parent, or relative custodian;

(4) the efforts of the agency, caregiver, parents, and others to request support services in the home and community that would ease the degree of parental duties provided by the caregiver for the care and supervision of the child. This would include documentation of the services provided for the child's needs or disabilities, and the services that were denied or not available from the local social service agency, community agency, the local school district, local public health department, the parent, or child's medical insurance provider;

(5) the specific support gap identified that places the child's safety and well-being at risk in the home or community and is necessary to prevent residential placement; and

(6) the extraordinary care and intense supervision provided by the foster, adoptive, or guardianship caregivers to maintain the child safely in the child's home and prevent residential placement that cannot be supported by medical assistance or other programs that provide services, necessary care for children with disabilities, or other medical or behavioral conditions in the home or community.

(d) An agency completing an assessment under subdivision 2 that suggests an extraordinary level is appropriate must forward the assessment and required documentation to the commissioner. If the commissioner approves, the extraordinary levels must be retroactive to the date the assessment was forwarded.

EFFECTIVE DATE. This section is effective September 30, 2021.

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Sec. 64. Minnesota Statutes 2018, section 256P.01, is amended by adding a subdivision to read:

Subd. 6a. **Qualified professional.** (a) For illness, injury, or incapacity, a "qualified professional" means a licensed physician, physician assistant, advanced practice registered nurse, physical therapist, occupational therapist, or licensed chiropractor, according to their scope of practice.

(b) For developmental disability, learning disability, and intelligence testing, a "qualified professional" means a licensed physician, physician assistant, advanced practice registered nurse, licensed independent clinical social worker, licensed psychologist, certified school psychologist, or certified psychometrist working under the supervision of a licensed psychologist.

(c) For mental health, a "qualified professional" means a licensed physician, advanced practice registered nurse, or qualified mental health professional under section 245.462, subdivision 18, clauses (1) to (6).

(d) For substance use disorder, a "qualified professional" means a licensed physician, a qualified mental health professional under section 245.462, subdivision 18, clauses (1) to (6), or an individual as defined in section 245G.11, subdivision 3, 4, or 5.

Sec. 65. Minnesota Statutes 2018, section 257.70, is amended to read:

257.70 HEARINGS AND RECORDS; CONFIDENTIALITY.

(a) Notwithstanding any other law concerning public hearings and records, any hearing or trial held under sections 257.51 to 257.74 shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the state Department of Human Services or elsewhere, are subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

(b) In all actions under this chapter in which public assistance is assigned under section 256.741 or the public authority provides services to a party or parties to the action, ~~notwithstanding statutory or other authorization for~~ the public authority ~~to~~ shall not release private data ~~on the location of a party to the action, information~~ on the location of ~~one~~ a party ~~may not be released by the public authority to the other party~~ to the action or the joint child if:

(1) the public authority has knowledge that one party is currently subject to a protective order with respect to the other party ~~has been entered~~ or the joint child, and the protected party or guardian of the joint child has not authorized disclosure; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to ~~the other~~ a party or the joint child.

Sec. 66. **[260.7611] COUNTY AND TRIBAL AGREEMENTS; MALTREATMENT ASSESSMENTS AND INVESTIGATIONS OF INDIAN CHILDREN.**

A tribe and a county may enter a written agreement transferring responsibility for the screening and initial response to a child maltreatment report regarding an Indian child residing in the county where the child's reservation is located, from the county to the tribe. An agreement under this subdivision shall include a provision clarifying whether the county or the tribe is responsible for ongoing case management stemming from a child maltreatment report.

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Sec. 67. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision to read:

Subd. 16a. **Family and permanency team.** "Family and permanency team" means a team consisting of the child's parent or legal custodian, relatives, foster care providers, and professionals who are resources to the child's family such as teachers, medical or mental health providers who have treated the child, or clergy, as appropriate. In the case of an Indian child, the family and permanency team includes tribal representatives, delegates, and cultural resources as identified by the child's tribe. Consistent with section 260C.212, subdivision 1, paragraph (b), if the child is age 14 or older, the team must also include two team members that the child selects who are not the child's foster parent or caseworker. The responsible social services agency may reject an individual that the child selects if the agency has good cause to believe that the individual would not act in the best interests of the child.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 68. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision to read:

Subd. 16b. **Family foster home.** "Family foster home" means the home of an individual or family who is licensed for child foster care under Minnesota Statutes, chapter 245A, meeting the standards in Minnesota Rules, chapter 2960, excluding foster residence settings licensed under Minnesota Rules, parts 2960.3000 to 2960.3200, or licensed or approved by a tribe in accordance with tribal standards with whom the foster child resides. Family foster home includes an emergency unlicensed relative placement under section 245A.035.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 69. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision to read:

Subd. 21a. **Legal authority to place the child.** "Legal authority to place the child" means that the agency has legal responsibility for the care and control of the child while the child is in foster care. The agency may have legal authority to place a child through a court order under this chapter through a voluntary placement agreement between the agency and the child's parent under section 260C.227 or, in the case of an Indian child, through tribal court.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 70. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision to read:

Subd. 25a. **Permanency plan.** "Permanency plan" means the established goal in the out-of-home placement plan that will achieve a safe, permanent home for the child. There are four permanency goals for children:

(1) reunification with the child's parent or legal guardian;

(2) placement with other relatives;

(3) adoption; or

(4) establishment of a new legal guardianship.

EFFECTIVE DATE. This section is effective September 30, 2021.

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Sec. 71. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision to read:

Subd. 26c. **Qualified individual.** "Qualified individual" means a trained culturally competent professional or licensed clinician, including a mental health professional under section 245.4871, subdivision 27, who is not an employee of the responsible social services agency and who is not connected to or affiliated with any placement setting in which a responsible social services agency has placed children.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 72. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision to read:

Subd. 26d. **Qualified residential treatment program.** "Qualified residential treatment program" means a children's residential treatment program licensed under chapter 245A or licensed or approved by a tribe that is approved to receive foster care maintenance payments under section 256.82 that:

(1) has a trauma-informed treatment model designed to address the needs of children with serious emotional or behavioral disorders or disturbances;

(2) has registered or licensed nursing staff and other licensed clinical staff who:

(i) provide care within the scope of their practice; and

(ii) are available 24 hours per day and seven days per week;

(3) is accredited by any of the following independent, nonprofit organizations: the Commission on Accreditation of Rehabilitation Facilities (CARF), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), and the Council on Accreditation (COA), or any other nonprofit accrediting organization approved by the United States Department of Health and Human Services;

(4) if it is in the child's best interests, facilitates participation of the child's family members in the child's treatment programming consistent with the child's out-of-home placement plan under sections 260C.212, subdivision 1, and 260C.708;

(5) facilitates outreach to family members of the child, including siblings;

(6) documents how the facility facilitates outreach to the child's parents and relatives, as well as documents the child's parents' and other relatives' contact information;

(7) documents how the facility includes family members in the child's treatment process, including after the child's discharge, and how the facility maintains the child's sibling connections; and

(8) provides the child and child's family with discharge planning and family-based aftercare support for at least six months after the child's discharge.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 73. Minnesota Statutes 2018, section 260C.007, is amended by adding a subdivision to read:

Subd. 27b. **Residential treatment facility.** "Residential treatment facility" means a 24-hour-a-day program that provides treatment for children with emotional disturbance, consistent with section 245.4871, subdivision 32, and includes a licensed residential program specializing in caring 24 hours a day for children with a developmental delay or related condition. A residential treatment facility does not include a psychiatric

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residential treatment facility under section 256B.0941 or a family foster home as defined in section 260C.007, subdivision 16b.

Sec. 74. Minnesota Statutes 2018, section 260C.157, subdivision 3, is amended to read:

Subd. 3. **Juvenile treatment screening team.** (a) The responsible social services agency shall establish a juvenile treatment screening team to conduct screenings ~~and prepare case plans~~ under this chapter~~, chapter 260D,~~ and section 245.487, subdivision 3~~.~~, for a child to receive treatment for an emotional disturbance, a developmental disability, or related condition in a residential treatment facility licensed by the commissioner of human services under chapter 245A, or licensed or approved by a tribe. A screening team is not required for a child to be in: (1) a residential facility specializing in prenatal, postpartum, or parenting support; (2) a facility specializing in high-quality residential care and supportive services to children and youth who are sex-trafficking victims or are at risk of becoming sex-trafficking victims; (3) supervised settings for youth 18 years old or older living independently; or (4) a licensed residential family-based treatment facility for substance abuse consistent with section 260C.190. Screenings are also not required when a child must be placed in a facility due to an emotional crisis or other mental health emergency.

(b) The responsible social services agency shall conduct screenings ~~shall be conducted~~ within 15 days of a request for a screening, unless the screening is for the purpose of ~~placement in mental health~~ residential treatment and the child is enrolled in a prepaid health program under section 256B.69, in which case the agency shall conduct the screening ~~shall be conducted~~ within ten working days of a request. The responsible social services agency shall convene the team, which may be ~~the team~~ constituted under section 245.4885 or 256B.092 or Minnesota Rules, parts 9530.6600 to 9530.6655~~,~~. The team shall consist of social workers~~, juvenile justice professionals,~~; persons with expertise in the treatment of juveniles who are emotionally disabled, chemically dependent, or have a developmental disability~~,~~; and the child's parent, guardian, or permanent legal custodian ~~under Minnesota Statutes 2010, section 260C.201, subdivision 11, or section 260C.515, subdivision 4. The team may be the same team as defined in section 260B.157, subdivision 3~~. The team may include the child's relatives as defined in section 260C.007, subdivisions 26b and 27, the child's foster care provider, and professionals who are a resource to the child's family such as teachers, medical or mental health providers, and clergy, as appropriate, consistent with the family and permanency team as defined in section 260C.007, subdivision 16a. Prior to forming the team, the responsible social services agency must consult with the child if the child is age 14 or older, the child's parents, and, if applicable, the child's tribe to ensure that the team is family-centered and will act in the child's best interest. If the child, child's parents, or legal guardians raise concerns about specific relatives or professionals, the team should not include those individuals. This provision does not apply to paragraph (c).

~~(b) The social services agency shall determine whether a child brought to its attention for the purposes described in this section is an Indian child, as defined in section 260C.007, subdivision 21, and shall determine the identity of the Indian child's tribe, as defined in section 260.755, subdivision 9. When a child to be evaluated~~ (c) If the agency provides notice to tribes under section 260.761, and the child screened is an Indian child, the ~~team provided in paragraph (a) shall include~~ responsible social services agency must make a rigorous and concerted effort to include a designated representative of the Indian child's tribe on the juvenile treatment screening team, unless the child's tribal authority declines to appoint a representative. The Indian child's tribe may delegate its authority to represent the child to any other federally recognized Indian tribe, as defined in section 260.755, subdivision 12. The provisions of the Indian Child Welfare Act of 1978, United States Code, title 25, sections 1901 to 1963, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835, apply to this section.

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~~(c)~~ (d) If the court, prior to, or as part of, a final disposition or other court order, proposes to place a child~~:~~ with an emotional disturbance or developmental disability or related condition in residential treatment, the responsible social services agency must conduct a screening. If the team recommends treating the child in a qualified residential treatment program, the agency must follow the requirements of sections 260C.70 to 260C.714.

~~(1) for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency in a residential treatment facility out of state or in one which is within the state and licensed by the commissioner of human services under chapter 245A; or~~

~~(2) in any out-of-home setting potentially exceeding 30 days in duration, including a postdispositional placement in a facility licensed by the commissioner of corrections or human services,~~ The court shall ascertain whether the child is an Indian child and shall notify the ~~county welfare agency~~ responsible social services agency and, if the child is an Indian child, shall notify the Indian child's tribe~~. The county's juvenile treatment screening team must either: (i) screen and evaluate the child and file its recommendations with the court within 14 days of receipt of the notice; or (ii) elect not to screen a given case and notify the court of that decision within three working days~~ as paragraph (c) requires.

~~(d) The child may not be placed for the primary purpose of treatment for an emotional disturbance, a developmental disability, or chemical dependency, in a residential treatment facility out of state nor in a residential treatment facility within the state that is licensed under chapter 245A, unless one of the following conditions applies:~~

~~(1) a treatment professional certifies that an emergency requires the placement of the child in a facility within the state;~~

~~(2) the screening team has evaluated the child and recommended that a residential placement is necessary to meet the child's treatment needs and the safety needs of the community, that it is a cost-effective means of meeting the treatment needs, and that it will be of therapeutic value to the child; or~~

~~(3) the court, having reviewed a screening team recommendation against placement, determines to the contrary that a residential placement is necessary. The court shall state the reasons for its determination in writing, on the record, and shall respond specifically to the findings and recommendation of the screening team in explaining why the recommendation was rejected. The attorney representing the child and the prosecuting attorney shall be afforded an opportunity to be heard on the matter.~~

~~(e) When the county's juvenile treatment screening team has elected to screen and evaluate a child determined to be an Indian child, the team shall provide notice to the tribe or tribes that accept jurisdiction for the Indian child or that recognize the child as a member of the tribe or as a person eligible for membership in the tribe, and permit the tribe's representative to participate in the screening team.~~

(e) When the responsible social services agency is responsible for placing and caring for the child and the screening team recommends placing a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, the agency must: (1) begin the assessment and processes required in section 260C.704 without delay; and (2) conduct a relative search according to section 260C.221 to assemble the child's family and permanency team under section 260C.706. Prior to notifying relatives regarding the family and permanency team, the responsible social services agency must consult with the child if the child is age 14 or older, the child's parents and, if applicable, the child's tribe to ensure that the agency is providing notice to individuals who will act in the child's best interest. The child and the child's parents may identify a culturally competent qualified individual to complete the child's assessment. The agency shall make efforts

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to refer the assessment to the identified qualified individual. The assessment may not be delayed for the purpose of having the assessment completed by a specific qualified individual.

(f) When a screening team determines that a child does not need treatment in a qualified residential treatment program, the screening team must:

(1) document the services and supports that will prevent the child's foster care placement and will support the child remaining at home;

(2) document the services and supports that the agency will arrange to place the child in a family foster home; or

(3) document the services and supports that the agency has provided in any other setting.

~~(f)~~ (g) When the Indian child's tribe or tribal health care services provider or Indian Health Services provider proposes to place a child for the primary purpose of treatment for an emotional disturbance, a developmental disability, or co-occurring emotional disturbance and chemical dependency, the Indian child's tribe or the tribe delegated by the child's tribe shall submit necessary documentation to the county juvenile treatment screening team, which must invite the Indian child's tribe to designate a representative to the screening team.

(h) The responsible social services agency must conduct and document the screening in a format approved by the commissioner of human services.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 75. Minnesota Statutes 2018, section 260C.202, is amended to read:

260C.202 COURT REVIEW OF FOSTER CARE.

(a) If the court orders a child placed in foster care, the court shall review the out-of-home placement plan and the child's placement at least every 90 days as required in juvenile court rules to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. This review is not required if the court has returned the child home, ordered the child permanently placed away from the parent under sections 260C.503 to 260C.521, or terminated rights under section 260C.301. Court review for a child permanently placed away from a parent, including where the child is under guardianship of the commissioner, shall be governed by section 260C.607. When a child is placed in a qualified residential treatment program setting as defined in section 260C.007, subdivision 26d, the responsible social services agency must submit evidence to the court as specified in section 260C.712.

(b) No later than three months after the child's placement in foster care, the court shall review agency efforts pursuant to section 260C.221, and order that the efforts continue if the agency has failed to perform the duties under that section. The court must order the agency to continue to appropriately engage relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to engage other relatives who came to the agency's attention after notice under section 260C.221 was sent.

(c) The court shall review the out-of-home placement plan and may modify the plan as provided under section 260C.201, subdivisions 6 and 7.

(d) When the court orders transfer of custody to a responsible social services agency resulting in foster care or protective supervision with a noncustodial parent under subdivision 1, the court shall notify the

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parents of the provisions of sections 260C.204 and 260C.503 to 260C.521, as required under juvenile court rules.

(e) When a child remains in or returns to foster care pursuant to section 260C.451 and the court has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the court shall at least annually conduct the review required under section 260C.203.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 76. Minnesota Statutes 2018, section 260C.204, is amended to read:

260C.204 PERMANENCY PROGRESS REVIEW FOR CHILDREN IN FOSTER CARE FOR SIX MONTHS.

(a) When a child continues in placement out of the home of the parent or guardian from whom the child was removed, no later than six months after the child's placement the court shall conduct a permanency progress hearing to review:

(1) the progress of the case, the parent's progress on the case plan or out-of-home placement plan, whichever is applicable;

(2) the agency's reasonable, or in the case of an Indian child, active efforts for reunification and its provision of services;

(3) the agency's reasonable efforts to finalize the permanent plan for the child under section 260.012, paragraph (e), and to make a placement as required under section 260C.212, subdivision 2, in a home that will commit to being the legally permanent family for the child in the event the child cannot return home according to the timelines in this section; and

(4) in the case of an Indian child, active efforts to prevent the breakup of the Indian family and to make a placement according to the placement preferences under United States Code, title 25, chapter 21, section 1915.

(b) When a child is placed in a qualified residential treatment program setting as defined in section 260C.007, subdivision 26d, the responsible social services agency must submit evidence to the court as specified in section 260C.712.

~~(b)~~ (c) The court shall ensure that notice of the hearing is sent to any relative who:

(1) responded to the agency's notice provided under section 260C.221, indicating an interest in participating in planning for the child or being a permanency resource for the child and who has kept the court apprised of the relative's address; or

(2) asked to be notified of court proceedings regarding the child as is permitted in section 260C.152, subdivision 5.

~~(c)(1)~~ (d)(1) If the parent or guardian has maintained contact with the child and is complying with the court-ordered out-of-home placement plan, and if the child would benefit from reunification with the parent, the court may either:

(i) return the child home, if the conditions which led to the out-of-home placement have been sufficiently mitigated that it is safe and in the child's best interests to return home; or

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(ii) continue the matter up to a total of six additional months. If the child has not returned home by the end of the additional six months, the court must conduct a hearing according to sections 260C.503 to 260C.521.

(2) If the court determines that the parent or guardian is not complying with the out-of-home placement plan or is not maintaining regular contact with the child as outlined in the visitation plan required as part of the out-of-home placement plan under section 260C.212, the court may order the responsible social services agency:

(i) to develop a plan for legally permanent placement of the child away from the parent;

(ii) to consider, identify, recruit, and support one or more permanency resources from the child's relatives and foster parent to be the legally permanent home in the event the child cannot be returned to the parent. Any relative or the child's foster parent may ask the court to order the agency to consider them for permanent placement of the child in the event the child cannot be returned to the parent. A relative or foster parent who wants to be considered under this item shall cooperate with the background study required under section 245C.08, if the individual has not already done so, and with the home study process required under chapter 245A for providing child foster care and for adoption under section 259.41. The home study referred to in this item shall be a single-home study in the form required by the commissioner of human services or similar study required by the individual's state of residence when the subject of the study is not a resident of Minnesota. The court may order the responsible social services agency to make a referral under the Interstate Compact on the Placement of Children when necessary to obtain a home study for an individual who wants to be considered for transfer of permanent legal and physical custody or adoption of the child; and

(iii) to file a petition to support an order for the legally permanent placement plan.

~~(d)~~ (e) Following the review under this section:

(1) if the court has either returned the child home or continued the matter up to a total of six additional months, the agency shall continue to provide services to support the child's return home or to make reasonable efforts to achieve reunification of the child and the parent as ordered by the court under an approved case plan;

(2) if the court orders the agency to develop a plan for the transfer of permanent legal and physical custody of the child to a relative, a petition supporting the plan shall be filed in juvenile court within 30 days of the hearing required under this section and a trial on the petition held within 60 days of the filing of the pleadings; or

(3) if the court orders the agency to file a termination of parental rights, unless the county attorney can show cause why a termination of parental rights petition should not be filed, a petition for termination of parental rights shall be filed in juvenile court within 30 days of the hearing required under this section and a trial on the petition held within 60 days of the filing of the petition.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 77. Minnesota Statutes 2018, 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 foster care by court order or a voluntary placement agreement between the responsible social services agency and the child's parent pursuant to section 260C.227 or chapter 260D.

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(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 the child is an Indian child, the child's foster parent or representative of the foster care facility, and, where appropriate, the child. When a child is age 14 or older, the child may include two other individuals on the team preparing the child's out-of-home placement plan. The child may select one member of the case planning team to be designated as the child's advisor and to advocate with respect to the application of the reasonable and prudent parenting standards. The responsible social services agency may reject an individual selected by the child if the agency has good cause to believe that the individual would not act in the best interest of the child. For a child in voluntary foster care for treatment under chapter 260D, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. For a child 18 years of age or older, the responsible social services agency shall involve the child and the child's parents as appropriate. 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 foster care home or facility selected, 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 foster care, 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 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;

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(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 26b or 27, and siblings of the child if the siblings are not placed together in foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in foster care;

(6) when a child cannot return to or be in the care of either parent, documentation of steps to finalize adoption as the permanency plan for the child through reasonable efforts to place the child for adoption. At a minimum, the documentation must include consideration of whether adoption is in the best interests of the child, child-specific recruitment efforts such as relative search and the use of state, regional, and national adoption exchanges to facilitate orderly and timely placements in and outside of the state. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

(7) when a child cannot return to or be in the care of either parent, documentation of steps to finalize the transfer of permanent legal and physical custody to a relative as the permanency plan for the child. This documentation must support the requirements of the kinship placement agreement under section 256N.22 and must include the reasonable efforts used to determine that it is not appropriate for the child to return home or be adopted, and reasons why permanent placement with a relative through a Northstar kinship assistance arrangement is in the child's best interest; how the child meets the eligibility requirements for Northstar kinship assistance payments; agency efforts to discuss adoption with the child's relative foster parent and reasons why the relative foster parent chose not to pursue adoption, if applicable; and agency efforts to discuss with the child's parent or parents the permanent transfer of permanent legal and physical custody or the reasons why these efforts were not made;

(8) efforts to ensure the child's educational stability while in foster care for a child who attained the minimum age for compulsory school attendance under state law and is enrolled full time in elementary or secondary school, or instructed in elementary or secondary education at home, or instructed in an independent study elementary or secondary program, or incapable of attending school on a full-time basis due to a medical condition that is documented and supported by regularly updated information in the child's case plan. Educational stability efforts include:

(i) efforts to ensure that the child remains in the same school in which the child was enrolled prior to placement or upon the child's move from one placement to another, including efforts to work with the local education authorities to ensure the child's educational stability and attendance; or

(ii) if it is not in the child's best interest to remain in the same school that the child was enrolled in prior to placement or move from one placement to another, efforts to ensure immediate and appropriate enrollment for the child in a new school;

(9) the educational records of the child including the most recent information available regarding:

(i) the names and addresses of the child's educational providers;

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) a statement about how 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; and

(v) any other relevant educational information;

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(10) the efforts by the responsible social services agency to ensure the oversight and continuity of health care services for the foster child, including:

(i) the plan to schedule the child's initial health screens;

(ii) how the child's known medical problems and identified needs from the screens, including any known communicable diseases, as defined in section 144.4172, subdivision 2, shall be monitored and treated while the child is in foster care;

(iii) how the child's medical information shall be updated and shared, including the child's immunizations;

(iv) who is responsible to coordinate and respond to the child's health care needs, including the role of the parent, the agency, and the foster parent;

(v) who is responsible for oversight of the child's prescription medications;

(vi) how physicians or other appropriate medical and nonmedical professionals shall be consulted and involved in assessing the health and well-being of the child and determine the appropriate medical treatment for the child; and

(vii) the responsibility to ensure that the child has access to medical care through either medical insurance or medical assistance;

(11) the health records of the child including information available regarding:

(i) the names and addresses of the child's health care and dental care providers;

(ii) a record of the child's immunizations;

(iii) the child's known medical problems, including any known communicable diseases as defined in section 144.4172, subdivision 2;

(iv) the child's medications; and

(v) any other relevant health care information such as the child's eligibility for medical insurance or medical assistance;

(12) an independent living plan for a child 14 years of age or older, developed in consultation with the child. The child may select one member of the case planning team to be designated as the child's advisor and to advocate with respect to the application of the reasonable and prudent parenting standards in subdivision 14. 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, including the responsibility of the responsible social services agency to ensure that the child annually receives, at no cost to the child, a consumer report as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report;

(v) planning for housing;

(vi) social and recreational skills;

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(vii) establishing and maintaining connections with the child's family and community; and

(viii) regular opportunities to engage in age-appropriate or developmentally appropriate activities typical for the child's age group, taking into consideration the capacities of the individual child;

(13) for a child in voluntary foster care for treatment under chapter 260D, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes; ~~and~~

(14) for a child 14 years of age or older, a signed acknowledgment that describes the child's rights regarding education, health care, visitation, safety and protection from exploitation, and court participation; receipt of the documents identified in section 260C.452; and receipt of an annual credit report. The acknowledgment shall state that the rights were explained in an age-appropriate manner to the child~~.~~; and

(15) for a child placed in a qualified residential treatment program, the plan must include the requirements in section 260C.708.

(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 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.

Upon discharge from foster care, the parent, adoptive parent, or permanent legal and physical custodian, as appropriate, and the child, if appropriate, must be provided with a current copy of the child's health and education record.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 78. Minnesota Statutes 2018, section 260C.212, is amended by adding a subdivision to read:

Subd. 1a. **Out-of-home placement plan update.** (a) Within 30 days of placing the child in foster care, the agency must file the initial out-of-home placement plan with the court. After filing the initial out-of-home placement plan, the agency shall update and file the out-of-home placement plan with the court as follows:

(1) when the agency moves a child to a different foster care setting, the agency shall inform the court within 30 days of the placement change or court-ordered trial home visit. The agency must file the updated out-of-home placement plan with the court at the next required review hearing;

(2) when the agency places a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, or moves a child from one qualified residential treatment program to a different qualified residential treatment program, the agency must update the out-of-home placement plan within 60 days. To meet the requirements of 260C.708, the agency must file the out-of-home placement plan with the court as part of the 60-day hearing and must update the plan after the court hearing to document the court's approval or disapproval of the child's placement in a qualified residential treatment program;

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(3) when the agency places a child with the child's parent in a licensed residential family-based substance use disorder treatment program under section 260C.190, the agency must identify the treatment program in the child's out-of-home placement plan prior to the child's placement. The agency must file the out-of-home placement plan with the court at the next required review hearing; and

(4) under sections 260C.227 and 260C.521, the agency must update the out-of-home placement plan and file the plan with the court.

(b) When none of the items in paragraph (a) apply, the agency must update the out-of-home placement plan no later than 180 days after the child's initial placement and every six months thereafter, consistent with section 260C.203, paragraph (a).

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 79. Minnesota Statutes 2019 Supplement, section 260C.212, subdivision 2, is amended to read:

Subd. 2. **Placement decisions based on best interests of the child.** (a) The policy of the state of Minnesota is to ensure that the child's best interests are met by requiring an individualized determination of the needs of the child and of how the selected placement will serve the needs of the child being placed. The authorized child-placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by considering placement with relatives and important friends in the following order:

(1) with an individual who is related to the child by blood, marriage, or adoption; or

(2) with an individual who is an important friend with whom the child has resided or had significant contact.

For an Indian child, the agency shall follow the order of placement preferences in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915.

(b) Among the factors the agency shall consider in determining the needs of the child are the following:

(1) the child's current functioning and behaviors;

(2) the medical needs of the child;

(3) the educational needs of the child;

(4) the developmental needs of the child;

(5) the child's history and past experience;

(6) the child's religious and cultural needs;

(7) the child's connection with a community, school, and faith community;

(8) the child's interests and talents;

(9) the child's relationship to current caretakers, parents, siblings, and relatives;

(10) the reasonable preference of the child, if the court, or the child-placing agency in the case of a voluntary placement, deems the child to be of sufficient age to express preferences; and

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(11) for an Indian child, the best interests of an Indian child as defined in section 260.755, subdivision 2a.

(c) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

(d) Siblings should be placed together for foster care and adoption at the earliest possible time unless it is documented that a joint placement would be contrary to the safety or well-being of any of the siblings or unless it is not possible after reasonable efforts by the responsible social services agency. In cases where siblings cannot be placed together, the agency is required to provide frequent visitation or other ongoing interaction between siblings unless the agency documents that the interaction would be contrary to the safety or well-being of any of the siblings.

(e) Except for emergency placement as provided for in section 245A.035, the following requirements must be satisfied before the approval of a foster or adoptive placement in a related or unrelated home: (1) a completed background study under section 245C.08; and (2) a completed review of the written home study required under section 260C.215, subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective foster or adoptive parent to ensure the placement will meet the needs of the individual child.

(f) The agency must determine whether colocation with a parent who is receiving services in a licensed residential family-based substance use disorder treatment program is in the child's best interests according to paragraph (b) and include that determination in the child's case plan under subdivision 1. The agency may consider additional factors not identified in paragraph (b). The agency's determination must be documented in the child's case plan before the child is colocated with a parent.

(g) The agency must establish a juvenile treatment screening team under section 260C.157 to determine whether it is necessary and appropriate to recommend placing a child in a qualified residential treatment program, as defined in section 260C.007, subdivision 26d.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 80. Minnesota Statutes 2018, section 260C.212, subdivision 4a, is amended to read:

Subd. 4a. **Monthly caseworker visits.** (a) Every child in foster care or on a trial home visit shall be visited by the child's caseworker or another person who has responsibility for visitation of the child on a monthly basis, with the majority of visits occurring in the child's residence. The responsible social services agency may designate another person responsible for monthly case visits. For the purposes of this section, the following definitions apply:

(1) "visit" is defined as a face-to-face contact between a child and the child's caseworker;

(2) "visited on a monthly basis" is defined as at least one visit per calendar month;

(3) "the child's caseworker" is defined as the person who has responsibility for managing the child's foster care placement case as assigned by the responsible social ~~service~~ services agency; ~~and~~

(4) "another person" means the professional staff whom the responsible social services agency has assigned in the out-of-home placement plan or case plan. Another person must be professionally trained to assess the child's safety, permanency, well-being, and case progress. The agency may not designate the guardian ad litem, the child foster care provider, residential facility staff, or a qualified individual as defined in section 260C.007, subdivision 26b, as another person; and

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~~(4)~~ (5) "the child's residence" is defined as the home where the child is residing, and can include the foster home, child care institution, or the home from which the child was removed if the child is on a trial home visit.

(b) Caseworker visits shall be of sufficient substance and duration to address issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the child, including whether the child is enrolled and attending school as required by law.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 81. Minnesota Statutes 2018, section 260C.227, is amended to read:

260C.227 VOLUNTARY FOSTER CARE; REQUIRED COURT REVIEW.

(a) When the responsible social services agency and the child's parent or guardian agree that the child's safety, health, and best interests require that the child be in foster care, the agency and the parent or guardian may enter into a voluntary agreement for the placement of the child in foster care. The voluntary agreement must be in writing and in a form approved by the commissioner.

(b) When the child has been placed in foster care pursuant to a voluntary foster care agreement between the agency and the parent, under this section and the child is not returned home within 90 days after initial placement in foster care, the agency responsible for the child's placement in foster care shall:

(1) return the child to the home of the parent or parents; or

(2) file a petition according to section 260C.141, subdivision 1 or 2, which may:

(i) ask the court to review the child's placement in foster care and approve it as continued voluntary foster care for up to an additional 90 days;

(ii) ask the court to order continued foster care according to sections 260C.178 and 260C.201; or

(iii) ask the court to terminate parental rights under section 260C.301.

(3) The out-of-home placement plan must be updated and filed along with the petition.

(c) If the court approves continuing the child in foster care for up to 90 more days on a voluntary basis, at the end of the court-approved 90-day period, the child must be returned to the parent's home. If the child is not returned home, the responsible social services agency must proceed on the petition filed alleging the child in need of protection or services or the petition for termination of parental rights or other permanent placement of the child away from the parent. The court must find a statutory basis to order the placement of the child under section 260C.178; 260C.201; 260C.503 to 260C.521; or 260C.317.

(d) If the child is placed in a qualified residential treatment program, the placement must follow the requirements of sections 260C.70 to 260C.714.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 82. Minnesota Statutes 2018, section 260C.4412, is amended to read:

260C.4412 PAYMENT FOR RESIDENTIAL PLACEMENTS.

(a) When a child is placed in a foster care group residential setting under Minnesota Rules, parts 2960.0020 to 2960.0710, a foster residence licensed under chapter 245A that meets the standards of Minnesota

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Rules, parts 2960.3200 to 2960.3230, or a children's residential facility licensed or approved by a tribe, foster care maintenance payments must be made on behalf of the child to cover the cost of providing food, clothing, shelter, daily supervision, school supplies, child's personal incidentals and supports, reasonable travel for visitation, or other transportation needs associated with the items listed. Daily supervision in the group residential setting includes routine day-to-day direction and arrangements to ensure the well-being and safety of the child. It may also include reasonable costs of administration and operation of the facility.

(b) The commissioner of human services shall specify the title IV-E administrative procedures under section 256.82 for each of the following residential program settings:

(1) residential programs licensed under chapter 245A or licensed by a tribe, including:

(i) qualified residential treatment programs as defined in section 260C.007, subdivision 26d;

(ii) program settings specializing in providing prenatal, postpartum, or parenting supports for youth; and

(iii) program settings providing high-quality residential care and supportive services to children and youth who are, or are at risk of becoming, sex trafficking victims;

(2) licensed residential family-based substance use disorder treatment programs as defined in section 260C.007, subdivision 22a; and

(3) supervised settings in which a foster child age 18 or older may live independently, consistent with section 260C.451.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 83. Minnesota Statutes 2018, section 260C.503, is amended by adding a subdivision to read:

Subd. 4. **Qualified residential treatment program; permanency hearing requirements.** When a child is placed in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, the responsible social services agency must submit evidence to the court as specified in section 260C.712.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 84. **[260C.70] CITATION.**

Sections 260C.70 to 260C.714 may be cited as "Placements in Qualified Residential Treatment Programs." Sections 260C.70 to 260C.714 implement the requirements of the Family First Prevention Services Act of 2018, Public Law 115-123, and apply to children for whom the juvenile treatment screening team under section 260C.157, subdivision 3, recommends placement in a qualified residential treatment program.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 85. **[260C.702] REQUIREMENTS FOR PLACEMENTS IN QUALIFIED RESIDENTIAL TREATMENT PROGRAMS.**

For the responsible social services agency to place a child in a qualified residential treatment program, there must be:

(1) an assessment by a qualified individual of whether it is necessary and appropriate to place the child at a qualified residential treatment program under section 260C.704;

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(2) a family and permanency team under section 260C.706;

(3) an out-of-home placement plan under section 260C.708;

(4) court approval of a child's placement in a qualified residential treatment program under section 260C.71;

(5) ongoing reviews and permanency hearings under section 260C.712; and

(6) a court review of any extended placement of the child in a qualified residential treatment program under section 260C.714.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 86. **[260C.704] REQUIREMENTS FOR THE QUALIFIED INDIVIDUAL'S ASSESSMENT OF THE CHILD FOR PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM.**

(a) A qualified individual must complete an assessment of the child prior to or within 30 days of the child's placement in a qualified residential treatment program in a format approved by the commissioner of human services, and must:

(1) assess the child's needs and strengths, using an age-appropriate, evidence-based, validated, functional assessment approved by the commissioner of human services;

(2) determine whether the child's needs can be met by the child's family members or through placement in a family foster home; or, if not, determine which residential setting would provide the child with the most effective and appropriate level of care to the child in the least restrictive environment;

(3) develop a list of short- and long-term mental and behavioral health goals for the child; and

(4) work with the child's family and permanency team using culturally competent practices.

(b) The child and the child's parents, when appropriate, may request that a specific culturally competent qualified individual complete the child's assessment. The agency shall make efforts to refer the child to the identified qualified individual to complete the assessment. The assessment must not be delayed for a specific qualified individual to complete the assessment.

(c) The qualified individual must provide the assessment, when complete, to the responsible social services agency, the child's parents or legal guardians, the guardian ad litem, and the court as required in section 260C.71. If court rules and chapter 13 permit disclosure of the results of the child's assessment, the agency may share the results of the child's assessment with the child's foster care provider, other members of the child's family, and the family and permanency team. The agency must not share the child's private medical data with the family and permanency team unless: (1) chapter 13 permits the agency to disclose the child's private medical data to the family and permanency team; or (2) the child's parent has authorized the agency to disclose the child's private medical data to the family and permanency team.

(d) For an Indian child, the assessment of the child must follow the order of placement preferences in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915.

(e) In the assessment determination, the qualified individual must specify in writing:

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(1) the reasons why the child's needs cannot be met by the child's family or in a family foster home. A shortage of family foster homes is not an acceptable reason for determining that a family foster home cannot meet a child's needs;

(2) why the recommended placement in a qualified residential treatment program will provide the child with the most effective and appropriate level of care to meet the child's needs in the least restrictive environment possible and how placing the child at the treatment program is consistent with the short-term and long-term goals of the child's permanency plan; and

(3) if the qualified individual's placement recommendation is not the placement setting that the parent, family and permanency team, child, or tribe prefer, the qualified individual must identify the reasons why the qualified individual does not recommend the parent's, family and permanency team's, child's, or tribe's placement preferences. The out-of-home placement plan under section 260C.708 must also include reasons why the qualified individual did not recommend the preferences of the parents, family and permanency team, child, or tribe.

(f) If the qualified individual determines that the child's family or a family foster home or other less restrictive placement may meet the child's needs, the agency must move the child out of the qualified residential treatment program and transition the child to a less restrictive setting within 30 days of the determination.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 87. **[260C.706] FAMILY AND PERMANENCY TEAM REQUIREMENTS.**

(a) When the responsible social services agency's juvenile treatment screening team, as defined in section 260C.157, recommends placing the child in a qualified residential treatment program, the agency must assemble a family and permanency team within ten days.

(1) The team must include all appropriate biological family members, the child's parents, legal guardians or custodians, foster care providers, and relatives as defined in section 260C.007, subdivisions 26c and 27, and professionals, as appropriate, who are a resource to the child's family, such as teachers, medical or mental health providers, or clergy.

(2) When a child is placed in foster care prior to the qualified residential treatment program, the agency shall include relatives responding to the relative search notice as required under section 260C.221 on this team, unless the juvenile court finds that contacting a specific relative would endanger the parent, guardian, child, sibling, or any other family member.

(3) When a qualified residential treatment program is the child's initial placement setting, the responsible social services agency must engage with the child and the child's parents to determine the appropriate family and permanency team members.

(4) When the permanency goal is to reunify the child with the child's parent or legal guardian, the purpose of the relative search and focus of the family and permanency team is to preserve family relationships and identify and develop supports for the child and parents.

(5) The responsible agency must make a good faith effort to identify and assemble all appropriate individuals to be part of the child's family and permanency team and request input from the parents regarding relative search efforts consistent with section 260C.221. The out-of-home placement plan in section 260C.708

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must include all contact information for the team members, as well as contact information for family members or relatives who are not a part of the family and permanency team.

(6) If the child is age 14 or older, the team must include members of the family and permanency team that the child selects in accordance with section 260C.212, subdivision 1, paragraph (b).

(7) Consistent with section 260C.221, a responsible social services agency may disclose relevant and appropriate private data about the child to relatives in order for the relatives to participate in caring and planning for the child's placement.

(8) If the child is an Indian child under section 260.751, the responsible social services agency must make active efforts to include the child's tribal representative on the family and permanency team.

(b) The family and permanency team shall meet regarding the assessment required under section 260C.704 to determine whether it is necessary and appropriate to place the child in a qualified residential treatment program and to participate in case planning under section 260C.708.

(c) When reunification of the child with the child's parent or legal guardian is the permanency plan, the family and permanency team shall support the parent-child relationship by recognizing the parent's legal authority, consulting with the parent regarding ongoing planning for the child, and assisting the parent with visiting and contacting the child.

(d) When the agency's permanency plan is to transfer the child's permanent legal and physical custody to a relative or for the child's adoption, the team shall:

(1) coordinate with the proposed guardian to provide the child with educational services, medical care, and dental care;

(2) coordinate with the proposed guardian, the agency, and the foster care facility to meet the child's treatment needs after the child is placed in a permanent placement with the proposed guardian;

(3) plan to meet the child's need for safety, stability, and connection with the child's family and community after the child is placed in a permanent placement with the proposed guardian; and

(4) in the case of an Indian child, communicate with the child's tribe to identify necessary and appropriate services for the child, transition planning for the child, the child's treatment needs, and how to maintain the child's connections to the child's community, family, and tribe.

(e) The agency shall invite the family and permanency team to participate in case planning and the agency shall give the team notice of court reviews under sections 260C.152 and 260C.221 until: (1) the child is reunited with the child's parents; or (2) the child's foster care placement ends and the child is in a permanent placement.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 88. **[260C.708] OUT-OF-HOME PLACEMENT PLAN FOR QUALIFIED RESIDENTIAL TREATMENT PROGRAM PLACEMENTS.**

(a) When the responsible social services agency places a child in a qualified residential treatment program as defined in section 260C.007, subdivision 26d, the out-of-home placement plan must include:

(1) the case plan requirements in section 260.212, subdivision 1;

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(2) the reasonable and good faith efforts of the responsible social services agency to identify and include all of the individuals required to be on the child's family and permanency team under section 260C.007;

(3) all contact information for members of the child's family and permanency team and for other relatives who are not part of the family and permanency team;

(4) evidence that the agency scheduled meetings of the family and permanency team, including meetings relating to the assessment required under section 260C.704, at a time and place convenient for the family;

(5) when reunification of the child with the child's parent or legal guardian is the agency's goal, evidence demonstrating that the parent or legal guardian provided input about the members of the family and permanency team under section 260C.706;

(6) when the agency's permanency goal is to reunify the child with the child's parent or legal guardian, the out-of-home placement plan must identify services and supports that maintain the parent-child relationship and the parent's legal authority, decision-making, and responsibility for ongoing planning for the child. In addition, the agency must assist the parent with visiting and contacting the child;

(7) when the agency's permanency goal is to transfer permanent legal and physical custody of the child to a proposed guardian or to finalize the child's adoption, the case plan must document the agency's steps to transfer permanent legal and physical custody of the child or finalize adoption, as required in section 260C.212, subdivision 1, paragraph (c), clauses (6) and (7); and

(8) the qualified individual's recommendation regarding the child's placement in a qualified residential treatment program and the court approval or disapproval of the placement as required in section 260C.71.

(b) If the placement preferences of the family and permanency team, child, and tribe, if applicable, are not consistent with the placement setting that the qualified individual recommends, the case plan must include the reasons why the qualified individual did not recommend following the preferences of the family and permanency team, child, and the tribe.

(c) The agency must file the out-of-home placement plan with the court as part of the 60-day hearing under section 260C.71.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 89. **[260C.71] COURT APPROVAL REQUIREMENTS.**

(a) Within 60 days from the beginning of each placement in a qualified residential treatment program, the court must:

(1) consider the qualified individual's assessment of whether it is necessary and appropriate to place the child in a qualified residential treatment program under section 260C.704;

(2) determine whether a family foster home can meet the child's needs, whether it is necessary and appropriate to place a child in a qualified residential treatment program that is the least restrictive environment possible, and whether the child's placement is consistent with the child's short and long term goals as specified in the permanency plan; and

(3) approve or disapprove of the child's placement.

(b) In the out-of-home placement plan, the agency must document the court's approval or disapproval of the placement, as specified in section 260C.708.

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EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 90. **[260C.712] ONGOING REVIEWS AND PERMANENCY HEARING REQUIREMENTS.**

As long as a child remains placed in a qualified residential treatment program, the responsible social services agency shall submit evidence at each administrative review under section 260C.203; each court review under sections 260C.202, 260C.203, and 260C.204; and each permanency hearing under section 260C.515, 260C.519, or 260C.521, that:

(1) demonstrates that an ongoing assessment of the strengths and needs of the child continues to support the determination that the child's needs cannot be met through placement in a family foster home;

(2) demonstrates that the placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment;

(3) demonstrates how the placement is consistent with the short-term and long-term goals for the child, as specified in the child's permanency plan;

(4) documents how the child's specific treatment or service needs will be met in the placement;

(5) documents the length of time that the agency expects the child to need treatment or services; and

(6) documents the responsible social services agency's efforts to prepare the child to return home or to be placed with a fit and willing relative, legal guardian, adoptive parent, or foster family.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 91. **[260C.714] REVIEW OF EXTENDED QUALIFIED RESIDENTIAL TREATMENT PROGRAM PLACEMENTS.**

(a) When a responsible social services agency places a child in a qualified residential treatment program for more than 12 consecutive months or 18 nonconsecutive months or, in the case of a child who is under 13 years of age, for more than six consecutive or nonconsecutive months, the agency must submit: (1) the signed approval by the county social services director of the responsible social services agency; and (2) the evidence supporting the child's placement at the most recent court review or permanency hearing under section 260C.712, paragraph (b).

(b) The commissioner shall specify the procedures and requirements for the agency's review and approval of a child's extended qualified residential treatment program placement. The commissioner may consult with counties, tribes, child-placing agencies, mental health providers, licensed facilities, the child, the child's parents, and the family and permanency team members to develop case plan requirements and engage in periodic reviews of the case plan.

EFFECTIVE DATE. This section is effective September 30, 2021.

Sec. 92. Minnesota Statutes 2018, section 518.005, subdivision 5, is amended to read:

Subd. 5. **Prohibited disclosure.** In all proceedings under this chapter and chapter 518A in which public assistance is assigned under section 256.741 or the public authority provides services to a party or parties to the proceedings, ~~notwithstanding statutory or other authorization for~~ the public authority ~~to~~ shall not release private data on the location of a party to the action, ~~information on the location of one party may not be released by the public authority to the other party~~ or the joint child if:

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(1) the public authority has knowledge that one party is currently subject to a protective order with respect to the other party ~~has been entered~~ or the joint child, and the protected party or guardian of the joint child has not authorized disclosure; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to ~~the other~~ a party or the joint child.

Sec. 93. Minnesota Statutes 2018, section 518A.53, subdivision 11, is amended to read:

Subd. 11. **Lump-sum payments.** Before transmittal to the obligor of a lump-sum payment of $500 or more including, but not limited to, severance pay, accumulated sick pay, vacation pay, bonuses, commissions, or other pay or benefits, a payor of funds:

(1) who has been served with an order for or notice of income withholding under this section shall:

(i) notify the public authority of the lump-sum payment that is to be paid to the obligor;

(ii) hold the lump-sum payment for 30 days after the date on which the lump-sum payment would otherwise have been paid to the obligor, notwithstanding sections 176.221, 176.225, 176.521, 181.08, 181.101, 181.11, 181.13, and 181.145; and

(iii) upon order of the court, and after a showing of past willful nonpayment of support, pay any specified amount of the lump-sum payment to the public authority for future support; or

(2) shall pay the lessor of the amount of the lump-sum payment or the total amount of the judgment and arrearages upon service by United States mail of a sworn affidavit from the public authority or a court order that includes the following information:

(i) that a judgment entered pursuant to section 548.091, subdivision 1a, exists against the obligor, or that other support arrearages exist;

(ii) the current balance of the judgment or arrearage; and

(iii) that a portion of the judgment or arrearage remains unpaid.

~~The Consumer Credit Protection Act, title 15 of the United States Code, section 1673(b), does not apply to lump-sum payments.~~

Sec. 94. Minnesota Statutes 2018, section 518A.68, is amended to read:

518A.68 RECREATIONAL LICENSE SUSPENSION.

(a) Upon motion of an obligee or the public authority, ~~which has been properly served on the obligor by first class mail at the last known address or in person,~~ and if ~~at a hearing,~~ the court finds that (1) the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than six times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement pursuant to section 518A.69, or (2) has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding, the court may direct the commissioner of natural resources to suspend or bar receipt of the obligor's recreational license or licenses. Prior to utilizing this section, the court must find that other substantial enforcement mechanisms have been attempted but have not resulted in compliance.

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(b) For purposes of this section, a recreational license includes all licenses, permits, and stamps issued centrally by the commissioner of natural resources under sections 97B.301, 97B.401, 97B.501, 97B.515, 97B.601, 97B.715, 97B.721, 97B.801, 97C.301, and 97C.305.

(c) ~~An obligor whose recreational license or licenses have been suspended or barred may provide proof to the court that the obligor is in compliance with all written payment agreements pursuant to section 518A.69.~~ A motion to reinstate a recreational license by the obligor, obligee, or public authority may be granted if the court finds:

(1) the reason for the suspension was accrual of arrears and the obligor is in compliance with all written payment agreements pursuant to section 518A.69 or has paid the arrears in full;

(2) the reason for the suspension was failure to comply with a subpoena and the obligor has complied with the subpoena; or

(3) the original motion to suspend was brought by the public authority and the public authority attests that the IV-D case is eligible for closure.

Within 15 days of ~~receipt of that proof~~ issuance of an order to reinstate the recreational license, the court shall notify the commissioner of natural resources that the obligor's recreational license or licenses should no longer be suspended nor should receipt be barred.

Sec. 95. Minnesota Statutes 2018, section 518A.685, is amended to read:

518A.685 CONSUMER REPORTING AGENCY; REPORTING ARREARS.

(a) If a public authority determines that an obligor has not paid the current monthly support obligation plus any required arrearage payment for three months, the public authority must report this information to a consumer reporting agency.

(b) Before reporting that an obligor is in arrears for court-ordered child support, the public authority must:

(1) provide written notice to the obligor that the public authority intends to report the arrears to a consumer reporting agency; and

(2) mail the written notice to the obligor's last known mailing address at least 30 days before the public authority reports the arrears to a consumer reporting agency.

(c) The obligor may, within 21 days of receipt of the notice, do the following to prevent the public authority from reporting the arrears to a consumer reporting agency:

(1) pay the arrears in full; or

(2) request an administrative review. An administrative review is limited to issues of mistaken identity, a pending legal action involving the arrears, or an incorrect arrears balance.

~~(d) If the public authority has reported that an obligor is in arrears for court-ordered child support and subsequently determines that the obligor has paid the court-ordered child support arrears in full, or is paying the current monthly support obligation plus any required arrearage payment, the public authority must report to the consumer reporting agency that the obligor is currently paying child support as ordered by the court.~~

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~~(e)~~ (d) A public authority that reports arrearage information under this section must make monthly reports to a consumer reporting agency. The monthly report must be consistent with credit reporting industry standards for child support.

~~(f)~~ (e) For purposes of this section, "consumer reporting agency" has the meaning given in section 13C.001, subdivision 4, and United States Code, title 15, section 1681a(f).

Sec. 96. **INSTRUCTION TO COMMISSIONER.**

The commissioner must confer with the Association of Minnesota Counties, the Minnesota Association of County Social Service Administrators, other state and county agencies, Minnesota's Tribal communities, National Alliance on Mental Illness Minnesota, AspireMN, and other relevant stakeholders to make recommendations to the legislature regarding payment for the cost of treatment and care for residential treatment services, including community-based group care, for children currently served under Minnesota Statutes, chapter 260D. The recommendations must include the approximate cost of care that will no longer be eligible for federal Title IV-E reimbursement paid to the counties for children currently served through voluntary foster care placements. The recommendations must also explore the impact on youth currently served under Minnesota Statutes, chapter 260D, including access to medical assistance and nonresidential services, as well as the impact on equity for overrepresented populations in the child protection and child welfare systems in Minnesota. The commissioner must report back to the legislature by January 15, 2021.

Sec. 97. **REVISOR INSTRUCTION; CORRECTING TERMINOLOGY.**

In Minnesota Statutes, sections 256.01, subdivisions 2 and 24; 256.975, subdivision 7; 256B.0911, subdivisions 1a, 3b, and 4d; and 256B.439, subdivision 4, the revisor of statutes must substitute the term "Disability Linkage Line" or similar terms for "Disability Hub" or similar terms. The revisor must also make grammatical changes related to the changes in terms.

Sec. 98. **REPEALER.**

Minnesota Statutes 2018, section 245F.02, subdivision 20, is repealed.

ARTICLE 6

CIVIL COMMITMENT

Section 1. Minnesota Statutes 2018, section 253B.02, subdivision 4b, is amended to read:

Subd. 4b. **Community-based treatment program.** "Community-based treatment program" means treatment and services provided at the community level, including but not limited to community support services programs defined in section 245.462, subdivision 6; day treatment services defined in section 245.462, subdivision 8; outpatient services defined in section 245.462, subdivision 21; mental health crisis services under section 245.462, subdivision 14c; outpatient services defined in section 245.462, subdivision 21; assertive community treatment services under section 256B.0622; adult rehabilitation mental health services under section 256B.0623; home and community-based waivers; supportive housing; and residential treatment services as defined in section 245.462, subdivision 23. Community-based treatment program excludes services provided by a state-operated treatment program.

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Sec. 2. Minnesota Statutes 2018, 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~~:~~ a licensed physician; a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (6); a licensed physician assistant; or an advanced practice registered nurse (APRN) as defined in section 148.171, subdivision 3, who is practicing in the emergency room of a hospital, so long as the hospital has a process for credentialing and recredentialing any APRN acting as an examiner in an emergency room.

~~(1) a licensed physician;~~

~~(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 or a licensed physician assistant, 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. 3. Minnesota Statutes 2018, section 253B.02, is amended by adding a subdivision to read:

Subd. 7a. **Court examiner.** "Court examiner" means a person appointed to serve the court, and who is a physician or licensed psychologist who has a doctoral degree in psychology.

Sec. 4. Minnesota Statutes 2018, section 253B.02, subdivision 8, is amended to read:

Subd. 8. **Head of the ~~treatment~~ facility or program.** "Head of the ~~treatment~~ facility or program" means the person who is charged with overall responsibility for the professional program of care and treatment of the ~~facility or the person's designee~~ treatment facility, state-operated treatment program, or community-based treatment program.

Sec. 5. Minnesota Statutes 2018, section 253B.02, subdivision 9, is amended to read:

Subd. 9. **Health officer.** "Health officer" means:

(1) a licensed physician;

(2) ~~a licensed psychologist~~ a mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (6);

(3) a licensed social worker;

(4) a registered nurse working in an emergency room of a hospital;

~~(5) a psychiatric or public health nurse as defined in section 145A.02, subdivision 18;~~

~~(6)~~ (5) an advanced practice registered nurse (APRN) as defined in section 148.171, subdivision 3;

~~(7)~~ (6) a mental health ~~professional~~ practitioner as defined in section 245.462, subdivision 17, providing mental health mobile crisis intervention services as described under section 256B.0624 with the consultation and approval by a mental health professional; or

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~~(8)~~ (7) a formally designated member of a prepetition screening unit established by section 253B.07.

Sec. 6. Minnesota Statutes 2018, section 253B.02, subdivision 10, is amended to read:

Subd. 10. **Interested person.** "Interested person" means:

(1) an adult who has a specific interest in the patient or proposed patient, including but not limited to~~,~~ a public official, including a local welfare agency acting under section ~~626.5561, and~~ 260E.31; a health care or mental health provider or the provider's employee or agent; the legal guardian, spouse, parent, legal counsel, adult child, or next of kin~~,~~; or other person designated by a patient or proposed patient; or

(2) a health plan company that is providing coverage for a proposed patient.

Sec. 7. Minnesota Statutes 2018, section 253B.02, subdivision 13, is amended to read:

Subd. 13. **Person who ~~is mentally ill~~ poses a risk of harm due to a mental illness.** (a) A "person who ~~is mentally ill~~ poses a risk of harm due to a mental illness" means any person who has an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory ~~which~~ that grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, ~~which~~ that is manifested by instances of grossly disturbed behavior or faulty perceptions and who, due to this impairment, poses a substantial likelihood of physical harm to self or others as demonstrated by:

(1) a failure to obtain necessary food, clothing, shelter, or medical care as a result of the impairment;

(2) an inability for reasons other than indigence to obtain necessary food, clothing, shelter, or medical care as a result of the impairment and it is more probable than not that the person will suffer substantial harm, significant psychiatric deterioration or debilitation, or serious illness, unless appropriate treatment and services are provided;

(3) a recent attempt or threat to physically harm self or others; or

(4) recent and volitional conduct involving significant damage to substantial property.

(b) A person ~~is not mentally ill~~ does not pose a risk of harm due to mental illness under this section if the person's impairment is solely due to:

(1) epilepsy;

(2) developmental disability;

(3) brief periods of intoxication caused by alcohol, drugs, or other mind-altering substances; or

(4) dependence upon or addiction to any alcohol, drugs, or other mind-altering substances.

Sec. 8. Minnesota Statutes 2018, section 253B.02, subdivision 16, is amended to read:

Subd. 16. **Peace officer.** "Peace officer" means a sheriff or deputy sheriff, or municipal or other local police officer, or a State Patrol officer when engaged in the authorized duties of office.

Sec. 9. Minnesota Statutes 2018, section 253B.02, subdivision 17, is amended to read:

Subd. 17. **Person who ~~is mentally ill~~ has a mental illness and is dangerous to the public.** ~~(a)~~ A "person who ~~is mentally ill~~ has a mental illness and is dangerous to the public" is a person:

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(1) who ~~is mentally ill~~ has an organic disorder of the brain or a substantial psychiatric disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, and is manifested by instances of grossly disturbed behavior or faulty perceptions; and

(2) who as a result of that ~~mental illness~~ impairment presents a clear danger to the safety of others as demonstrated by the facts that (i) the person has engaged in an overt act causing or attempting to cause serious physical harm to another and (ii) there is a substantial likelihood that the person will engage in acts capable of inflicting serious physical harm on another.

~~(b) A person committed as a sexual psychopathic personality or sexually dangerous person as defined in subdivisions 18a and 18b is subject to the provisions of this chapter that apply to persons who are mentally ill and dangerous to the public.~~

Sec. 10. Minnesota Statutes 2018, section 253B.02, subdivision 18, is amended to read:

Subd. 18. **~~Regional~~ State-operated treatment ~~center~~ program.** "~~Regional~~ State-operated treatment ~~center~~ program" ~~means any state-operated facility for persons who are mentally ill, developmentally disabled, or chemically dependent under the direct administrative authority of the commissioner~~ means any state-operated program including community behavioral health hospitals, crisis centers, residential facilities, outpatient services, and other community-based services developed and operated by the state and under the commissioner's control for a person who has a mental illness, developmental disability, or chemical dependency.

Sec. 11. Minnesota Statutes 2018, section 253B.02, subdivision 19, is amended to read:

Subd. 19. **Treatment facility.** "Treatment facility" means a non-state-operated hospital, ~~community mental health center, or other treatment provider~~ residential treatment provider, crisis residential withdrawal management center, or corporate foster care home qualified to provide care and treatment for persons ~~who are mentally ill, developmentally disabled, or chemically dependent~~ who have a mental illness, developmental disability, or chemical dependency.

Sec. 12. Minnesota Statutes 2018, section 253B.02, subdivision 21, is amended to read:

Subd. 21. **Pass.** "Pass" means any authorized temporary, unsupervised absence from a state-operated treatment ~~facility~~ program.

Sec. 13. Minnesota Statutes 2018, section 253B.02, subdivision 22, is amended to read:

Subd. 22. **Pass plan.** "Pass plan" means the part of a treatment plan for a ~~person~~ patient who has been committed as ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public that specifies the terms and conditions under which the patient may be released on a pass.

Sec. 14. Minnesota Statutes 2018, section 253B.02, subdivision 23, is amended to read:

Subd. 23. **Pass-eligible status.** "Pass-eligible status" means the status under which a ~~person~~ patient committed as ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public may be released on passes after approval of a pass plan by the head of a state-operated treatment ~~facility~~ program.

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Sec. 15. Minnesota Statutes 2018, section 253B.03, subdivision 1, is amended to read:

Subdivision 1. **Restraints.** (a) A patient has the right to be free from restraints. Restraints shall not be applied to a patient in a treatment facility or state-operated treatment program unless the head of the treatment facility, head of the state-operated treatment program, a member of the medical staff, or a licensed peace officer who has custody of the patient determines that ~~they~~ restraints are necessary for the safety of the patient or others.

(b) Restraints shall not be applied to patients with developmental disabilities except as permitted under section 245.825 and rules of the commissioner of human services. Consent must be obtained from the ~~person~~ patient or ~~person's~~ patient's guardian except for emergency procedures as permitted under rules of the commissioner adopted under section 245.825.

(c) Each use of a restraint and reason for it shall be made part of the clinical record of the patient under the signature of the head of the treatment facility.

Sec. 16. Minnesota Statutes 2018, section 253B.03, subdivision 2, is amended to read:

Subd. 2. **Correspondence.** A patient has the right to correspond freely without censorship. The head of the treatment facility or head of the state-operated treatment program may restrict correspondence if the patient's medical welfare requires this restriction. For ~~patients~~ a patient in ~~regional~~ a state-operated treatment ~~centers~~ program, that determination may be reviewed by the commissioner. Any limitation imposed on the exercise of a patient's correspondence rights and the reason for it shall be made a part of the clinical record of the patient. Any communication which is not delivered to a patient shall be immediately returned to the sender.

Sec. 17. Minnesota Statutes 2018, section 253B.03, subdivision 3, is amended to read:

Subd. 3. **Visitors and phone calls.** Subject to the general rules of the treatment facility or state-operated treatment program, a patient has the right to receive visitors and make phone calls. The head of the treatment facility or head of the state-operated treatment program may restrict visits and phone calls on determining that the medical welfare of the patient requires it. Any limitation imposed on the exercise of the patient's visitation and phone call rights and the reason for it shall be made a part of the clinical record of the patient.

Sec. 18. Minnesota Statutes 2018, section 253B.03, subdivision 4a, is amended to read:

Subd. 4a. **Disclosure of patient's admission.** Upon admission to a treatment facility or state-operated treatment program where federal law prohibits unauthorized disclosure of patient or resident identifying information to callers and visitors, the patient or resident, or the legal guardian of the patient or resident, shall be given the opportunity to authorize disclosure of the patient's or resident's presence in the facility to callers and visitors who may seek to communicate with the patient or resident. To the extent possible, the legal guardian of a patient or resident shall consider the opinions of the patient or resident regarding the disclosure of the patient's or resident's presence in the facility.

Sec. 19. Minnesota Statutes 2018, section 253B.03, subdivision 5, is amended to read:

Subd. 5. **Periodic assessment.** A patient has the right to periodic medical assessment, including assessment of the medical necessity of continuing care and, if the treatment facility, state-operated treatment program, or community-based treatment program declines to provide continuing care, the right to receive specific written reasons why continuing care is declined at the time of the assessment. The treatment facility,

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state-operated treatment program, or community-based treatment program shall assess the physical and mental condition of every patient as frequently as necessary, but not less often than annually. If the patient refuses to be examined, the treatment facility, state-operated treatment program, or community-based treatment program shall document in the patient's chart its attempts to examine the patient. If a ~~person~~ patient is committed as developmentally disabled for an indeterminate period of time, the three-year judicial review must include the annual reviews for each year ~~as outlined in Minnesota Rules, part 9525.0075, subpart 6~~ regarding the patient's need for continued commitment.

Sec. 20. Minnesota Statutes 2018, section 253B.03, subdivision 6, is amended to read:

Subd. 6. **Consent for medical procedure.** (a) A patient has the right to give prior consent to any medical or surgical treatment, other than treatment for chemical dependency or nonintrusive treatment for mental illness.

(b) The following procedures shall be used to obtain consent for any treatment necessary to preserve the life or health of any committed patient:

~~(a)~~ (1) the written, informed consent of a competent adult patient for the treatment is sufficient~~.~~;

~~(b)~~ (2) if the patient is subject to guardianship which includes the provision of medical care, the written, informed consent of the guardian for the treatment is sufficient~~.~~;

~~(c)~~ (3) if the head of the treatment facility or state-operated treatment program determines that the patient is not competent to consent to the treatment and the patient has not been adjudicated incompetent, written, informed consent for the surgery or medical treatment shall be obtained from the person appointed the health care power of attorney, the patient's agent under the health care directive, or the nearest proper relative. For this purpose, the following persons are proper relatives, in the order listed: the patient's spouse, parent, adult child, or adult sibling. If the nearest proper relatives cannot be located, refuse to consent to the procedure, or are unable to consent, the head of the treatment facility or state-operated treatment program or an interested person may petition the committing court for approval for the treatment or may petition a court of competent jurisdiction for the appointment of a guardian. The determination that the patient is not competent, and the reasons for the determination, shall be documented in the patient's clinical record~~.~~;

~~(d)~~ (4) consent to treatment of any minor patient shall be secured in accordance with sections 144.341 to 144.346. A minor 16 years of age or older may consent to hospitalization, routine diagnostic evaluation, and emergency or short-term acute care~~.~~; and

~~(e)~~ (5) in the case of an emergency when the persons ordinarily qualified to give consent cannot be located in sufficient time to address the emergency need, the head of the treatment facility or state-operated treatment program may give consent.

(c) No person who consents to treatment pursuant to the provisions of this subdivision shall be civilly or criminally liable for the performance or the manner of performing the treatment. No person shall be liable for performing treatment without consent if written, informed consent was given pursuant to this subdivision. This provision shall not affect any other liability which may result from the manner in which the treatment is performed.

Sec. 21. Minnesota Statutes 2018, section 253B.03, subdivision 6b, is amended to read:

Subd. 6b. **Consent for mental health treatment.** A competent ~~person~~ patient admitted voluntarily to a treatment facility or state-operated treatment program may be subjected to intrusive mental health treatment

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only with the ~~person's~~ patient's written informed consent. For purposes of this section, "intrusive mental health treatment" means ~~electroshock~~ electroconvulsive therapy and neuroleptic medication and does not include treatment for a developmental disability. An incompetent ~~person~~ patient who has prepared a directive under subdivision 6d regarding intrusive mental health treatment ~~with intrusive therapies~~ must be treated in accordance with this section, except in cases of emergencies.

Sec. 22. Minnesota Statutes 2018, section 253B.03, subdivision 6d, as amended by Laws 2020, chapter 115, article 4, section 101, is amended to read:

Subd. 6d. **Adult mental health treatment.** (a) A competent adult patient may make a declaration of preferences or instructions regarding intrusive mental health treatment. These preferences or instructions may include, but are not limited to, consent to or refusal of these treatments. A declaration of preferences or instructions may include a health care directive under chapter 145C or a psychiatric directive.

(b) A declaration may designate a proxy to make decisions about intrusive mental health treatment. A proxy designated to make decisions about intrusive mental health treatments and who agrees to serve as proxy may make decisions on behalf of a declarant consistent with any desires the declarant expresses in the declaration.

(c) A declaration is effective only if it is signed by the declarant and two witnesses. The witnesses must include a statement that they believe the declarant understands the nature and significance of the declaration. A declaration becomes operative when it is delivered to the declarant's physician, advanced practice registered nurse, or other mental health treatment provider. The physician, advanced practice registered nurse, or provider must comply with ~~it~~ the declaration to the fullest extent possible, consistent with reasonable medical practice, the availability of treatments requested, and applicable law. The physician, advanced practice registered nurse, or provider shall continue to obtain the declarant's informed consent to all intrusive mental health treatment decisions if the declarant is capable of informed consent. A treatment provider ~~may~~ must not require a ~~person~~ patient to make a declaration under this subdivision as a condition of receiving services.

(d) The physician, advanced practice registered nurse, or other provider shall make the declaration a part of the declarant's medical record. If the physician, advanced practice registered nurse, or other provider is unwilling at any time to comply with the declaration, the physician, advanced practice registered nurse, or provider must promptly notify the declarant and document the notification in the declarant's medical record. ~~If the declarant has been committed as a patient under this chapter, the physician, advanced practice registered nurse, or provider may subject a declarant to intrusive treatment in a manner contrary to the declarant's expressed wishes, only upon order of the committing court. If the declarant is not a committed patient under this chapter,~~ The physician, advanced practice registered nurse, or provider may subject the declarant to intrusive treatment in a manner contrary to the declarant's expressed wishes, only if the declarant is committed as ~~mentally ill~~ a person who poses a risk of harm due to mental illness or ~~mentally ill~~ as a person who has a mental illness and is dangerous to the public and a court order authorizing the treatment has been issued or an emergency has been declared under section 253B.092, subdivision 3.

(e) A declaration under this subdivision may be revoked in whole or in part at any time and in any manner by the declarant if the declarant is competent at the time of revocation. A revocation is effective when a competent declarant communicates the revocation to the attending physician, advanced practice registered nurse, or other provider. The attending physician, advanced practice registered nurse, or other provider shall note the revocation as part of the declarant's medical record.

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(f) A provider who administers intrusive mental health treatment according to and in good faith reliance upon the validity of a declaration under this subdivision is held harmless from any liability resulting from a subsequent finding of invalidity.

(g) In addition to making a declaration under this subdivision, a competent adult may delegate parental powers under section 524.5-211 or may nominate a guardian under sections 524.5-101 to 524.5-502.

Sec. 23. Minnesota Statutes 2018, section 253B.03, subdivision 7, is amended to read:

Subd. 7. **~~Program~~ Treatment plan.** A ~~person~~ patient receiving services under this chapter has the right to receive proper care and treatment, best adapted, according to contemporary professional standards, to rendering further supervision unnecessary. The treatment facility, state-operated treatment program, or community-based treatment program shall devise a written ~~program~~ treatment plan for each ~~person~~ patient which describes in behavioral terms the case problems, the precise goals, including the expected period of time for treatment, and the specific measures to be employed. ~~Each plan shall be reviewed at least quarterly to determine progress toward the goals, and to modify the program plan as necessary.~~ The development and review of treatment plans must be conducted as required under the license or certification of the treatment facility, state-operated treatment program, or community-based treatment program. If there are no review requirements under the license or certification, the treatment plan must be reviewed quarterly. The ~~program~~ treatment plan shall be devised and reviewed with the designated agency and with the patient. The clinical record shall reflect the ~~program~~ treatment plan review. If the designated agency or the patient does not participate in the planning and review, the clinical record shall include reasons for nonparticipation and the plans for future involvement. The commissioner shall monitor the ~~program~~ treatment plan and review process for ~~regional centers~~ state-operated treatment programs to ~~insure~~ ensure compliance with the provisions of this subdivision.

Sec. 24. Minnesota Statutes 2018, section 253B.03, subdivision 10, is amended to read:

Subd. 10. **Notification.** (a) All ~~persons~~ patients admitted or committed to a treatment facility or state-operated treatment program, or temporarily confined under section 253B.045, shall be notified in writing of their rights regarding hospitalization and other treatment ~~at the time of admission~~.

(b) This notification must include:

(1) patient rights specified in this section and section 144.651, including nursing home discharge rights;

(2) the right to obtain treatment and services voluntarily under this chapter;

(3) the right to voluntary admission and release under section 253B.04;

(4) rights in case of an emergency admission under section ~~253B.05~~ 253B.051, including the right to documentation in support of an emergency hold and the right to a summary hearing before a judge if the patient believes an emergency hold is improper;

(5) the right to request expedited review under section 62M.05 if additional days of inpatient stay are denied;

(6) the right to continuing benefits pending appeal and to an expedited administrative hearing under section 256.045 if the patient is a recipient of medical assistance or MinnesotaCare; and

(7) the right to an external appeal process under section 62Q.73, including the right to a second opinion.

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Sec. 25. Minnesota Statutes 2018, section 253B.04, subdivision 1, is amended to read:

Subdivision 1. **Voluntary admission and treatment.** (a) Voluntary admission is preferred over involuntary commitment and treatment. Any person 16 years of age or older may request to be admitted to a treatment facility or state-operated treatment program as a voluntary patient for observation, evaluation, diagnosis, care and treatment without making formal written application. Any person under the age of 16 years may be admitted as a patient with the consent of a parent or legal guardian if it is determined by independent examination that there is reasonable evidence that (1) the proposed patient has a mental illness, ~~or is developmentally disabled~~ developmental disability, or ~~chemically dependent~~ chemical dependency; and (2) the proposed patient is suitable for treatment. The head of the treatment facility or head of the state-operated treatment program shall not arbitrarily refuse any person seeking admission as a voluntary patient. In making decisions regarding admissions, the treatment facility or state-operated treatment program shall use clinical admission criteria consistent with the current applicable inpatient admission standards established by professional organizations including the American Psychiatric Association ~~or~~, the American Academy of Child and Adolescent Psychiatry, the Joint Commission, and the American Society of Addiction Medicine. These criteria must be no more restrictive than, and must be consistent with, the requirements of section 62Q.53. The treatment facility or head of the state-operated treatment program may not refuse to admit a person voluntarily solely because the person does not meet the criteria for involuntary holds under section ~~253B.05~~ 253B.051 or the definition of a person who poses a risk of harm due to mental illness under section 253B.02, subdivision 13.

(b) In addition to the consent provisions of paragraph (a), a person who is 16 or 17 years of age who refuses to consent personally to admission may be admitted as a patient for mental illness or chemical dependency treatment with the consent of a parent or legal guardian if it is determined by an independent examination that there is reasonable evidence that the proposed patient is chemically dependent or has a mental illness and is suitable for treatment. The person conducting the examination shall notify the proposed patient and the parent or legal guardian of this determination.

(c) A person who is voluntarily participating in treatment for a mental illness is not subject to civil commitment under this chapter if the person:

(1) has given informed consent or, if lacking capacity, is a person for whom legally valid substitute consent has been given; and

(2) is participating in a medically appropriate course of treatment, including clinically appropriate and lawful use of neuroleptic medication and electroconvulsive therapy. The limitation on commitment in this paragraph does not apply if, based on clinical assessment, the court finds that it is unlikely that the ~~person~~ patient will remain in and cooperate with a medically appropriate course of treatment absent commitment and the standards for commitment are otherwise met. This paragraph does not apply to a person for whom commitment proceedings are initiated pursuant to rule 20.01 or 20.02 of the Rules of Criminal Procedure, or a person found by the court to meet the requirements under section 253B.02, subdivision 17.

(d) Legally valid substitute consent may be provided by a proxy under a health care directive, a guardian or conservator with authority to consent to mental health treatment, or consent to admission under subdivision 1a or 1b.

Sec. 26. Minnesota Statutes 2018, section 253B.04, subdivision 1a, is amended to read:

Subd. 1a. **Voluntary treatment or admission for persons with a mental illness.** (a) A person with a mental illness may seek or voluntarily agree to accept treatment or admission to a state-operated treatment

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program or treatment facility. If the mental health provider determines that the person lacks the capacity to give informed consent for the treatment or admission, and in the absence of a health care ~~power of attorney~~ directive or health care power of attorney that authorizes consent, the designated agency or its designee may give informed consent for mental health treatment or admission to a treatment facility or state-operated treatment program on behalf of the person.

(b) The designated agency shall apply the following criteria in determining the person's ability to give informed consent:

(1) whether the person demonstrates an awareness of the person's illness, and the reasons for treatment, its risks, benefits and alternatives, and the possible consequences of refusing treatment; and

(2) whether the person communicates verbally or nonverbally a clear choice concerning treatment that is a reasoned one, not based on delusion, even though it may not be in the person's best interests.

(c) The basis for the designated agency's decision that the person lacks the capacity to give informed consent for treatment or admission, and that the patient has voluntarily accepted treatment or admission, must be documented in writing.

(d) A ~~mental health provider~~ treatment facility or state-operated treatment program that provides treatment in reliance on the written consent given by the designated agency under this subdivision or by a substitute decision maker appointed by the court is not civilly or criminally liable for performing treatment without consent. This paragraph does not affect any other liability that may result from the manner in which the treatment is performed.

(e) A ~~person~~ patient who receives treatment or is admitted to a treatment facility or state-operated treatment program under this subdivision or subdivision 1b has the right to refuse treatment at any time or to be released from a treatment facility or state-operated treatment program as provided under subdivision 2. The ~~person~~ patient or any interested person acting on the ~~person's~~ patient's behalf may seek court review within five days for a determination of whether the ~~person's~~ patient's agreement to accept treatment or admission is voluntary. At the time a ~~person~~ patient agrees to treatment or admission to a treatment facility or state-operated treatment program under this subdivision, the designated agency or its designee shall inform the ~~person~~ patient in writing of the ~~person's~~ patient's rights under this paragraph.

~~(f) This subdivision does not authorize the administration of neuroleptiemedications. Neuroleptic medications may be administered only as provided in section 253B.092.~~

Sec. 27. Minnesota Statutes 2018, section 253B.04, subdivision 2, is amended to read:

Subd. 2. **Release.** Every patient admitted for mental illness or developmental disability under this section shall be informed in writing at the time of admission that the patient has a right to leave the treatment facility or state-operated treatment program within 12 hours of making a request, unless held under another provision of this chapter. Every patient admitted for chemical dependency under this section shall be informed in writing at the time of admission that the patient has a right to leave the treatment facility or state-operated treatment program within 72 hours, exclusive of Saturdays, Sundays, and legal holidays, of making a request, unless held under another provision of this chapter. The request shall be submitted in writing to the head of the treatment facility or state-operated treatment program or the person's designee.

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Sec. 28. **[253B.041] SERVICES FOR ENGAGEMENT IN TREATMENT.**

Subdivision 1. **Eligibility.** (a) The purpose of engagement services is to avoid the need for commitment and to enable the proposed patient to voluntarily engage in needed treatment. An interested person may apply to the county where a proposed patient resides to request engagement services.

(b) To be eligible for engagement services, the proposed patient must be at least 18 years of age, have a mental illness, and either:

(1) be exhibiting symptoms of serious mental illness including hallucinations, mania, delusional thoughts, or be unable to obtain necessary food, clothing, shelter, medical care, or provide necessary hygiene due to the patient's mental illness; or

(2) have a history of failing to adhere to treatment for mental illness, in that:

(i) the proposed patient's mental illness has been a substantial factor in necessitating hospitalization, or incarceration in a state or local correctional facility, not including any period during which the person was hospitalized or incarcerated immediately preceding filing the application for engagement; or

(ii) the proposed patient is exhibiting symptoms or behavior that may lead to hospitalization, incarceration, or court-ordered treatment.

Subd. 2. **Administration.** (a) Upon receipt of a request for engagement services, the county's prepetition screening team shall conduct an investigation to determine whether the proposed patient is eligible. In making this determination, the screening team shall seek any relevant information from an interested person.

(b) If the screening team determines that the proposed patient is eligible, engagement services must begin and include, but are not limited to:

(1) assertive attempts to engage the patient in voluntary treatment for mental illness for at least 90 days. Engagement services must be person-centered and continue even if the patient is an inmate in a non-state-operated correctional facility;

(2) efforts to engage the patient's existing systems of support, including interested persons, unless the engagement provider determines that involvement is not helpful to the patient. This includes education on restricting means of harm, suicide prevention, and engagement; and

(3) collaboration with the patient to meet immediate needs including access to housing, food, income, disability verification, medications, and treatment for medical conditions.

(c) Engagement services regarding potential treatment options must take into account the patient's preferences for services and supports. The county may offer engagement services through the designated agency or another agency under contract. Engagement services staff must have training in person-centered care. Engagement services staff may include but are not limited to mobile crisis teams under section 245.462, certified peer specialists under section 256B.0615, community-based treatment programs, and homeless outreach workers.

(d) If the patient voluntarily consents to receive mental health treatment, the engagement services staff must facilitate the referral to an appropriate mental health treatment provider including support obtaining health insurance if the proposed patient is currently or may become uninsured. If the proposed patient initially consents to treatment, but fails to initiate or continue treatment, the engagement services team must continue outreach efforts to the patient.

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Subd. 3. **Commitment.** Engagement services for a patient to seek treatment may be stopped if the proposed patient is in need of commitment and satisfies the commitment criteria under section 253B.09, subdivision 1. In such a case, the engagement services team must immediately notify the designated agency, initiate the prepetition screening process under section 253B.07, or seek an emergency hold if necessary to ensure the safety of the patient or others.

Subd. 4. **Evaluation.** Counties may, but are not required to, provide engagement services. The commissioner may conduct a pilot project evaluating the impact of engagement services in decreasing commitments, increasing engagement in treatment, and other measures.

Sec. 29. Minnesota Statutes 2018, section 253B.045, subdivision 2, is amended to read:

Subd. 2. **Facilities.** (a) Each county or a group of counties shall maintain or provide by contract a facility for confinement of persons held temporarily for observation, evaluation, diagnosis, treatment, and care. When the temporary confinement is provided at a ~~regional~~ state-operated treatment ~~center~~ program, the commissioner shall charge the county of financial responsibility for the costs of confinement of ~~persons~~ patients hospitalized under ~~section 253B.05, subdivisions 1 and 2,~~ sections 253B.051 and ~~section~~ 253B.07, subdivision 2b, except that the commissioner shall bill the responsible health plan first. Any charges not covered, including co-pays and deductibles shall be the responsibility of the county. If the ~~person~~ patient has health plan coverage, but the hospitalization does not meet the criteria in subdivision 6 or section 62M.07, 62Q.53, or 62Q.535, the county is responsible. ~~When a person is temporarily confined in a Department of Corrections facility solely under subdivision 1a, and not based on any separate correctional authority:~~

~~(1) the commissioner of corrections may charge the county of financial responsibility for the costs of confinement; and~~

~~(2) the Department of Human Services shall use existing appropriations to fund all remaining nonconfinement costs. The funds received by the commissioner for the confinement and nonconfinement costs are appropriated to the department for these purposes.~~

(b) For the purposes of this subdivision, "county of financial responsibility" has the meaning specified in section 253B.02, subdivision 4c, or, if the ~~person~~ patient has no residence in this state, the county which initiated the confinement. The charge for confinement in a facility operated by the commissioner ~~of human services~~ shall be based on the commissioner's determination of the cost of care pursuant to section 246.50, subdivision 5. When there is a dispute as to which county is the county of financial responsibility, the county charged for the costs of confinement shall pay for them pending final determination of the dispute over financial responsibility.

Sec. 30. Minnesota Statutes 2018, section 253B.045, subdivision 3, is amended to read:

Subd. 3. **Cost of care.** Notwithstanding subdivision 2, a county shall be responsible for the cost of care as specified under section 246.54 for ~~persons~~ a patient hospitalized at a ~~regional~~ state-operated treatment ~~center~~ program in accordance with section 253B.09 and the ~~person's~~ patient's legal status has been changed to a court hold under section 253B.07, subdivision 2b, pending a judicial determination regarding continued commitment pursuant to sections 253B.12 and 253B.13.

Sec. 31. Minnesota Statutes 2018, section 253B.045, subdivision 5, is amended to read:

Subd. 5. **Health plan company; definition.** For purposes of this section, "health plan company" has the meaning given it in section 62Q.01, subdivision 4, and also includes a demonstration provider as defined

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in section 256B.69, subdivision 2, paragraph (b)~~,~~; and a county or group of counties participating in county-based purchasing according to section 256B.692~~, and a children's mental health collaborative under contract to provide medical assistance for individuals enrolled in the prepaid medical assistance and MinnesotaCare programs according to sections 245.493 to 245.495~~.

Sec. 32. Minnesota Statutes 2018, section 253B.045, subdivision 6, is amended to read:

Subd. 6. **Coverage.** (a) For purposes of this section, "mental health services" means all covered services that are intended to treat or ameliorate an emotional, behavioral, or psychiatric condition and that are covered by the policy, contract, or certificate of coverage of the enrollee's health plan company or by law.

(b) All health plan companies that provide coverage for mental health services must cover or provide mental health services ordered by a court of competent jurisdiction ~~under a court order that is issued on the basis of a behavioral care evaluation performed by a licensed psychiatrist or a doctoral level licensed psychologist, which includes a diagnosis and an individual treatment plan for care in the most appropriate, least restrictive environment. The health plan company must be given a copy of the court order and the behavioral care evaluation. The health plan company shall be financially liable for the evaluation if performed by a participating provider of the health plan company and shall be financially liable for the care included in the court-ordered individual treatment plan if the care is covered by the health plan company and ordered to be provided by a participating provider or another provider as required by rule or law~~. This court-ordered coverage must not be subject to a separate medical necessity determination by a health plan company under its utilization procedures.

Sec. 33. **[253B.051] EMERGENCY ADMISSION.**

Subdivision 1. **Peace officer or health officer authority.** (a) If a peace officer or health 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, if available, knowledge or reliable information concerning the person's past behavior or treatment that the person:

(1) has a mental illness or developmental disability and is in danger of harming self or others if the officer does not immediately detain the patient, the peace officer or health officer may take the person into custody and transport the person to an examiner or a treatment facility, state-operated treatment program, or community-based treatment program;

(2) is chemically dependent or intoxicated in public and in danger of harming self or others if the officer does not immediately detain the patient, the peace officer or health officer may take the person into custody and transport the person to a treatment facility, state-operated treatment program, or community-based treatment program; or

(3) is chemically dependent or intoxicated in public and not in danger of harming self, others, or property, the peace officer or health officer may take the person into custody and transport the person to the person's home.

(b) An examiner's written statement or a health officer's written statement in compliance with the requirements of subdivision 2 is sufficient authority for a peace officer or health officer to take the person into custody and transport the person to a treatment facility, state-operated treatment program, or community-based treatment program.

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(c) A peace officer or health officer who takes a person into custody and transports the person to a treatment facility, state-operated treatment program, or community-based treatment program under this subdivision shall make written application for admission of the person containing:

(1) the officer's statement specifying the reasons and circumstances under which the person was taken into custody;

(2) identifying information on specific individuals to the extent practicable, if danger to those individuals is a basis for the emergency hold; and

(3) the officer's name, the agency that employs the officer, and the telephone number or other contact information for purposes of receiving notice under subdivision 3.

(d) A copy of the examiner's written statement and officer's application shall be made available to the person taken into custody.

(e) The officer may provide the transportation personally or may arrange to have the person transported by a suitable medical or mental health transportation provider. As far as practicable, a peace officer who provides transportation for a person placed in a treatment facility, state-operated treatment program, or community-based treatment program under this subdivision must not be in uniform and must not use a vehicle visibly marked as a law enforcement vehicle.

Subd. 2. **Emergency hold.** (a) A treatment facility, state-operated treatment program, or community-based treatment program, other than a facility operated by the Minnesota sex offender program, may admit or hold a patient, including a patient transported under subdivision 1, for emergency care and treatment if the head of the facility or program consents to holding the patient and an examiner provides a written statement in support of holding the patient.

(b) The written statement must indicate that:

(1) the examiner examined the patient not more than 15 days prior to admission;

(2) the examiner interviewed the patient, or if not, the specific reasons why the examiner did not interview the patient;

(3) the examiner has the opinion that the patient has a mental illness or developmental disability, or is chemically dependent and is in danger of causing harm to self or others if a facility or program does not immediately detain the patient. The statement must include observations of the patient's behavior and avoid conclusory language. The statement must be specific enough to provide an adequate record for review. If danger to specific individuals is a basis for the emergency hold, the statement must identify those individuals to the extent practicable; and

(4) the facility or program cannot obtain a court order in time to prevent the anticipated injury.

(c) Prior to an examiner writing a statement, if another person brought the patient to the treatment facility, state-operated treatment program, or community-based treatment program, the examiner shall make a good-faith effort to obtain information from that person, which the examiner must consider in deciding whether to place the patient on an emergency hold. To the extent available, the statement must include direct observations of the patient's behaviors, reliable knowledge of the patient's recent and past behavior, and information regarding the patient's psychiatric history, past treatment, and current mental health providers. The examiner shall also inquire about health care directives under chapter 145C and advance psychiatric directives under section 253B.03, subdivision 6d.

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(d) The facility or program must give a copy of the examiner's written statement to the patient immediately upon initiating the emergency hold. The treatment facility, state-operated treatment program, or community-based treatment program shall maintain a copy of the examiner's written statement. The program or facility must inform the patient in writing of the right to (1) leave after 72 hours, (2) have a medical examination within 48 hours, and (3) request a change to voluntary status. The facility or program shall assist the patient in exercising the rights granted in this subdivision.

(e) The facility or program must not allow the patient nor require the patient's consent to participate in a clinical drug trial during an emergency admission or hold under this subdivision. If a patient gives consent to participate in a drug trial during a period of an emergency admission or hold, it is void and unenforceable. This paragraph does not prohibit a patient from continuing participation in a clinical drug trial if the patient was participating in the clinical drug trial at the time of the emergency admission or hold.

Subd. 3. **Duration of hold, release procedures, and change of status.** (a) If a peace officer or health officer transports a person to a treatment facility, state-operated treatment program, or community-based treatment program under subdivision 1, an examiner at the facility or program must examine the patient and make a determination about the need for an emergency hold as soon as possible and within 12 hours of the person's arrival. The peace officer or health officer hold ends upon whichever occurs first: (1) initiation of an emergency hold on the person under subdivision 2; (2) the person's voluntary admission; (3) the examiner's decision not to admit the person; or (4) 12 hours after the person's arrival.

(b) Under this section, the facility or program may hold a patient up to 72 hours, exclusive of Saturdays, Sundays, and legal holidays, after the examiner signs the written statement for an emergency hold of the patient. The facility or program must release a patient when the emergency hold expires unless the facility or program obtains a court order to hold the patient. The facility or program may not place the patient on a consecutive emergency hold under this section.

(c) If the interested person files a petition to civilly commit the patient, the court may issue a judicial hold order pursuant to section 253B.07, subdivision 2b.

(d) During the 72-hour hold, a court must not release a patient under this section unless the court received a written petition for the patient's release and the court has held a summary hearing regarding the patient's release.

(e) The written petition for the patient's release must include the patient's name, the basis for the hold, the location of the hold, and a statement explaining why the hold is improper. The petition must also include copies of any written documentation under subdivision 1 or 2 that support the hold, unless the facility or program holding the patient refuses to supply the documentation. Upon receipt of a petition, the court must comply with the following:

(1) the court must hold the hearing as soon as practicable and the court may conduct the hearing by telephone conference call, interactive video conference, or similar method by which the participants are able to simultaneously hear each other;

(2) before deciding to release the patient, the court shall make every reasonable effort to provide notice of the proposed release and reasonable opportunity to be heard to:

(i) any specific individuals identified in a statement under subdivision 1 or 2 or individuals identified in the record who might be endangered if the person is not held;

(ii) the examiner whose written statement was the basis for the hold under subdivision 2; and

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(iii) the peace officer or health officer who applied for a hold under subdivision 1; and

(3) if the court decides to release the patient, the court shall direct the patient's release and shall issue written findings supporting the decision. The facility or program must not delay the patient's release pending the written order.

(f) Notwithstanding section 144.293, subdivisions 2 and 4, if a treatment facility, state-operated treatment program, or community-based treatment program releases or discharges a patient during the 72-hour hold; the examiner refuses to admit the patient; or the patient leaves without the consent of the treating health care provider, the head of the treatment facility, state-operated treatment program, or community-based treatment program shall immediately notify the agency that employs the peace officer or health officer who initiated the transport hold. This paragraph does not apply to the extent that the notice would violate federal law governing the confidentiality of alcohol and drug abuse patient records under Code of Federal Regulations, title 42, part 2.

(g) If a patient is intoxicated in public and a facility or program holds the patient under this section for detoxification, a treatment facility, state-operated treatment program, or community-based treatment program may release the patient without providing notice under paragraph (f) as soon as the treatment facility, state-operated treatment program, or community-based treatment program determines that the person is no longer in danger of causing harm to self or others. The facility or program must provide notice to the peace officer or health officer who transported the person, or to the appropriate law enforcement agency, if the officer or agency requests notification.

(h) A treatment facility or state-operated treatment program must change a patient's status to voluntary status as provided in section 253B.04 upon the patient's request in writing if the head of the facility or program consents to the change.

Sec. 34. Minnesota Statutes 2018, section 253B.06, subdivision 1, is amended to read:

Subdivision 1. **Persons ~~who are mentally ill or developmentally disabled~~ with mental illness or developmental disability.** A physician must examine every patient hospitalized ~~as mentally ill or developmentally disabled~~ due to mental illness or developmental disability pursuant to section 253B.04 or ~~253B.05 must be examined by a physician~~ 253B.051 as soon as possible but no more than 48 hours following the patient's admission. The physician ~~shall~~ must be knowledgeable and trained in ~~the diagnosis of~~ diagnosing the ~~alleged disability related to the need for~~ patient's mental illness or developmental disability, forming the basis of the patient's admission ~~as a person who is mentally ill or developmentally disabled~~.

Sec. 35. Minnesota Statutes 2018, section 253B.06, subdivision 2, as amended by Laws 2020, chapter 115, article 4, section 102, is amended to read:

Subd. 2. **Chemically dependent persons.** ~~Patients hospitalized~~ A treatment facility, state-operated treatment program, or community-based treatment program must examine a patient hospitalized as chemically dependent pursuant to section 253B.04 or ~~253B.05 shall also be examined~~ 253B.051 within 48 hours of admission. At a minimum, ~~the examination shall consist of a physical evaluation by facility staff~~ the facility or program must physically examine the patient according to procedures established by a physician or advanced practice registered nurse, and ~~an evaluation by~~ staff examining the patient must be knowledgeable and trained in the diagnosis of the alleged disability ~~related to the need for~~ forming the basis of the patient's admission as a chemically dependent person.

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Sec. 36. Minnesota Statutes 2018, section 253B.06, subdivision 3, is amended to read:

Subd. 3. **Discharge.** At the end of a 48-hour period, ~~any~~ the facility or program shall discharge a patient admitted pursuant to section ~~253B.05 shall be discharged~~ 253B.051 if an examination has not been held or if the examiner or evaluation staff person fails to notify the head of the ~~treatment~~ facility or program in writing that in the examiner's or staff person's opinion the patient is ~~apparently~~ in need of care, treatment, and evaluation as a ~~mentally ill, developmentally disabled, or chemically dependent~~ person who has a mental illness, developmental disability, or chemical dependency.

Sec. 37. Minnesota Statutes 2018, section 253B.07, subdivision 1, is amended to read:

Subdivision 1. **Prepetition screening.** (a) Prior to filing a petition for commitment of ~~or early intervention for~~ a proposed patient, an interested person shall apply to the designated agency in the county of financial responsibility or the county where the proposed patient is present for conduct of a preliminary investigation as provided in section 253B.23, subdivision 1b, except when the proposed patient has been acquitted of a crime under section 611.026 and the county attorney is required to file a petition for commitment. The designated agency shall appoint a screening team to conduct an investigation. The petitioner may not be a member of the screening team. The investigation must include:

(1) ~~a personal~~ an interview with the proposed patient and other individuals who appear to have knowledge of the condition of the proposed patient, if practicable. In-person interviews with the proposed patient are preferred. If the proposed patient is not interviewed, specific reasons must be documented;

(2) identification and investigation of specific alleged conduct which is the basis for application;

(3) identification, exploration, and listing of the specific reasons for rejecting or recommending alternatives to involuntary placement;

(4) in the case of a commitment based on mental illness, ~~the following~~ information~~, if it is known or available,~~ that may be relevant to the administration of neuroleptic medications, including the existence of a declaration under section 253B.03, subdivision 6d, or a health care directive under chapter 145C or a guardian, conservator, proxy, or agent with authority to make health care decisions for the proposed patient; information regarding the capacity of the proposed patient to make decisions regarding administration of neuroleptic medication; and whether the proposed patient is likely to consent or refuse consent to administration of the medication;

(5) seeking input from the proposed patient's health plan company to provide the court with information about ~~services the enrollee needs and the least restrictive alternatives~~ the patient's relevant treatment history and current treatment providers; and

(6) in the case of a commitment based on mental illness, information listed in clause (4) for other purposes relevant to treatment.

(b) In conducting the investigation required by this subdivision, the screening team shall have access to all relevant medical records of proposed patients currently in treatment facilities, state-operated treatment programs, or community-based treatment programs. The interviewer shall inform the proposed patient that any information provided by the proposed patient may be included in the prepetition screening report and may be considered in the commitment proceedings. Data collected pursuant to this clause shall be considered private data on individuals. The prepetition screening report is not admissible as evidence except by agreement of counsel or as permitted by this chapter or the rules of court and is not admissible in any court proceedings unrelated to the commitment proceedings.

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(c) The prepetition screening team shall provide a notice, written in easily understood language, to the proposed patient, the petitioner, persons named in a declaration under chapter 145C or section 253B.03, subdivision 6d, and, with the proposed patient's consent, other interested parties. The team shall ask the patient if the patient wants the notice read and shall read the notice to the patient upon request. The notice must contain information regarding the process, purpose, and legal effects of civil commitment ~~and early intervention~~. The notice must inform the proposed patient that:

(1) if a petition is filed, the patient has certain rights, including the right to a court-appointed attorney, the right to request a second court examiner, the right to attend hearings, and the right to oppose the proceeding and to present and contest evidence; and

(2) if the proposed patient is committed to a ~~state regional treatment center or group home~~ state-operated treatment program, the patient may be billed for the cost of care and the state has the right to make a claim against the patient's estate for this cost.

The ombudsman for mental health and developmental disabilities shall develop a form for the notice which includes the requirements of this paragraph.

(d) When the prepetition screening team recommends commitment, a written report shall be sent to the county attorney for the county in which the petition is to be filed. The statement of facts contained in the written report must meet the requirements of subdivision 2, paragraph (b).

(e) The prepetition screening team shall refuse to support a petition if the investigation does not disclose evidence sufficient to support commitment. Notice of the prepetition screening team's decision shall be provided to the prospective petitioner, any specific individuals identified in the examiner's statement, and to the proposed patient.

(f) If the interested person wishes to proceed with a petition contrary to the recommendation of the prepetition screening team, application may be made directly to the county attorney, who shall determine whether or not to proceed with the petition. Notice of the county attorney's determination shall be provided to the interested party.

(g) If the proposed patient has been acquitted of a crime under section 611.026, the county attorney shall apply to the designated county agency in the county in which the acquittal took place for a preliminary investigation unless substantially the same information relevant to the proposed patient's current mental condition, as could be obtained by a preliminary investigation, is part of the court record in the criminal proceeding or is contained in the report of a mental examination conducted in connection with the criminal proceeding. If a court petitions for commitment pursuant to the Rules of Criminal or Juvenile Procedure or a county attorney petitions pursuant to acquittal of a criminal charge under section 611.026, the prepetition investigation, if required by this section, shall be completed within seven days after the filing of the petition.

Sec. 38. Minnesota Statutes 2018, section 253B.07, subdivision 2, is amended to read:

Subd. 2. **The petition.** (a) Any interested person, except a member of the prepetition screening team, may file a petition for commitment in the district court of the county of financial responsibility or the county where the proposed patient is present. If the head of the treatment facility, state-operated treatment program, or community-based treatment program believes that commitment is required and no petition has been filed, ~~the head of the treatment facility~~ that person shall petition for the commitment of the ~~person~~ proposed patient.

(b) The petition shall set forth the name and address of the proposed patient, the name and address of the patient's nearest relatives, and the reasons for the petition. The petition must contain factual descriptions

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of the proposed patient's recent behavior, including a description of the behavior, where it occurred, and the time period over which it occurred. Each factual allegation must be supported by observations of witnesses named in the petition. Petitions shall be stated in behavioral terms and shall not contain judgmental or conclusory statements.

(c) The petition shall be accompanied by a written statement by an examiner stating that the examiner has examined the proposed patient within the 15 days preceding the filing of the petition and is of the opinion that the proposed patient ~~is suffering~~ has a designated disability and should be committed to a treatment facility, state-operated treatment program, or community-based treatment program. The statement shall include the reasons for the opinion. In the case of a commitment based on mental illness, the petition and the examiner's statement shall include~~, to the extent this information is available,~~ a statement and opinion regarding the proposed patient's need for treatment with neuroleptic medication and the patient's capacity to make decisions regarding the administration of neuroleptic medications, and the reasons for the opinion. If use of neuroleptic medications is recommended by the treating ~~physician~~ medical practitioner or other qualified medical provider, the petition for commitment must, if applicable, include or be accompanied by a request for proceedings under section 253B.092. Failure to include the required information regarding neuroleptic medications in the examiner's statement, or to include a request for an order regarding neuroleptic medications with the commitment petition, is not a basis for dismissing the commitment petition. If a petitioner has been unable to secure a statement from an examiner, the petition shall include documentation that a reasonable effort has been made to secure the supporting statement.

Sec. 39. Minnesota Statutes 2018, section 253B.07, subdivision 2a, is amended to read:

Subd. 2a. **Petition originating from criminal proceedings.** (a) If criminal charges are pending against a defendant, the court shall order simultaneous competency and civil commitment examinations in accordance with Minnesota Rules of Criminal Procedure, rule 20.04, when the following conditions are met:

(1) the prosecutor or defense counsel doubts the defendant's competency and a motion is made challenging competency, or the court on its initiative raises the issue under rule 20.01; and

(2) the prosecutor and defense counsel agree simultaneous examinations are appropriate.

No additional examination under subdivision 3 is required in a subsequent civil commitment proceeding unless a second examination is requested by defense counsel appointed following the filing of any petition for commitment.

(b) Only a court examiner may conduct an assessment as described in Minnesota Rules of Criminal Procedure, rules 20.01, subdivision 4, and 20.02, subdivision 2.

(c) Where a county is ordered to consider civil commitment following a determination of incompetency under Minnesota Rules of Criminal Procedure, rule 20.01, the county in which the criminal matter is pending is responsible to conduct prepetition screening and, if statutory conditions for commitment are satisfied, to file the commitment petition in that county. By agreement between county attorneys, prepetition screening and filing the petition may be handled in the county of financial responsibility or the county where the proposed patient is present.

~~(b)~~ (d) Following an acquittal of a person of a criminal charge under section 611.026, the petition shall be filed by the county attorney of the county in which the acquittal took place and the petition shall be filed with the court in which the acquittal took place, and that court shall be the committing court for purposes of this chapter. When a petition is filed pursuant to subdivision 2 with the court in which acquittal of a

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criminal charge took place, the court shall assign the judge before whom the acquittal took place to hear the commitment proceedings unless that judge is unavailable.

Sec. 40. Minnesota Statutes 2018, section 253B.07, subdivision 2b, is amended to read:

Subd. 2b. **Apprehend and hold orders.** (a) The court may order the treatment facility or state-operated treatment program to hold the ~~person in a treatment facility~~ proposed patient or direct a health officer, peace officer, or other person to take the proposed patient into custody and transport the proposed patient to a treatment facility or state-operated treatment program for observation, evaluation, diagnosis, care, treatment, and, if necessary, confinement, when:

(1) there has been a particularized showing by the petitioner that serious physical harm to the proposed patient or others is likely unless the proposed patient is immediately apprehended;

(2) the proposed patient has not voluntarily appeared for the examination or the commitment hearing pursuant to the summons; or

(3) a person is held pursuant to section ~~253B.05~~ 253B.051 and a request for a petition for commitment has been filed.

(b) The order of the court may be executed on any day and at any time by the use of all necessary means including the imposition of necessary restraint upon the proposed patient. Where possible, a peace officer taking the proposed patient into custody pursuant to this subdivision shall not be in uniform and shall not use a ~~motor~~ vehicle visibly marked as a ~~police~~ law enforcement vehicle. Except as provided in section 253D.10, subdivision 2, in the case of an individual on a judicial hold due to a petition for civil commitment under chapter 253D, assignment of custody during the hold is to the commissioner ~~of human services~~. The commissioner is responsible for determining the appropriate placement within a secure treatment facility under the authority of the commissioner.

(c) A proposed patient must not be allowed or required to consent to nor participate in a clinical drug trial while an order is in effect under this subdivision. A consent given while an order is in effect is void and unenforceable. This paragraph does not prohibit a patient from continuing participation in a clinical drug trial if the patient was participating in the clinical drug trial at the time the order was issued under this subdivision.

Sec. 41. Minnesota Statutes 2018, section 253B.07, subdivision 2d, is amended to read:

Subd. 2d. **Change of venue.** Either party may move to have the venue of the petition changed to the district court of the Minnesota county where the person currently lives, whether independently or pursuant to a placement. The county attorney of the proposed county of venue must be notified of the motion and provided the opportunity to respond before the court rules on the motion. The court shall grant the motion if it determines that the transfer is appropriate and is in the interests of justice. If the petition has been filed pursuant to the Rules of Criminal or Juvenile Procedure, venue may not be changed without the agreement of the county attorney of the proposed county of venue and the approval of the court in which the juvenile or criminal proceedings are pending.

Sec. 42. Minnesota Statutes 2018, section 253B.07, subdivision 3, is amended to read:

Subd. 3. **Court-appointed examiners.** After a petition has been filed, the court shall appoint ~~an~~ a court examiner. Prior to the hearing, the court shall inform the proposed patient of the right to an independent

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second examination. At the proposed patient's request, the court shall appoint a second court examiner of the patient's choosing to be paid for by the county at a rate of compensation fixed by the court.

Sec. 43. Minnesota Statutes 2018, section 253B.07, subdivision 5, is amended to read:

Subd. 5. **Prehearing examination; report.** The examination shall be held at a treatment facility or other suitable place the court determines is not likely to harm the health of the proposed patient. The county attorney and the patient's attorney may be present during the examination. Either party may waive this right. Unless otherwise agreed by the parties, a ~~court-appointed~~ court examiner shall file the report with the court not less than 48 hours prior to the commitment hearing. The court shall ensure that copies of the court examiner's report are provided to the county attorney, the proposed patient, and the patient's counsel.

Sec. 44. Minnesota Statutes 2018, section 253B.07, subdivision 7, is amended to read:

Subd. 7. **Preliminary hearing.** (a) No proposed patient may be held in a treatment facility or state-operated treatment program under a judicial hold pursuant to subdivision 2b longer than 72 hours, exclusive of Saturdays, Sundays, and legal holidays, unless the court holds a preliminary hearing and determines that the standard is met to hold the ~~person~~ proposed patient.

(b) The proposed patient, patient's counsel, the petitioner, the county attorney, and any other persons as the court directs shall be given at least 24 hours written notice of the preliminary hearing. The notice shall include the alleged grounds for confinement. The proposed patient shall be represented at the preliminary hearing by counsel. The court may admit reliable hearsay evidence, including written reports, for the purpose of the preliminary hearing.

(c) The court, on its motion or on the motion of any party, may exclude or excuse a proposed patient who is seriously disruptive or who is incapable of comprehending and participating in the proceedings. In such instances, the court shall, with specificity on the record, state the behavior of the proposed patient or other circumstances which justify proceeding in the absence of the proposed patient.

(d) The court may continue the judicial hold of the proposed patient if it finds, by a preponderance of the evidence, that serious physical harm to the proposed patient or others is likely if the proposed patient is not immediately confined. If a proposed patient was acquitted of a crime against the person under section 611.026 immediately preceding the filing of the petition, the court may presume that serious physical harm to the patient or others is likely if the proposed patient is not immediately confined.

(e) Upon a showing that a ~~person~~ proposed patient subject to a petition for commitment may need treatment with neuroleptic medications and that the ~~person~~ proposed patient may lack capacity to make decisions regarding that treatment, the court may appoint a substitute decision-maker as provided in section 253B.092, subdivision 6. The substitute decision-maker shall meet with the proposed patient and provider and make a report to the court at the hearing under section 253B.08 regarding whether the administration of neuroleptic medications is appropriate under the criteria of section 253B.092, subdivision 7. If the substitute decision-maker consents to treatment with neuroleptic medications and the proposed patient does not refuse the medication, neuroleptic medication may be administered to the proposed patient. If the substitute decision-maker does not consent or the proposed patient refuses, neuroleptic medication may not be administered without a court order, or in an emergency as set forth in section 253B.092, subdivision 3.

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Sec. 45. Minnesota Statutes 2018, section 253B.08, subdivision 1, is amended to read:

Subdivision 1. **Time for commitment hearing.** (a) The hearing on the commitment petition shall be held within 14 days from the date of the filing of the petition, except that the hearing on a commitment petition pursuant to section 253D.07 shall be held within 90 days from the date of the filing of the petition. For good cause shown, the court may extend the time of hearing up to an additional 30 days. The proceeding shall be dismissed if the proposed patient has not had a hearing on a commitment petition within the allowed time.

(b) The proposed patient, or the head of the treatment facility or state-operated treatment program in which the ~~person~~ patient is held, may demand in writing at any time that the hearing be held immediately. Unless the hearing is held within five days of the date of the demand, exclusive of Saturdays, Sundays, and legal holidays, the petition shall be automatically dismissed if the patient is being held in a treatment facility or state-operated treatment program pursuant to court order. For good cause shown, the court may extend the time of hearing on the demand for an additional ten days. This paragraph does not apply to a commitment petition brought under section 253B.18 or chapter 253D.

Sec. 46. Minnesota Statutes 2018, section 253B.08, subdivision 2a, is amended to read:

Subd. 2a. **Place of hearing.** The hearing shall be conducted in a manner consistent with orderly procedure. The hearing shall be held at a courtroom meeting standards prescribed by local court rule which may be at a treatment facility or state-operated treatment program. The hearing may be conducted by interactive video conference under General Rules of Practice, rule 131, and Minnesota Rules of Civil Commitment, rule 14.

Sec. 47. Minnesota Statutes 2018, section 253B.08, subdivision 5, is amended to read:

Subd. 5. **Absence permitted.** (a) The court may permit the proposed patient to waive the right to attend the hearing if it determines that the waiver is freely given. At the time of the hearing, the proposed patient shall not be so under the influence of drugs, medication, or other treatment so as to be hampered in participating in the proceedings. When the ~~licensed physician or licensed psychologist attending the patient~~ professional responsible for the proposed patient's treatment is of the opinion that the discontinuance of ~~drugs,~~ medication~~,~~ or other treatment is not in the best interest of the proposed patient, the court, at the time of the hearing, shall be presented a record of all ~~drugs,~~ medication or other treatment which the proposed patient has received during the 48 hours immediately prior to the hearing.

(b) The court, on its own motion or on the motion of any party, may exclude or excuse a proposed patient who is seriously disruptive or who is incapable of comprehending and participating in the proceedings. In such instances, the court shall, with specificity on the record, state the behavior of the proposed patient or other circumstances justifying proceeding in the absence of the proposed patient.

Sec. 48. Minnesota Statutes 2018, section 253B.08, subdivision 5a, is amended to read:

Subd. 5a. **Witnesses.** The proposed patient or the patient's counsel and the county attorney may present and cross-examine witnesses, including court examiners, at the hearing. The court may in its discretion receive the testimony of any other person. Opinions of ~~court-appointed~~ court examiners may not be admitted into evidence unless the court examiner is present to testify, except by agreement of the parties.

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Sec. 49. Minnesota Statutes 2018, section 253B.09, subdivision 1, is amended to read:

Subdivision 1. **Standard of proof.** (a) If the court finds by clear and convincing evidence that the proposed patient is a person ~~who is mentally ill, developmentally disabled, or chemically dependent~~ who poses a risk of harm due to mental illness, or is a person who has a developmental disability or chemical dependency, and after careful consideration of reasonable alternative dispositions~~,~~ including but not limited to~~,~~ dismissal of petition~~,~~; voluntary outpatient care~~,~~; voluntary admission to a treatment facility, state-operated treatment program, or community-based treatment program; appointment of a guardian or conservator~~,~~; or release before commitment as provided for in subdivision 4, it finds that there is no suitable alternative to judicial commitment, the court shall commit the patient to the least restrictive treatment program or alternative programs which can meet the patient's treatment needs consistent with section 253B.03, subdivision 7.

(b) In deciding on the least restrictive program, the court shall consider a range of treatment alternatives including~~,~~ but not limited to~~,~~ community-based nonresidential treatment, community residential treatment, partial hospitalization, acute care hospital, assertive community treatment teams, and ~~regional~~ state-operated treatment ~~center services~~ programs. The court shall also consider the proposed patient's treatment preferences and willingness to participate voluntarily in the treatment ordered. The court may not commit a patient to a facility or program that is not capable of meeting the patient's needs.

(c) If, after careful consideration of reasonable alternative dispositions, the court finds no suitable alternative to judicial commitment and the court finds that the least restrictive alternative as determined in paragraph (a) is a treatment facility or community-based treatment program that is less restrictive or more community based than a state-operated treatment program, and there is a treatment facility or a community-based treatment program willing to accept the civilly committed patient, the court may commit the patient to both the treatment facility or community-based treatment program and to the commissioner, in the event that treatment in a state-operated treatment program becomes the least restrictive alternative. If there is a change in the patient's level of care, then:

(1) if the patient needs a higher level of care requiring admission to a state-operated treatment program, custody of the patient and authority and responsibility for the commitment may be transferred to the commissioner for as long as the patient needs a higher level of care; and

(2) when the patient no longer needs treatment in a state-operated treatment program, the program may provisionally discharge the patient to an appropriate placement or release the patient to the treatment facility or community-based treatment program if the program continues to be willing and able to readmit the patient, in which case the commitment, its authority, and responsibilities revert to the non-state-operated treatment program. Both agencies accepting commitment shall coordinate admission and discharge planning to facilitate timely access to the other's services to meet the patient's needs and shall coordinate treatment planning consistent with section 253B.03, subdivision 7.

~~(c)~~ (d) If ~~the commitment as mentally ill, chemically dependent, or developmentally disabled is to a service facility provided by the commissioner of human services~~ a person is committed to a state-operated treatment program as a person who poses a risk of harm due to mental illness or as a person who has a developmental disability or chemical dependency, the court shall order the commitment to the commissioner. The commissioner shall designate the placement of the person to the court.

~~(d)~~ (e) If the court finds a proposed patient to be a person who ~~is mentally ill~~ poses a risk of harm due to mental illness under section 253B.02, subdivision 13, ~~paragraph (a),~~ clause ~~(2) or~~ (4), the court shall commit the patient to a treatment facility or community-based treatment program that meets the proposed

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patient's needs. ~~For purposes of this paragraph, a community-based program may include inpatient mental health services at a community hospital.~~

Sec. 50. Minnesota Statutes 2018, section 253B.09, subdivision 2, is amended to read:

Subd. 2. **Findings.** (a) The court shall find the facts specifically, and separately state its conclusions of law. Where commitment is ordered, the findings of fact and conclusions of law shall specifically state the proposed patient's conduct which is a basis for determining that each of the requisites for commitment is met.

(b) If commitment is ordered, the findings shall also identify less restrictive alternatives considered and rejected by the court and the reasons for rejecting each alternative.

(c) If the proceedings are dismissed, the court may direct that the person be transported back to a suitable location including to the person's home.

Sec. 51. Minnesota Statutes 2018, section 253B.09, subdivision 3a, is amended to read:

Subd. 3a. **Reporting judicial commitments; private treatment program or facility.** Notwithstanding section 253B.23, subdivision 9, when a court commits a patient to a non-state-operated treatment facility or program ~~or facility other than a state-operated program or facility~~, the court shall report the commitment to the commissioner through the supreme court information system for purposes of providing commitment information for firearm background checks under section 245.041. If the patient is committed to a state-operated treatment program, the court shall send a copy of the commitment order to the commissioner.

Sec. 52. Minnesota Statutes 2018, section 253B.09, subdivision 5, is amended to read:

Subd. 5. **Initial commitment period.** The initial commitment begins on the date that the court issues its order or warrant under section 253B.10, subdivision 1. For ~~persons~~ a person committed as ~~mentally ill, developmentally disabled,~~ a person who poses a risk of harm due to mental illness, a developmental disability, or ~~chemically dependent~~ chemical dependency, the initial commitment shall not exceed six months.

Sec. 53. Minnesota Statutes 2018, section 253B.092, is amended to read:

253B.092 ADMINISTRATION OF NEUROLEPTIC MEDICATION.

Subdivision 1. **General.** Neuroleptic medications may be administered, only as provided in this section, to patients subject to ~~early intervention or~~ civil commitment ~~as mentally ill, mentally ill and dangerous, a sexually dangerous person, or a person with a sexual psychopathic personality~~ under this chapter or chapter 253D. For purposes of this section, "patient" includes a proposed patient who is the subject of a petition for ~~early intervention or~~ commitment and a committed person as defined in section 253D.02, subdivision 4.

Subd. 2. **Administration without judicial review.** (a) Neuroleptic medications may be administered without judicial review in the following circumstances:

(1) the patient has the capacity to make an informed decision under subdivision 4;

(2) the patient does not have the present capacity to consent to the administration of neuroleptic medication, but prepared a health care power of attorney, a health care directive under chapter 145C, or a declaration under section 253B.03, subdivision 6d, requesting treatment or authorizing an agent or proxy to request treatment, and the agent or proxy has requested the treatment;

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(3) the patient has been prescribed neuroleptic medication prior to admission to a treatment facility, but lacks the present capacity to consent to the administration of that neuroleptic medication; continued administration of the medication is in the patient's best interest; and the patient does not refuse administration of the medication. In this situation, the previously prescribed neuroleptic medication may be continued for up to 14 days while the treating ~~physician~~ medical practitioner:

(i) is obtaining a substitute decision-maker appointed by the court under subdivision 6; or

(ii) is requesting a court order authorizing administering neuroleptic medication or an amendment to a current court order authorizing administration of neuroleptic medication;

(4) a substitute decision-maker appointed by the court consents to the administration of the neuroleptic medication and the patient does not refuse administration of the medication; or

(5) the substitute decision-maker does not consent or the patient is refusing medication, and the patient is in an emergency situation.

(b) For the purposes of paragraph (a), clause (3), if a person requests a substitute decision-maker or requests a court order administering neuroleptic medication within 14 days, the treating medical practitioner may continue administering the medication to the patient through the hearing date or until the court otherwise issues an order.

Subd. 3. **Emergency administration.** A treating ~~physician~~ medical practitioner may administer neuroleptic medication to a patient who does not have capacity to make a decision regarding administration of the medication if the patient is in an emergency situation. Medication may be administered for so long as the emergency continues to exist, up to 14 days, if the treating ~~physician~~ medical practitioner determines that the medication is necessary to prevent serious, immediate physical harm to the patient or to others. If a request for authorization to administer medication is made to the court within the 14 days, the treating ~~physician~~ medical practitioner may continue the medication through the date of the first court hearing, if the emergency continues to exist. If the request for authorization to administer medication is made to the court in conjunction with a petition for commitment ~~or early intervention~~ and the court makes a determination at the preliminary hearing under section 253B.07, subdivision 7, that there is sufficient cause to continue the ~~physician's~~ medical practitioner's order until the hearing under section 253B.08, the treating ~~physician~~ medical practitioner may continue the medication until that hearing, if the emergency continues to exist. The treatment facility, state-operated treatment program, or community-based treatment program shall document the emergency in the patient's medical record in specific behavioral terms.

Subd. 4. **Patients with capacity to make informed decision.** A patient who has the capacity to make an informed decision regarding the administration of neuroleptic medication may consent or refuse consent to administration of the medication. The informed consent of a patient must be in writing.

Subd. 5. **Determination of capacity.** (a) There is a rebuttable presumption that a patient ~~is presumed to have~~ has the capacity to make decisions regarding administration of neuroleptic medication.

(b) ~~In determining~~ A ~~person's~~ patient has the capacity to make decisions regarding the administration of neuroleptic medication~~, the court shall consider~~ if the patient:

(1) ~~whether the person demonstrates~~ has an awareness of the nature of the ~~person's~~ patient's situation, including the reasons for hospitalization, and the possible consequences of refusing treatment with neuroleptic medications;

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(2) ~~whether the person demonstrates~~ has an understanding of treatment with neuroleptic medications and the risks, benefits, and alternatives; and

(3) ~~whether the person~~ communicates verbally or nonverbally a clear choice regarding treatment with neuroleptic medications that is a reasoned one not based on ~~delusion~~ a symptom of the patient's mental illness, even though it may not be in the ~~person's~~ patient's best interests.

(c) Disagreement with the ~~physician's~~ medical practitioner's recommendation alone is not evidence of an unreasonable decision.

Subd. 6. **Patients without capacity to make informed decision; substitute decision-maker.** (a) Upon request of any person, and upon a showing that administration of neuroleptic medications may be recommended and that the ~~person~~ patient may lack capacity to make decisions regarding the administration of neuroleptic medication, the court shall appoint a substitute decision-maker with authority to consent to the administration of neuroleptic medication as provided in this section. A hearing is not required for an appointment under this paragraph. The substitute decision-maker must be an individual or a community or institutional multidisciplinary panel designated by the local mental health authority. In appointing a substitute decision-maker, the court shall give preference to a guardian ~~or conservator~~, proxy, or health care agent with authority to make health care decisions for the patient. The court may provide for the payment of a reasonable fee to the substitute decision-maker for services under this section or may appoint a volunteer.

(b) If the ~~person's treating physician~~ patient's treating medical practitioner recommends treatment with neuroleptic medication, the substitute decision-maker may give or withhold consent to the administration of the medication, based on the standards under subdivision 7. If the substitute decision-maker gives informed consent to the treatment and the ~~person~~ patient does not refuse, the substitute decision-maker shall provide written consent to the treating ~~physician~~ medical practitioner and the medication may be administered. The substitute decision-maker shall also notify the court that consent has been given. If the substitute decision-maker refuses or withdraws consent or the ~~person~~ patient refuses the medication, neuroleptic medication ~~may~~ must not be administered to the ~~person without~~ patient except with a court order or in an emergency.

(c) A substitute decision-maker appointed under this section has access to the relevant sections of the patient's health records on the past or present administration of medication. The designated agency or a person involved in the patient's physical or mental health care may disclose information to the substitute decision-maker for the sole purpose of performing the responsibilities under this section. The substitute decision-maker may not disclose health records obtained under this paragraph except to the extent necessary to carry out the duties under this section.

(d) At a hearing under section 253B.08, the petitioner has the burden of proving incapacity by a preponderance of the evidence. If a substitute decision-maker has been appointed by the court, the court shall make findings regarding the patient's capacity to make decisions regarding the administration of neuroleptic medications and affirm or reverse its appointment of a substitute decision-maker. If the court affirms the appointment of the substitute decision-maker, and if the substitute decision-maker has consented to the administration of the medication and the patient has not refused, the court shall make findings that the substitute decision-maker has consented and the treatment is authorized. If a substitute decision-maker has not yet been appointed, upon request the court shall make findings regarding the patient's capacity and appoint a substitute decision-maker if appropriate.

(e) If an order for civil commitment ~~or early intervention~~ did not provide for the appointment of a substitute decision-maker or for the administration of neuroleptic medication, ~~the~~ a treatment facility,

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state-operated treatment program, or community-based treatment program may later request the appointment of a substitute decision-maker upon a showing that administration of neuroleptic medications is recommended and that the ~~person~~ patient lacks capacity to make decisions regarding the administration of neuroleptic medications. A hearing is not required in order to administer the neuroleptic medication unless requested under subdivision 10 or if the substitute decision-maker withholds or refuses consent or the ~~person~~ patient refuses the medication.

(f) The substitute decision-maker's authority to consent to treatment lasts for the duration of the court's order of appointment or until modified by the court.

~~If the substitute decision-maker withdraws consent or the patient refuses consent, neuroleptic medication may not be administered without a court order.~~

(g) If there is no hearing after the preliminary hearing, then the court shall, upon the request of any interested party, review the reasonableness of the substitute decision-maker's decision based on the standards under subdivision 7. The court shall enter an order upholding or reversing the decision within seven days.

Subd. 7. **When ~~person~~ patient lacks capacity to make decisions about medication.** (a) When a ~~person~~ patient lacks capacity to make decisions regarding the administration of neuroleptic medication, the substitute decision-maker or the court shall use the standards in this subdivision in making a decision regarding administration of the medication.

(b) If the ~~person~~ patient clearly stated what the ~~person~~ patient would choose to do in this situation when the ~~person~~ patient had the capacity to make a reasoned decision, the ~~person's~~ patient's wishes must be followed. Evidence of the ~~person's~~ patient's wishes may include written instruments, including a durable power of attorney for health care under chapter 145C or a declaration under section 253B.03, subdivision 6d.

(c) If evidence of the ~~person's~~ patient's wishes regarding the administration of neuroleptic medications is conflicting or lacking, the decision must be based on what a reasonable person would do, taking into consideration:

(1) the ~~person's~~ patient's family, community, moral, religious, and social values;

(2) the medical risks, benefits, and alternatives to the proposed treatment;

(3) past efficacy and any extenuating circumstances of past use of neuroleptic medications; and

(4) any other relevant factors.

Subd. 8. **Procedure when patient refuses neuroleptic medication.** (a) If the substitute decision-maker or the patient refuses to consent to treatment with neuroleptic medications, and absent an emergency as set forth in subdivision 3, neuroleptic medications may not be administered without a court order. Upon receiving a written request for a hearing, the court shall schedule the hearing within 14 days of the request. The matter may be heard as part of any other district court proceeding under this chapter. By agreement of the parties or for good cause shown, the court may extend the time of hearing an additional 30 days.

(b) The patient must be examined by a court examiner prior to the hearing. If the patient refuses to participate in an examination, the court examiner may rely on the patient's medical records to reach an opinion as to the appropriateness of neuroleptic medication. The patient is entitled to counsel and a second court examiner, if requested by the patient or patient's counsel.

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(c) The court may base its decision on relevant and admissible evidence, including the testimony of a treating ~~physician~~ medical practitioner or other qualified physician, a member of the patient's treatment team, a ~~court-appointed~~ court examiner, witness testimony, or the patient's medical records.

(d) If the court finds that the patient has the capacity to decide whether to take neuroleptic medication or that the patient lacks capacity to decide and the standards for making a decision to administer the medications under subdivision 7 are not met, the ~~treating~~ treatment facility, state-operated treatment program, or community-based treatment program may not administer medication without the patient's informed written consent or without the declaration of an emergency, or until further review by the court.

(e) If the court finds that the patient lacks capacity to decide whether to take neuroleptic medication and has applied the standards set forth in subdivision 7, the court may authorize the ~~treating~~ treatment facility, state-operated treatment program, or community-based treatment program and any other ~~community or treatment~~ facility or program to which the patient may be transferred or provisionally discharged, to involuntarily administer the medication to the patient. A copy of the order must be given to the patient, the patient's attorney, the county attorney, and the treatment facility, state-operated treatment program, or community-based treatment program. The treatment facility, state-operated treatment program, or community-based treatment program may not begin administration of the neuroleptic medication until it notifies the patient of the court's order authorizing the treatment.

(f) A finding of lack of capacity under this section must not be construed to determine the patient's competence for any other purpose.

(g) The court may authorize the administration of neuroleptic medication until the termination of a determinate commitment. If the patient is committed for an indeterminate period, the court may authorize treatment of neuroleptic medication for not more than two years, subject to the patient's right to petition the court for review of the order. The treatment facility, state-operated treatment program, or community-based treatment program must submit annual reports to the court, which shall provide copies to the patient and the respective attorneys.

(h) The court may limit the maximum dosage of neuroleptic medication that may be administered.

(i) If physical force is required to administer the neuroleptic medication, the facility or program may only use injectable medications. If physical force is needed to administer the medication, medication may only ~~take place~~ be administered in a ~~treatment facility or therapeutic~~ setting where the person's condition can be reassessed and ~~appropriate~~ medical ~~staff~~ personnel qualified to administer medication are available, including in the community, a county jail, or a correctional facility. The facility or program may not use a nasogastric tube to administer neuroleptic medication involuntarily.

Subd. 9. **Immunity.** A substitute decision-maker who consents to treatment is not civilly or criminally liable for the performance of or the manner of performing the treatment. A person is not liable for performing treatment without consent if the substitute decision-maker has given written consent. This provision does not affect any other liability that may result from the manner in which the treatment is performed.

Subd. 10. **Review.** A patient or other person may petition the court under section 253B.17 for review of any determination under this section or for a decision regarding the administration of neuroleptic medications, appointment of a substitute decision-maker, or the patient's capacity to make decisions regarding administration of neuroleptic medications.

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Sec. 54. Minnesota Statutes 2018, section 253B.0921, is amended to read:

253B.0921 ACCESS TO MEDICAL RECORDS.

A treating ~~physician~~ medical practitioner who makes medical decisions regarding the prescription and administration of medication for treatment of a mental illness has access to the relevant sections of a patient's health records on past administration of medication at any ~~treatment~~ facility, program, or treatment provider, if the patient lacks the capacity to authorize the release of records. Upon request of a treating ~~physician~~ medical practitioner under this section, a ~~treatment~~ facility, program, or treatment provider shall supply complete information relating to the past records on administration of medication of a patient subject to this chapter. A patient who has the capacity to authorize the release of data retains the right to make decisions regarding access to medical records as provided by sections 144.291 to 144.298.

Sec. 55. Minnesota Statutes 2018, section 253B.095, subdivision 3, is amended to read:

Subd. 3. **Duration.** The maximum duration of a stayed order under this section is six months. The court may continue the order for a maximum of an additional 12 months if, after notice and hearing, under sections 253B.08 and 253B.09 the court finds that (1) the person continues to ~~be mentally ill, chemically dependent, or developmentally disabled,~~ have a mental illness, developmental disability, or chemical dependency, and (2) an order is needed ~~to protect the patient or others~~ because the person is likely to attempt to physically harm self or others or fail to obtain necessary food, clothing, shelter, or medical care unless the person is under the supervision of a stayed commitment.

Sec. 56. Minnesota Statutes 2018, section 253B.097, subdivision 1, is amended to read:

Subdivision 1. **Findings.** In addition to the findings required under section 253B.09, subdivision 2, an order committing a person to a community-based treatment program must include:

(1) a written plan for services to the patient;

(2) a finding that the proposed treatment is available and accessible to the patient and that public or private financial resources are available to pay for the proposed treatment;

(3) conditions the patient must meet in order to obtain an early release from commitment or to avoid a hearing for further commitment; and

(4) consequences of the patient's failure to follow the commitment order. Consequences may include commitment to another setting for treatment.

Sec. 57. Minnesota Statutes 2018, section 253B.097, subdivision 2, is amended to read:

Subd. 2. **Case manager.** When a court commits a patient with mental illness to a community-based treatment program, the court shall appoint a case manager from the county agency or other entity under contract with the county agency to provide case management services.

Sec. 58. Minnesota Statutes 2018, section 253B.097, subdivision 3, is amended to read:

Subd. 3. **Reports.** The case manager shall report to the court at least once every 90 days. The case manager shall immediately report to the court a substantial failure of the patient or provider to comply with the conditions of the commitment.

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Sec. 59. Minnesota Statutes 2018, section 253B.097, subdivision 6, is amended to read:

Subd. 6. **Immunity from liability.** No treatment facility, community-based treatment program, or person is financially liable, personally or otherwise, for the patient's actions ~~of the patient~~ if the facility or person follows accepted community standards of professional practice in the management, supervision, and treatment of the patient. For purposes of this subdivision, "person" means official, staff, employee of the treatment facility, community-based treatment program, physician, or other individual who is responsible for ~~the~~ a patient's management, supervision, or treatment ~~of a patient's community-based treatment~~ under this section.

Sec. 60. Minnesota Statutes 2018, section 253B.10, is amended to read:

253B.10 PROCEDURES UPON COMMITMENT.

Subdivision 1. **Administrative requirements.** (a) When a person is committed, the court shall issue a warrant or an order committing the patient to the custody of the head of the treatment facility, state-operated treatment program, or community-based treatment program. The warrant or order shall state that the patient meets the statutory criteria for civil commitment.

(b) The commissioner shall prioritize patients being admitted from jail or a correctional institution who are:

(1) ordered confined in a ~~state hospital~~ state-operated treatment program for an examination under Minnesota Rules of Criminal Procedure, rules 20.01, subdivision 4, paragraph (a), and 20.02, subdivision 2;

(2) under civil commitment for competency treatment and continuing supervision under Minnesota Rules of Criminal Procedure, rule 20.01, subdivision 7;

(3) found not guilty by reason of mental illness under Minnesota Rules of Criminal Procedure, rule 20.02, subdivision 8, and under civil commitment or are ordered to be detained in a ~~state hospital or other facility~~ state-operated treatment program pending completion of the civil commitment proceedings; or

(4) committed under this chapter to the commissioner after dismissal of the patient's criminal charges.

Patients described in this paragraph must be admitted to a ~~service operated by the commissioner~~ state-operated treatment program within 48 hours. The commitment must be ordered by the court as provided in section 253B.09, subdivision 1, paragraph ~~(c)~~ (d).

(c) Upon the arrival of a patient at the designated treatment facility, state-operated treatment program, or community-based treatment program, the head of the facility or program shall retain the duplicate of the warrant and endorse receipt upon the original warrant or acknowledge receipt of the order. The endorsed receipt or acknowledgment must be filed in the court of commitment. After arrival, the patient shall be under the control and custody of the head of the ~~treatment~~ facility or program.

(d) Copies of the petition for commitment, the court's findings of fact and conclusions of law, the court order committing the patient, the report of the court examiners, and the prepetition report, and any medical and behavioral information available shall be provided at the time of admission of a patient to the designated treatment facility or program to which the patient is committed. ~~This information shall also be provided by the head of the treatment facility to treatment facility staff in a consistent and timely manner and pursuant to all applicable laws.~~ Upon a patient's referral to the commissioner of human services for admission pursuant to subdivision 1, paragraph (b), any inpatient hospital, treatment facility, jail, or correctional facility that

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has provided care or supervision to the patient in the previous two years shall, when requested by the treatment facility or commissioner, provide copies of the patient's medical and behavioral records to the Department of Human Services for purposes of preadmission planning. This information shall be provided by the head of the treatment facility to treatment facility staff in a consistent and timely manner and pursuant to all applicable laws.

Subd. 2. **Transportation.** (a) When a patient is about to be placed in a treatment facility, state-operated treatment program, or community-based treatment program, the court may order the designated agency, the treatment facility, state-operated treatment program, or community-based treatment program, or any responsible adult to transport the patient ~~to the treatment facility~~. A protected transport provider may transport the patient according to section 256B.0625, subdivision 17. Whenever possible, a peace officer who provides the transportation shall not be in uniform and shall not use a vehicle visibly marked as a ~~police~~ law enforcement vehicle. The proposed patient may be accompanied by one or more interested persons.

(b) When a patient who is at a ~~regional~~ state-operated treatment ~~center~~ program requests a hearing for adjudication of a patient's status pursuant to section 253B.17, the commissioner shall provide transportation.

Subd. 3. **Notice of admission.** Whenever a committed person has been admitted to a treatment facility, state-operated treatment program, or community-based treatment program under the provisions of section 253B.09 or 253B.18, the head of the ~~treatment~~ facility or program shall immediately notify the patient's spouse, health care agent, or parent and the county of financial responsibility if the county may be liable for a portion of the cost of treatment. If the committed person was admitted upon the petition of a spouse, health care agent, or parent, the head of the treatment facility, state-operated treatment program, or community-based treatment program shall notify an interested person other than the petitioner.

Subd. 3a. **Interim custody and treatment of committed person.** When the patient is present in a treatment facility or state-operated treatment program at the time of the court's commitment order, unless the court orders otherwise, the commitment order constitutes authority for that facility or program to confine and provide treatment to the patient until the patient is transferred to the facility or program to which the patient has been committed.

Subd. 4. **Private treatment.** Patients or other responsible persons are required to pay the necessary charges for patients committed or transferred to ~~private~~ treatment facilities or community-based treatment programs. ~~Private~~ Treatment facilities or community-based treatment programs may not refuse to accept a committed person solely based on the person's court-ordered status. Insurers must provide treatment and services as ordered by the court under section 253B.045, subdivision 6, or as required under chapter 62M.

Subd. 5. **Transfer to voluntary status.** At any time prior to the expiration of the initial commitment period, a patient who has not been committed as ~~mentally ill~~ a person who has a mental illness and is dangerous to the public or ~~as~~ a sexually dangerous person or ~~as~~ a sexual psychopathic personality may be transferred to voluntary status upon the patient's application in writing with the consent of the head of the facility or program to which the person is committed. Upon transfer, the head of the treatment facility, state-operated treatment program, or community-based treatment program shall immediately notify the court in writing and the court shall terminate the proceedings.

Sec. 61. Minnesota Statutes 2018, section 253B.12, subdivision 1, is amended to read:

Subdivision 1. **Reports.** (a) If a patient who was committed as a person ~~who is mentally ill, developmentally disabled, or chemically dependent~~ who poses a risk of harm due to a mental illness, or as a person who has a developmental disability or chemical dependency, is discharged from commitment within

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the first 60 days after the date of the initial commitment order, the head of the treatment facility, state-operated treatment program, or community-based treatment program shall file a written report with the committing court describing the patient's need for further treatment. A copy of the report must be provided to the county attorney, the patient, and the patient's counsel.

(b) If a patient who was committed as a person ~~who is mentally ill, developmentally disabled, or chemically dependent~~ who poses a risk of harm due to a mental illness, or as a person who has a developmental disability or chemical dependency, remains in treatment more than 60 days after the date of the commitment, then at least 60 days, but not more than 90 days, after the date of the order, the head of the facility or program that has custody of the patient shall file a written report with the committing court and provide a copy to the county attorney, the patient, and the patient's counsel. The report must set forth in detailed narrative form at least the following:

(1) the diagnosis of the patient with the supporting data;

(2) the anticipated discharge date;

(3) an individualized treatment plan;

(4) a detailed description of the discharge planning process with suggested after care plan;

(5) whether the patient is in need of further care and treatment, the treatment facility ~~which~~, state-operated treatment program, or community-based treatment program that is needed, and evidence to support the response;

(6) whether the patient satisfies the statutory requirement for continued commitment ~~to a treatment facility,~~ with documentation to support the opinion; ~~and~~

(7) a statement from the patient related to accepting treatment, if possible; and

~~(7)~~ (8) whether the administration of neuroleptic medication is clinically indicated, whether the patient is able to give informed consent to that medication, and the basis for these opinions.

(c) Prior to the termination of the initial commitment order or final discharge of the patient, the head of the ~~treatment~~ facility or program that has custody or care of the patient shall file a written report with the committing court with a copy to the county attorney, the patient, and the patient's counsel that sets forth the information required in paragraph (b).

(d) If the patient has been provisionally discharged from a ~~treatment~~ facility or program, the report shall be filed by the designated agency, which may submit the discharge report as part of its report.

(e) ~~If no written report is filed within the required time, or~~ If a report describes the patient as not in need of further ~~institutional care and~~ court-ordered treatment, the proceedings must be terminated by the committing court and the patient discharged from the treatment facility, state-operated treatment program, or community-based treatment program, unless the patient chooses to voluntarily receive services.

(f) If no written report is filed within the required time, the court must notify the county, facility or program to which the person is committed, and designated agency and require a report be filed within five business days. If a report is not filed within five business days a hearing must be held within three business days.

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Sec. 62. Minnesota Statutes 2018, section 253B.12, subdivision 3, is amended to read:

Subd. 3. **Examination.** Prior to the review hearing, the court shall inform the patient of the right to an independent examination by ~~an~~ a court examiner chosen by the patient and appointed in accordance with provisions of section 253B.07, subdivision 3. The report of the court examiner may be submitted at the hearing.

Sec. 63. Minnesota Statutes 2018, section 253B.12, subdivision 4, is amended to read:

Subd. 4. **Hearing; standard of proof.** (a) The committing court shall not make a final determination of the need to continue commitment unless the court finds by clear and convincing evidence that (1) the ~~person~~ patient continues to ~~be mentally ill, developmentally disabled, or chemically dependent~~ have a mental illness, developmental disability, or chemical dependency; (2) involuntary commitment is necessary for the protection of the patient or others; and (3) there is no alternative to involuntary commitment.

(b) In determining whether a ~~person~~ patient continues to ~~be mentally ill, chemically dependent, or developmentally disabled,~~ require commitment due to mental illness, developmental disability, or chemical dependency, the court need not find that there has been a recent attempt or threat to physically harm self or others, or a recent failure to provide necessary ~~personal~~ food, clothing, shelter, or medical care. Instead, the court must find that the patient is likely to attempt to physically harm self or others, or to fail to ~~provide~~ obtain necessary ~~personal~~ food, clothing, shelter, or medical care unless involuntary commitment is continued.

Sec. 64. Minnesota Statutes 2018, section 253B.12, subdivision 7, is amended to read:

Subd. 7. **Record required.** Where continued commitment is ordered, the findings of fact and conclusions of law shall specifically state the conduct of the proposed patient which is the basis for the final determination, that the statutory criteria of commitment continue to be met, and that less restrictive alternatives have been considered and rejected by the court. Reasons for rejecting each alternative shall be stated. A copy of the final order for continued commitment shall be forwarded to the head of the ~~treatment~~ facility or program to which the person is committed and, if the patient has been provisionally discharged, to the designated agency responsible for monitoring the provisional discharge.

Sec. 65. Minnesota Statutes 2018, section 253B.13, subdivision 1, is amended to read:

Subdivision 1. **~~Mentally ill or chemically dependent~~ Persons with mental illness or chemical dependency.** (a) If at the conclusion of a review hearing the court finds that the person continues to ~~be mentally ill or chemically dependent~~ have mental illness or chemical dependency and ~~in~~ need ~~of~~ treatment or supervision, the court shall determine the length of continued commitment. No period of commitment shall exceed this length of time or 12 months, whichever is less.

(b) At the conclusion of the prescribed period under paragraph (a), commitment may not be continued unless a new petition is filed pursuant to section 253B.07 and hearing and determination made on it. If the petition was filed before the end of the previous commitment and, for good cause shown, the court has not completed the hearing and the determination by the end of the commitment period, the court may for good cause extend the previous commitment for up to 14 days to allow the completion of the hearing and the issuance of the determination. The standard of proof for the new petition is the standard specified in section 253B.12, subdivision 4. Notwithstanding the provisions of section 253B.09, subdivision 5, the initial commitment period under the new petition shall be the probable length of commitment necessary or 12 months, whichever is less. ~~The standard of proof at the hearing on the new petition shall be the standard specified in section 253B.12, subdivision 4.~~

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Sec. 66. Minnesota Statutes 2018, section 253B.14, is amended to read:

253B.14 TRANSFER OF COMMITTED PERSONS.

The commissioner may transfer any committed person, other than a person committed as ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public, ~~or as~~ a sexually dangerous person or ~~as~~ a sexual psychopathic personality, from one ~~regional~~ state-operated treatment ~~center~~ program to any other state-operated treatment ~~facility under the commissioner's jurisdiction which is~~ program capable of providing proper care and treatment. When a committed person is transferred from one state-operated treatment ~~facility~~ program to another, written notice shall be given to the committing court, the county attorney, the patient's counsel, and to the person's parent, health care agent, or spouse or, if none is known, to an interested person, and the designated agency.

Sec. 67. Minnesota Statutes 2018, section 253B.141, is amended to read:

253B.141 AUTHORITY TO DETAIN AND TRANSPORT A MISSING PATIENT.

Subdivision 1. **Report of absence.** (a) If a patient committed under this chapter or detained in a treatment facility or state-operated treatment program under a judicial hold is absent without authorization, and either: (1) does not return voluntarily within 72 hours of the time the unauthorized absence began; or (2) is considered by the head of the ~~treatment~~ facility or program to be a danger to self or others, then the head of the ~~treatment~~ facility or program shall report the absence to the local law enforcement agency. The head of the ~~treatment~~ facility or program shall also notify the committing court that the patient is absent and that the absence has been reported to the local law enforcement agency. The committing court may issue an order directing the law enforcement agency to transport the patient to an appropriate treatment facility, state-operated treatment program, or community-based treatment program.

(b) Upon receiving a report that a patient subject to this section is absent without authorization, the local law enforcement agency shall enter information on the patient into the missing persons file of the National Crime Information Center computer according to the missing persons practices.

Subd. 2. **Apprehension; return to facility or program.** (a) Upon receiving the report of absence from the head of the treatment facility, state-operated treatment program, or community-based treatment program or the committing court, a patient may be apprehended and held by a peace officer in any jurisdiction pending return to the facility or program from which the patient is absent without authorization. A patient may also be returned to any ~~facility operated by the commissioner~~ state-operated treatment program or any other treatment facility or community-based treatment program willing to accept the person. A person who ~~is mentally ill~~ has a mental illness and is dangerous to the public and detained under this subdivision may be held in a jail or lockup only if:

(1) there is no other feasible place of detention for the patient;

(2) the detention is for less than 24 hours; and

(3) there are protections in place, including segregation of the patient, to ensure the safety of the patient.

(b) If a patient is detained under this subdivision, the head of the ~~treatment~~ facility or program from which the patient is absent shall arrange to pick up the patient within 24 hours of the time detention was begun and shall be responsible for securing transportation for the patient to the facility or program. The expense of detaining and transporting a patient shall be the responsibility of the ~~treatment~~ facility or program from which the patient is absent. The expense of detaining and transporting a patient to a state-operated

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treatment ~~facility operated by the Department of Human Services~~ program shall be paid by the commissioner unless paid by the patient or persons on behalf of the patient.

Subd. 3. **Notice of apprehension.** Immediately after an absent patient is located, the head of the ~~treatment~~ facility or program from which the patient is absent, or the law enforcement agency that located or returned the absent patient, shall notify the law enforcement agency that first received the absent patient report under this section and that agency shall cancel the missing persons entry from the National Crime Information Center computer.

Sec. 68. Minnesota Statutes 2018, section 253B.15, subdivision 1, is amended to read:

Subdivision 1. **Provisional discharge.** (a) The head of the treatment facility, state-operated treatment program, or community-based treatment program may provisionally discharge any patient without discharging the commitment, unless the patient was found by the committing court to be a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, ~~or~~ a sexually dangerous person, or a sexual psychopathic personality.

(b) When a patient committed to the commissioner becomes ready for provisional discharge before being placed in a state-operated treatment program, the head of the treatment facility or community-based treatment program where the patient is placed pending transfer to the commissioner may provisionally discharge the patient pursuant to this subdivision.

(c) Each patient released on provisional discharge shall have a written ~~aftercare~~ provisional discharge plan developed with input from the patient and the designated agency which specifies the services and treatment to be provided as part of the ~~aftercare~~ provisional discharge plan, the financial resources available to pay for the services specified, the expected period of provisional discharge, the precise goals for the granting of a final discharge, and conditions or restrictions on the patient during the period of the provisional discharge. The ~~aftercare~~ provisional discharge plan shall be provided to the patient, the patient's attorney, and the designated agency.

(d) The ~~aftercare~~ provisional discharge plan shall be reviewed on a quarterly basis by the patient, designated agency and other appropriate persons. The ~~aftercare~~ provisional discharge plan shall contain the grounds upon which a provisional discharge may be revoked. The provisional discharge shall terminate on the date specified in the plan unless specific action is taken to revoke or extend it.

Sec. 69. Minnesota Statutes 2018, section 253B.15, subdivision 1a, is amended to read:

Subd. 1a. **Representative of designated agency.** Before a provisional discharge is granted, a representative of the designated agency must be identified to ensure continuity of care by being involved with the treatment facility, state-operated treatment program, or community-based treatment program and the patient prior to the provisional discharge. The representative of the designated agency shall coordinate plans for and monitor the patient's aftercare program. When the patient is on a provisional discharge, the representative of the designated agency shall provide the treatment report to the court required under section 253B.12, subdivision 1.

Sec. 70. Minnesota Statutes 2018, section 253B.15, subdivision 2, is amended to read:

Subd. 2. **Revocation of provisional discharge.** (a) The designated agency may ~~revoke~~ initiate with the court a revocation of a provisional discharge if revocation is the least restrictive alternative and either:

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(1) the patient has violated material conditions of the provisional discharge, and the violation creates the need to return the patient to a more restrictive setting or more intensive community services; or

(2) there exists a serious likelihood that the safety of the patient or others will be jeopardized, in that either the patient's need for food, clothing, shelter, or medical care are not being met, or will not be met in the near future, or the patient has attempted or threatened to seriously physically harm self or others~~; and~~.

~~(3) revocation is the least restrictive alternative available.~~

(b) Any interested person may request that the designated agency revoke the patient's provisional discharge. Any person making a request shall provide the designated agency with a written report setting forth the specific facts, including witnesses, dates and locations, supporting a revocation, demonstrating that every effort has been made to avoid revocation and that revocation is the least restrictive alternative available.

Sec. 71. Minnesota Statutes 2018, section 253B.15, subdivision 3, is amended to read:

Subd. 3. **Procedure; notice.** Revocation shall be commenced by the designated agency's written notice of intent to revoke provisional discharge given or sent to the patient, the patient's attorney, ~~and~~ the ~~treatment~~ facility or program from which the patient was provisionally discharged, and the current community services provider. The notice shall set forth the grounds upon which the intention to revoke is based, and shall inform the patient of the rights of a patient under this chapter.

Sec. 72. Minnesota Statutes 2018, section 253B.15, subdivision 3a, is amended to read:

Subd. 3a. **Report to the court.** Within 48 hours, excluding weekends and legal holidays, of giving notice to the patient, the designated agency shall file with the court a copy of the notice and a report setting forth the specific facts, including witnesses, dates and locations, which (1) support revocation, (2) demonstrate that revocation is the least restrictive alternative available, and (3) show that specific efforts were made to avoid revocation. The designated agency shall provide copies of the report to the patient, the patient's attorney, the county attorney, and the treatment facility or program from which the patient was provisionally discharged within 48 hours of giving notice to the patient under subdivision 3.

Sec. 73. Minnesota Statutes 2018, section 253B.15, subdivision 3b, is amended to read:

Subd. 3b. **Review.** The patient or patient's attorney may request judicial review of the intended revocation by filing a petition for review and an affidavit with the committing court. The affidavit shall state specific grounds for opposing the revocation. If the patient does not file a petition for review within five days of receiving the notice under subdivision 3, revocation of the provisional discharge is final and the court, without hearing, may order the patient into a ~~treatment~~ facility or program from which the patient was provisionally discharged, another treatment facility, state-operated treatment program, or community-based treatment program that consents to receive the patient, or more intensive community treatment. If the patient files a petition for review, the court shall review the petition and determine whether a genuine issue exists as to the propriety of the revocation. The burden of proof is on the designated agency to show that no genuine issue exists as to the propriety of the revocation. If the court finds that no genuine issue exists as to the propriety of the revocation, the revocation of the provisional discharge is final.

Sec. 74. Minnesota Statutes 2018, section 253B.15, subdivision 3c, is amended to read:

Subd. 3c. **Hearing.** (a) If the court finds under subdivision 3b that a genuine issue exists as to the propriety of the revocation, the court shall hold a hearing on the petition within three days after the patient

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files the petition. The court may continue the review hearing for an additional five days upon any party's showing of good cause. At the hearing, the burden of proof is on the designated agency to show a factual basis for the revocation. At the conclusion of the hearing, the court shall make specific findings of fact. The court shall affirm the revocation if it finds:

(1) a factual basis for revocation due to:

(i) a violation of the material conditions of the provisional discharge that creates a need for the patient to return to a more restrictive setting or more intensive community services; or

(ii) a probable danger of harm to the patient or others if the provisional discharge is not revoked; and

(2) that revocation is the least restrictive alternative available.

(b) If the court does not affirm the revocation, the court shall order the patient returned to provisional discharge status.

Sec. 75. Minnesota Statutes 2018, section 253B.15, subdivision 5, is amended to read:

Subd. 5. **Return to facility.** When the designated agency gives or sends notice of the intent to revoke a patient's provisional discharge, it may also apply to the committing court for an order directing that the patient be returned to ~~a~~ the facility or program from which the patient was provisionally discharged or another treatment facility, state-operated treatment program, or community-based treatment program that consents to receive the patient. The court may order the patient returned to a facility or program prior to a review hearing only upon finding that immediate return ~~to a facility~~ is necessary because there is a serious likelihood that the safety of the patient or others will be jeopardized, in that (1) the patient's need for food, clothing, shelter, or medical care is not being met, or will not be met in the near future, or (2) the patient has attempted or threatened to seriously harm self or others. If a voluntary return is not arranged, the head of the treatment facility, state-operated treatment program, or community-based treatment program may request a health officer or a peace officer to return the patient to the ~~treatment~~ facility or program from which the patient was released or to any other treatment facility ~~which~~, state-operated treatment program, or community-based treatment program that consents to receive the patient. If necessary, the head of the treatment facility, state-operated treatment program, or community-based treatment program may request the committing court to direct a health officer or peace officer in the county where the patient is located to return the patient to the ~~treatment~~ facility or program or to another treatment facility ~~which~~, state-operated treatment program, or community-based treatment program that consents to receive the patient. The expense of returning the patient to a ~~regional~~ state-operated treatment ~~center~~ program shall be paid by the commissioner unless paid by the patient or the patient's relatives. If the court orders the patient to return to the ~~treatment~~ facility or program, or if a health officer or peace officer returns the patient to the ~~treatment~~ facility or program, and the patient wants judicial review of the revocation, the patient or the patient's attorney must file the petition for review and affidavit required under subdivision 3b within 14 days of receipt of the notice of the intent to revoke.

Sec. 76. Minnesota Statutes 2018, section 253B.15, subdivision 7, is amended to read:

Subd. 7. **Modification and extension of provisional discharge.** (a) A provisional discharge may be modified upon agreement of the parties.

(b) A provisional discharge may be extended only in those circumstances where the patient has not achieved the goals set forth in the provisional discharge plan or continues to need the supervision or assistance provided by an extension of the provisional discharge. In determining whether the provisional discharge is

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to be extended, the ~~head of the facility~~ designated agency shall consider the willingness and ability of the patient to voluntarily obtain needed care and treatment.

~~(c) The designated agency shall recommend extension of a provisional discharge only after a preliminary conference with the patient and other appropriate persons. The patient shall be given the opportunity to object or make suggestions for alternatives to extension.~~

~~(d)~~ (c) The designated agency must provide any ~~recommendation for~~ proposed extension ~~shall be made~~ in writing ~~to the head of the facility and~~ to the patient and the patient's attorney at least 30 days prior to the expiration of the provisional discharge unless the patient cannot be located or is unavailable to receive the notice. The ~~written recommendation submitted~~ proposal for extension shall include: the specific grounds for ~~recommending~~ proposing the extension, ~~the date of the preliminary conference and results,~~ the anniversary date of the provisional discharge, the termination date of the provisional discharge, and the proposed length of extension. If the grounds for ~~recommending~~ proposing the extension occur less than 30 days before its expiration, the designated agency must submit the written ~~recommendation shall occur~~ proposal for extension as soon as practicable.

~~(e) The head of the facility~~ (d) The designated agency shall extend a provisional discharge only after providing the patient an opportunity for a meeting to object or make suggestions for alternatives to an extension. The designated agency shall ~~issue~~ provide a written decision to the patient and the patient's attorney regarding extension within five days after receiving ~~the recommendation from the designated agency~~ the patient's input or after holding a meeting with the patient or after the patient has declined to provide input or participate in the meeting. The designated agency may seek input from the community-based treatment team or other persons the patient chooses.

Sec. 77. Minnesota Statutes 2018, section 253B.15, is amended by adding a subdivision to read:

Subd. 8a. **Provisional discharge extension.** If the provisional discharge extends until the end of the period of commitment and, before the commitment expires, the court extends the commitment under section 253B.12 or issues a new commitment order under section 253B.13, the provisional discharge shall continue for the duration of the new or extended period of commitment ordered unless the commitment order provides otherwise or the designated agency revokes the patient's provisional discharge pursuant to this section. To continue the patient's provisional discharge under this subdivision, the designated agency is not required to comply with the procedures in subdivision 7.

Sec. 78. Minnesota Statutes 2018, section 253B.15, subdivision 9, is amended to read:

Subd. 9. **Expiration of provisional discharge.** (a) Except as otherwise provided, a provisional discharge is absolute when it expires. If, while on provisional discharge or extended provisional discharge, a patient is discharged as provided in section 253B.16, the discharge shall be absolute.

(b) The designated agency shall give notice of the expiration of the provisional discharge ~~shall be given by the head of the treatment facility~~ to the committing court; the petitioner, if known; the patient's attorney; the county attorney in the county of commitment; ~~the commissioner;~~ and the ~~designated agency~~ facility or program that provisionally discharged the patient.

Sec. 79. Minnesota Statutes 2018, section 253B.15, subdivision 10, is amended to read:

Subd. 10. **Voluntary return.** (a) With the consent of the head of the treatment facility or state-operated treatment program, a patient may voluntarily return to inpatient status ~~at the treatment facility~~ as follows:

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(1) as a voluntary patient, in which case the patient's commitment is discharged;

(2) as a committed patient, in which case the patient's provisional discharge is voluntarily revoked; or

(3) on temporary return from provisional discharge, in which case both the commitment and the provisional discharge remain in effect.

(b) Prior to readmission, the patient shall be informed of status upon readmission.

Sec. 80. Minnesota Statutes 2018, section 253B.16, is amended to read:

253B.16 DISCHARGE OF COMMITTED PERSONS.

Subdivision 1. **Date.** The head of a treatment facility, state-operated treatment program, or community-based treatment program shall discharge any patient admitted as a person ~~who is mentally ill or chemically dependent, or a person with a~~ who poses a risk of harm due to mental illness, or a person who has a chemical dependency or a developmental disability ~~admitted under Minnesota Rules of Criminal Procedure, rules 20.01 and 20.02, to the secure bed component of the Minnesota extended treatment options~~ when the head of the facility or program certifies that the person is no longer in need of care and treatment under commitment or at the conclusion of any period of time specified in the commitment order, whichever occurs first. The head of a ~~treatment~~ facility or program shall discharge any person admitted as ~~developmentally disabled, except those admitted under Minnesota Rules of Criminal Procedure, rules 20.01 and 20.02, to the secure bed component of the Minnesota extended treatment options,~~ a person with a developmental disability when that person's screening team has determined, under section 256B.092, subdivision 8, that the person's needs can be met by services provided in the community and a plan has been developed in consultation with the interdisciplinary team to place the person in the available community services.

Subd. 2. **Notification of discharge.** Prior to the discharge or provisional discharge of any committed ~~person~~ patient, the head of the treatment facility, state-operated treatment program, or community-based treatment program shall notify the designated agency and the patient's spouse or health care agent, or if there is no spouse or health care agent, then an adult child, or if there is none, the next of kin of the patient, of the proposed discharge. The facility or program shall send the notice ~~shall be sent to the last known address of the person to be notified by certified mail with return receipt. The notice~~ in writing and shall include the following: (1) the proposed date of discharge or provisional discharge; (2) the date, time and place of the meeting of the staff who have been treating the patient to discuss discharge and discharge planning; (3) the fact that the patient will be present at the meeting; and (4) the fact that the next of kin or health care agent may attend that staff meeting and present any information relevant to the discharge of the patient. ~~The notice shall be sent at least one week prior to the date set for the meeting.~~

Sec. 81. Minnesota Statutes 2018, section 253B.17, is amended to read:

253B.17 RELEASE; JUDICIAL DETERMINATION.

Subdivision 1. **Petition.** Any patient, except one committed as a sexually dangerous person or a person with a sexual psychopathic personality or as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public as provided in section 253B.18, subdivision 3, or any interested person may petition the committing court or the court to which venue has been transferred for an order that the patient is not in need of continued care and treatment under commitment or for an order that an individual is no longer a person ~~who is mentally ill, developmentally disabled, or chemically dependent~~ who poses a risk of harm due to mental illness, or a person who has a developmental disability or chemical dependency, or for any

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other relief. A patient committed as a person ~~who is mentally ill or mentally ill and~~ who poses a risk of harm due to mental illness, a person who has a mental illness and is dangerous ~~or~~ to the public, a sexually dangerous person, or a person with a sexual psychopathic personality may petition the committing court or the court to which venue has been transferred for a hearing concerning the administration of neuroleptic medication.

Subd. 2. **Notice of hearing.** Upon the filing of the petition, the court shall fix the time and place for the hearing on it. Ten days' notice of the hearing shall be given to the county attorney, the patient, patient's counsel, the person who filed the initial commitment petition, the head of the ~~treatment~~ facility or program to which the person is committed, and other persons as the court directs. Any person may oppose the petition.

Subd. 3. **Court examiners.** The court shall appoint ~~an~~ a court examiner and, at the patient's request, shall appoint a second court examiner of the patient's choosing to be paid for by the county at a rate of compensation to be fixed by the court. Unless otherwise agreed by the parties, ~~the examiners~~ a court examiner shall file a report with the court not less than 48 hours prior to the hearing under this section.

Subd. 4. **Evidence.** The patient, patient's counsel, the petitioner, and the county attorney shall be entitled to be present at the hearing and to present and cross-examine witnesses, including court examiners. The court may hear any relevant testimony and evidence ~~which is~~ offered at the hearing.

Subd. 5. **Order.** Upon completion of the hearing, the court shall enter an order stating its findings and decision and mail ~~it~~ the order to the head of the treatment facility, state-operated treatment program, or community-based treatment program.

Sec. 82. Minnesota Statutes 2018, section 253B.18, subdivision 1, is amended to read:

Subdivision 1. **Procedure.** (a) Upon the filing of a petition alleging that a proposed patient is a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, the court shall hear the petition as provided in sections 253B.07 and 253B.08. If the court finds by clear and convincing evidence that the proposed patient is a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, it shall commit the person to a secure treatment facility or to a treatment facility or state-operated treatment program willing to accept the patient under commitment. The court shall commit the patient to a secure treatment facility unless the patient ~~establishes~~ or others establish by clear and convincing evidence that a less restrictive state-operated treatment program or treatment ~~program~~ facility is available that is consistent with the patient's treatment needs and the requirements of public safety. In any case where the petition was filed immediately following the acquittal of the proposed patient for a crime against the person pursuant to a verdict of not guilty by reason of mental illness, the verdict constitutes evidence that the proposed patient is a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public within the meaning of this section. The proposed patient has the burden of going forward in the presentation of evidence. The standard of proof remains as required by this chapter. Upon commitment, admission procedures shall be carried out pursuant to section 253B.10.

(b) Once a patient is admitted to a treatment facility or state-operated treatment program pursuant to a commitment under this subdivision, treatment must begin regardless of whether a review hearing will be held under subdivision 2.

Sec. 83. Minnesota Statutes 2018, section 253B.18, subdivision 2, is amended to read:

Subd. 2. **Review; hearing.** (a) A written treatment report shall be filed by the treatment facility or state-operated treatment program with the committing court within 60 days after commitment. If the person is in the custody of the commissioner of corrections when the initial commitment is ordered under subdivision

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1, the written treatment report must be filed within 60 days after the person is admitted to ~~a secure~~ the state-operated treatment program or treatment facility. The court shall hold a hearing to make a final determination as to whether the ~~person~~ patient should remain committed as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public. The hearing shall be held within the earlier of 14 days of the court's receipt of the written treatment report, or within 90 days of the date of initial commitment or admission, unless otherwise agreed by the parties.

(b) The court may, with agreement of the county attorney and the patient's attorney ~~for the patient~~:

(1) waive the review hearing under this subdivision and immediately order an indeterminate commitment under subdivision 3; or

(2) continue the review hearing for up to one year.

(c) If the court finds that the patient should be committed as a person ~~who is mentally ill~~ who poses a risk of harm due to mental illness, but not as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, the court may commit the ~~person~~ patient as a person ~~who is mentally ill~~ who poses a risk of harm due to mental illness and the ~~person shall be deemed~~ court shall deem the patient not to ~~have been found to~~ be dangerous to the public for the purposes of subdivisions 4a to 15. Failure of the treatment facility or state-operated treatment program to provide the required treatment report at the end of the 60-day period shall not result in automatic discharge of the patient.

Sec. 84. Minnesota Statutes 2018, section 253B.18, subdivision 3, is amended to read:

Subd. 3. **Indeterminate commitment.** If the court finds at the final determination hearing held pursuant to subdivision 2 that the patient continues to be a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, then the court shall order commitment of the proposed patient for an indeterminate period of time. After a final determination that a patient is a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public, the patient shall be transferred, provisionally discharged or discharged, only as provided in this section.

Sec. 85. Minnesota Statutes 2018, section 253B.18, subdivision 4a, is amended to read:

Subd. 4a. **Release on pass; notification.** A patient who has been committed as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public and who is confined at a secure treatment facility or has been transferred out of a ~~state-operated services~~ secure treatment facility according to section 253B.18, subdivision 6, shall not be released on a pass unless the pass is part of a pass plan that has been approved by the medical director of the secure treatment facility. The pass plan must have a specific therapeutic purpose consistent with the treatment plan, must be established for a specific period of time, and must have specific levels of liberty delineated. The county case manager must be invited to participate in the development of the pass plan. At least ten days prior to a determination on the plan, the medical director shall notify the designated agency, the committing court, the county attorney of the county of commitment, an interested person, the local law enforcement agency where the facility is located, the county attorney and the local law enforcement agency in the location where the pass is to occur, the petitioner, and the petitioner's counsel of the plan, the nature of the passes proposed, and their right to object to the plan. If any notified person objects prior to the proposed date of implementation, the person shall have an opportunity to appear, personally or in writing, before the medical director, within ten days of the objection, to present grounds for opposing the plan. The pass plan shall not be implemented until the objecting person has been furnished that opportunity. Nothing in this subdivision shall be construed to give a patient an affirmative right to a pass plan.

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Sec. 86. Minnesota Statutes 2018, section 253B.18, subdivision 4b, is amended to read:

Subd. 4b. **Pass-eligible status; notification.** (a) The following patients committed to a secure treatment facility shall not be placed on pass-eligible status unless that status has been approved by the medical director of the secure treatment facility:

~~(a)~~ (1) a patient who has been committed as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public and who:

~~(1)~~ (i) was found incompetent to proceed to trial for a felony or was found not guilty by reason of mental illness of a felony immediately prior to the filing of the commitment petition;

~~(2)~~ (ii) was convicted of a felony immediately prior to or during commitment as a person who ~~is mentally ill and~~ has a mental illness and is dangerous to the public; or

~~(3)~~ (iii) is subject to a commitment to the commissioner of corrections; and

~~(b)~~ (2) a patient who has been committed as a psychopathic personality, a sexually psychopathic personality, or a sexually dangerous person.

(b) At least ten days prior to a determination on the status, the medical director shall notify the committing court, the county attorney of the county of commitment, the designated agency, an interested person, the petitioner, and the petitioner's counsel of the proposed status, and their right to request review by the special review board. If within ten days of receiving notice any notified person requests review by filing a notice of objection with the commissioner and the head of the secure treatment facility, a hearing shall be held before the special review board. The proposed status shall not be implemented unless it receives a favorable recommendation by a majority of the board and approval by the commissioner. The order of the commissioner is appealable as provided in section 253B.19.

(c) Nothing in this subdivision shall be construed to give a patient an affirmative right to seek pass-eligible status from the special review board.

Sec. 87. Minnesota Statutes 2018, section 253B.18, subdivision 4c, is amended to read:

Subd. 4c. **Special review board.** (a) The commissioner shall establish one or more panels of a special review board. The board shall consist of three members experienced in the field of mental illness. One member of each special review board panel shall be a psychiatrist or a doctoral level psychologist with forensic experience and one member shall be an attorney. No member shall be affiliated with the Department of Human Services. The special review board shall meet at least every six months and at the call of the commissioner. It shall hear and consider all petitions for a reduction in custody or to appeal a revocation of provisional discharge. A "reduction in custody" means transfer from a secure treatment facility, discharge, and provisional discharge. Patients may be transferred by the commissioner between secure treatment facilities without a special review board hearing.

Members of the special review board shall receive compensation and reimbursement for expenses as established by the commissioner.

(b) The special review board must review each denied petition under subdivision 5 for barriers and obstacles preventing the patient from progressing in treatment. Based on the cases before the board in the previous year, the special review board shall provide to the commissioner an annual summation of the barriers to treatment progress, and recommendations to achieve the common goal of making progress in treatment.

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(c) A petition filed by a person committed as ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public under this section must be heard as provided in subdivision 5 and, as applicable, subdivision 13. A petition filed by a person committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253D, or committed as both ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public under this section and as a sexual psychopathic personality or as a sexually dangerous person must be heard as provided in section 253D.27.

Sec. 88. Minnesota Statutes 2018, section 253B.18, subdivision 5, is amended to read:

Subd. 5. **Petition; notice of hearing; attendance; order.** (a) A petition for a reduction in custody or revocation of provisional discharge shall be filed with the commissioner and may be filed by the patient or by the head of the treatment facility or state-operated treatment program to which the person was committed or has been transferred. A patient may not petition the special review board for six months following commitment under subdivision 3 or following the final disposition of any previous petition and subsequent appeal by the patient. The head of the state-operated treatment program or head of the treatment facility must schedule a hearing before the special review board for any patient who has not appeared before the special review board in the previous three years, and schedule a hearing at least every three years thereafter. The medical director may petition at any time.

(b) Fourteen days prior to the hearing, the committing court, the county attorney of the county of commitment, the designated agency, interested person, the petitioner, and the petitioner's counsel shall be given written notice by the commissioner of the time and place of the hearing before the special review board. Only those entitled to statutory notice of the hearing or those administratively required to attend may be present at the hearing. The patient may designate interested persons to receive notice by providing the names and addresses to the commissioner at least 21 days before the hearing. The board shall provide the commissioner with written findings of fact and recommendations within 21 days of the hearing. The commissioner shall issue an order no later than 14 days after receiving the recommendation of the special review board. A copy of the order shall be mailed to every person entitled to statutory notice of the hearing within five days after ~~it~~ the order is signed. No order by the commissioner shall be effective sooner than 30 days after the order is signed, unless the county attorney, the patient, and the commissioner agree that it may become effective sooner.

(c) The special review board shall hold a hearing on each petition prior to making its recommendation to the commissioner. The special review board proceedings are not contested cases as defined in chapter 14. Any person or agency receiving notice that submits documentary evidence to the special review board prior to the hearing shall also provide copies to the patient, the patient's counsel, the county attorney of the county of commitment, the case manager, and the commissioner.

(d) Prior to the final decision by the commissioner, the special review board may be reconvened to consider events or circumstances that occurred subsequent to the hearing.

(e) In making their recommendations and order, the special review board and commissioner must consider any statements received from victims under subdivision 5a.

Sec. 89. Minnesota Statutes 2018, section 253B.18, subdivision 5a, is amended to read:

Subd. 5a. **Victim notification of petition and release; right to submit statement.** (a) As used in this subdivision:

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(1) "crime" has the meaning given to "violent crime" in section 609.1095, and includes criminal sexual conduct in the fifth degree and offenses within the definition of "crime against the person" in section 253B.02, subdivision 4a, and also includes offenses listed in section 253D.02, subdivision 8, paragraph (b), regardless of whether they are sexually motivated;

(2) "victim" means a person who has incurred loss or harm as a result of a crime the behavior for which forms the basis for a commitment under this section or chapter 253D; and

(3) "convicted" and "conviction" have the meanings given in section 609.02, subdivision 5, and also include juvenile court adjudications, findings under Minnesota Rules of Criminal Procedure, rule 20.02, that the elements of a crime have been proved, and findings in commitment cases under this section or chapter 253D that an act or acts constituting a crime occurred.

(b) A county attorney who files a petition to commit a person under this section or chapter 253D shall make a reasonable effort to provide prompt notice of filing the petition to any victim of a crime for which the person was convicted. In addition, the county attorney shall make a reasonable effort to promptly notify the victim of the resolution of the petition.

(c) Before provisionally discharging, discharging, granting pass-eligible status, approving a pass plan, or otherwise permanently or temporarily releasing a person committed under this section from a state-operated treatment program or treatment facility, the head of the state-operated treatment program or head of the treatment facility shall make a reasonable effort to notify any victim of a crime for which the person was convicted that the person may be discharged or released and that the victim has a right to submit a written statement regarding decisions of the medical director, special review board, or commissioner with respect to the person. To the extent possible, the notice must be provided at least 14 days before any special review board hearing or before a determination on a pass plan. Notwithstanding section 611A.06, subdivision 4, the commissioner shall provide the judicial appeal panel with victim information in order to comply with the provisions of this section. The judicial appeal panel shall ensure that the data on victims remains private as provided for in section 611A.06, subdivision 4.

(d) This subdivision applies only to victims who have requested notification through the Department of Corrections electronic victim notification system, or by contacting, in writing, the county attorney in the county where the conviction for the crime occurred. A request for notice under this subdivision received by the commissioner of corrections through the Department of Corrections electronic victim notification system shall be promptly forwarded to the prosecutorial authority with jurisdiction over the offense to which the notice relates or, following commitment, the head of the state-operated treatment program or head of the treatment facility. A county attorney who receives a request for notification under this paragraph following commitment shall promptly forward the request to the commissioner of human services.

(e) The rights under this subdivision are in addition to rights available to a victim under chapter 611A. This provision does not give a victim all the rights of a "notified person" or a person "entitled to statutory notice" under subdivision 4a, 4b, or 5 or section 253D.14.

Sec. 90. Minnesota Statutes 2018, section 253B.18, subdivision 6, is amended to read:

Subd. 6. **Transfer.** (a) A patient who is ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public shall not be transferred out of a secure treatment facility unless it appears to the satisfaction of the commissioner, after a hearing and favorable recommendation by a majority of the special review board, that the transfer is appropriate. Transfer may be to ~~other regional centers under the commissioner's control~~ another state-operated treatment program. In those instances where a commitment

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also exists to the Department of Corrections, transfer may be to a facility designated by the commissioner of corrections.

(b) The following factors must be considered in determining whether a transfer is appropriate:

(1) the person's clinical progress and present treatment needs;

(2) the need for security to accomplish continuing treatment;

(3) the need for continued institutionalization;

(4) which facility can best meet the person's needs; and

(5) whether transfer can be accomplished with a reasonable degree of safety for the public.

Sec. 91. Minnesota Statutes 2018, section 253B.18, subdivision 7, is amended to read:

Subd. 7. **Provisional discharge.** (a) A patient who is ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public shall not be provisionally discharged unless it appears to the satisfaction of the commissioner, after a hearing and a favorable recommendation by a majority of the special review board, that the patient is capable of making an acceptable adjustment to open society.

(b) The following factors are to be considered in determining whether a provisional discharge shall be recommended: (1) whether the patient's course of hospitalization and present mental status indicate there is no longer a need for treatment and supervision in the patient's current treatment setting; and (2) whether the conditions of the provisional discharge plan will provide a reasonable degree of protection to the public and will enable the patient to adjust successfully to the community.

Sec. 92. Minnesota Statutes 2018, section 253B.18, subdivision 8, is amended to read:

Subd. 8. **Provisional discharge plan.** A provisional discharge plan shall be developed, implemented, and monitored by the designated agency in conjunction with the patient, the treatment facility or state-operated treatment program to which the person is committed, and other appropriate persons. The designated agency shall, at least quarterly, review the provisional discharge plan with the patient and submit a written report to ~~the commissioner and~~ the ~~treatment~~ facility or program concerning the patient's status and compliance with each term of the provisional discharge plan.

Sec. 93. Minnesota Statutes 2018, section 253B.18, subdivision 10, is amended to read:

Subd. 10. **Provisional discharge; revocation.** (a) The head of the treatment facility or state-operated treatment program from which the person was provisionally discharged may revoke a provisional discharge if any of the following grounds exist:

(i) the patient has departed from the conditions of the provisional discharge plan;

(ii) the patient is exhibiting signs of a mental illness which may require in-hospital evaluation or treatment; or

(iii) the patient is exhibiting behavior which may be dangerous to self or others.

(b) Revocation shall be commenced by a notice of intent to revoke provisional discharge, which shall be served upon the patient, patient's counsel, and the designated agency. The notice shall set forth the grounds

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upon which the intention to revoke is based, and shall inform the patient of the rights of a patient under this chapter.

(c) In all nonemergency situations, prior to revoking a provisional discharge, the head of the ~~treatment~~ facility or program shall obtain a revocation report from the designated agency outlining the specific reasons for recommending the revocation, including but not limited to the specific facts upon which the revocation recommendation is based.

(d) The patient must be provided a copy of the revocation report and informed orally and in writing of the rights of a patient under this section.

Sec. 94. Minnesota Statutes 2018, section 253B.18, subdivision 11, is amended to read:

Subd. 11. **Exceptions.** If an emergency exists, the head of the treatment facility or state-operated treatment program may revoke the provisional discharge and, either orally or in writing, order that the patient be immediately returned to the ~~treatment~~ facility or program. In emergency cases, a revocation report ~~documenting reasons for revocation~~ shall be submitted by the designated agency within seven days after the patient is returned to the ~~treatment~~ facility or program.

Sec. 95. Minnesota Statutes 2018, section 253B.18, subdivision 12, is amended to read:

Subd. 12. **Return of patient.** After revocation of a provisional discharge or if the patient is absent without authorization, the head of the treatment facility or state-operated treatment program may request the patient to return to the ~~treatment~~ facility or program voluntarily. The head of the treatment facility or state-operated treatment program may request a health officer~~, a welfare officer,~~ or a peace officer to return the patient to the ~~treatment~~ facility or program. If a voluntary return is not arranged, the head of the treatment facility or state-operated treatment program shall inform the committing court of the revocation or absence and the court shall direct a health or peace officer in the county where the patient is located to return the patient to the ~~treatment~~ facility or program or to another state-operated treatment program or to another treatment facility willing to accept the patient. The expense of returning the patient to a ~~regional~~ state-operated treatment ~~center~~ program shall be paid by the commissioner unless paid by the patient or other persons on the patient's behalf.

Sec. 96. Minnesota Statutes 2018, section 253B.18, subdivision 14, is amended to read:

Subd. 14. **Voluntary readmission.** (a) With the consent of the head of the treatment facility or state-operated treatment program, a patient may voluntarily return from provisional discharge for a period of up to 30 days, or up to 60 days with the consent of the designated agency. If the patient is not returned to provisional discharge status within 60 days, the provisional discharge is revoked. Within 15 days of receiving notice of the change in status, the patient may request a review of the matter before the special review board. The board may recommend a return to a provisional discharge status.

(b) The treatment facility or state-operated treatment program is not required to petition for a further review by the special review board unless the patient's return to the community results in substantive change to the existing provisional discharge plan. All the terms and conditions of the provisional discharge order shall remain unchanged if the patient is released again.

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Sec. 97. Minnesota Statutes 2018, section 253B.18, subdivision 15, is amended to read:

Subd. 15. **Discharge.** (a) A patient who is ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public shall not be discharged unless it appears to the satisfaction of the commissioner, after a hearing and a favorable recommendation by a majority of the special review board, that the patient is capable of making an acceptable adjustment to open society, is no longer dangerous to the public, and is no longer in need of treatment and supervision.

(b) In determining whether a discharge shall be recommended, the special review board and commissioner shall consider whether specific conditions exist to provide a reasonable degree of protection to the public and to assist the patient in adjusting to the community. If the desired conditions do not exist, the discharge shall not be granted.

Sec. 98. Minnesota Statutes 2018, section 253B.19, subdivision 2, is amended to read:

Subd. 2. **Petition; hearing.** (a) A ~~person~~ patient committed as ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public under section 253B.18, or the county attorney of the county from which the ~~person~~ patient was committed or the county of financial responsibility, may petition the judicial appeal panel for a rehearing and reconsideration of a decision by the commissioner under section 253B.18, subdivision 5. The judicial appeal panel must not consider petitions for relief other than those considered by the commissioner from which the appeal is taken. The petition must be filed with the supreme court within 30 days after the decision of the commissioner is signed. The hearing must be held within 45 days of the filing of the petition unless an extension is granted for good cause.

(b) For an appeal under paragraph (a), the supreme court shall refer the petition to the chief judge of the judicial appeal panel. The chief judge shall notify the patient, the county attorney of the county of commitment, the designated agency, the commissioner, the head of the ~~treatment~~ facility or program to which the patient was committed, any interested person, and other persons the chief judge designates, of the time and place of the hearing on the petition. The notice shall be given at least 14 days prior to the date of the hearing.

(c) Any person may oppose the petition. The patient, the patient's counsel, the county attorney of the committing county or the county of financial responsibility, and the commissioner shall participate as parties to the proceeding pending before the judicial appeal panel and shall, except when the patient is committed solely as ~~mentally ill and~~ a person who has a mental illness and is dangerous to the public, no later than 20 days before the hearing on the petition, inform the judicial appeal panel and the opposing party in writing whether they support or oppose the petition and provide a summary of facts in support of their position. The judicial appeal panel may appoint court examiners and may adjourn the hearing from time to time. It shall hear and receive all relevant testimony and evidence and make a record of all proceedings. The patient, the patient's counsel, and the county attorney of the committing county or the county of financial responsibility have the right to be present and may present and cross-examine all witnesses and offer a factual and legal basis in support of their positions. The petitioning party seeking discharge or provisional discharge bears the burden of going forward with the evidence, which means presenting a prima facie case with competent evidence to show that the person is entitled to the requested relief. If the petitioning party has met this burden, the party opposing discharge or provisional discharge bears the burden of proof by clear and convincing evidence that the discharge or provisional discharge should be denied. A party seeking transfer under section 253B.18, subdivision 6, must establish by a preponderance of the evidence that the transfer is appropriate.

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Sec. 99. Minnesota Statutes 2018, section 253B.20, subdivision 1, is amended to read:

Subdivision 1. **Notice to court.** When a committed person is discharged, provisionally discharged, or transferred to another treatment facility, ~~or partially hospitalized~~ state-operated treatment program, or community-based treatment program, or when the ~~person~~ patient dies, is absent without authorization, or is returned, the treatment facility, state-operated treatment program, or community-based treatment program having custody of the patient shall notify the committing court, the county attorney, and the patient's attorney.

Sec. 100. Minnesota Statutes 2018, section 253B.20, subdivision 2, is amended to read:

Subd. 2. **Necessities.** The ~~head of the~~ state-operated treatment ~~facility~~ program shall make necessary arrangements at the expense of the state to insure that no patient is discharged or provisionally discharged without suitable clothing. The head of the state-operated treatment ~~facility~~ program shall, if necessary, provide the patient with a sufficient sum of money to secure transportation home, or to another destination of the patient's choice, if the destination is located within a reasonable distance of the state-operated treatment ~~facility~~ program. The commissioner shall establish procedures by rule to help the patient receive all public assistance benefits provided by state or federal law to which the patient is entitled by residence and circumstances. The rule shall be uniformly applied in all counties. All counties shall provide temporary relief whenever necessary to meet the intent of this subdivision.

Sec. 101. Minnesota Statutes 2018, section 253B.20, subdivision 3, is amended to read:

Subd. 3. **Notice to designated agency.** The head of the treatment facility, state-operated treatment program, or community-based treatment program, upon the provisional discharge of any committed person, shall notify the designated agency before the patient leaves the ~~treatment~~ facility or program. Whenever possible the notice shall be given at least one week before the patient is to leave the facility or program.

Sec. 102. Minnesota Statutes 2018, section 253B.20, subdivision 4, is amended to read:

Subd. 4. **Aftercare services.** Prior to the date of discharge or provisional discharge of any committed person, the designated agency of the county of financial responsibility, in cooperation with the head of the treatment facility, state-operated treatment program, or community-based treatment program, and the patient's ~~physician~~ mental health professional, if notified pursuant to subdivision 6, shall establish a continuing plan of aftercare services for the patient including a plan for medical and psychiatric treatment, nursing care, vocational assistance, and other assistance the patient needs. The designated agency shall provide case management services, supervise and assist the patient in finding employment, suitable shelter, and adequate medical and psychiatric treatment, and aid in the patient's readjustment to the community.

Sec. 103. Minnesota Statutes 2018, section 253B.20, subdivision 6, is amended to read:

Subd. 6. **Notice to ~~physician~~ mental health professional.** The head of the treatment facility, state-operated treatment program, or community-based treatment program shall notify the ~~physician~~ mental health professional of any committed person at the time of the patient's discharge or provisional discharge, unless the patient objects to the notice.

Sec. 104. Minnesota Statutes 2018, section 253B.21, subdivision 1, is amended to read:

Subdivision 1. **Administrative procedures.** If the patient is entitled to care by any agency of the United States in this state, the commitment warrant shall be in triplicate, committing the patient to the joint custody of the head of the treatment facility, state-operated treatment program, or community-based treatment

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program and the federal agency. If the federal agency is unable or unwilling to receive the patient at the time of commitment, the patient may subsequently be transferred to it upon its request.

Sec. 105. Minnesota Statutes 2018, section 253B.21, subdivision 2, is amended to read:

Subd. 2. **Applicable regulations.** Any person, when admitted to an institution of a federal agency within or without this state, shall be subject to the rules and regulations of the federal agency, except that nothing in this section shall deprive any person of rights secured to patients of ~~state~~ state-operated treatment programs, treatment facilities, and community-based treatment programs by this chapter.

Sec. 106. Minnesota Statutes 2018, section 253B.21, subdivision 3, is amended to read:

Subd. 3. **Powers.** The chief officer of any treatment facility operated by a federal agency to which any person is admitted shall have the same powers as the heads of ~~treatment facilities~~ state-operated treatment programs within this state with respect to admission, retention of custody, transfer, parole, or discharge of the committed person.

Sec. 107. Minnesota Statutes 2018, section 253B.212, subdivision 1, is amended to read:

Subdivision 1. **Cost of care; commitment by tribal court order; Red Lake Band of Chippewa Indians.** The commissioner of human services may contract with and receive payment from the Indian Health Service of the United States Department of Health and Human Services for the care and treatment of those members of the Red Lake Band of Chippewa Indians who have been committed by tribal court order to the Indian Health Service for care and treatment of mental illness, developmental disability, or chemical dependency. The contract shall provide that the Indian Health Service may not transfer any person for admission to a ~~regional center~~ state-operated treatment program unless the commitment procedure utilized by the tribal court provided due process protections similar to those afforded by sections ~~253B.05~~ 253B.051 to 253B.10.

Sec. 108. Minnesota Statutes 2018, section 253B.212, subdivision 1a, is amended to read:

Subd. 1a. **Cost of care; commitment by tribal court order; White Earth Band of Ojibwe Indians.** The commissioner of human services may contract with and receive payment from the Indian Health Service of the United States Department of Health and Human Services for the care and treatment of those members of the White Earth Band of Ojibwe Indians who have been committed by tribal court order to the Indian Health Service for care and treatment of mental illness, developmental disability, or chemical dependency. The tribe may also contract directly with the commissioner for treatment of those members of the White Earth Band who have been committed by tribal court order to the White Earth Department of Health for care and treatment of mental illness, developmental disability, or chemical dependency. The contract shall provide that the Indian Health Service and the White Earth Band shall not transfer any person for admission to a ~~regional center~~ state-operated treatment program unless the commitment procedure utilized by the tribal court provided due process protections similar to those afforded by sections ~~253B.05~~ 253B.051 to 253B.10.

Sec. 109. Minnesota Statutes 2018, section 253B.212, subdivision 1b, is amended to read:

Subd. 1b. **Cost of care; commitment by tribal court order; any federally recognized Indian tribe within the state of Minnesota.** The commissioner of human services may contract with and receive payment from the Indian Health Service of the United States Department of Health and Human Services for the care

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and treatment of those members of any federally recognized Indian tribe within the state, who have been committed by tribal court order to the Indian Health Service for care and treatment of mental illness, developmental disability, or chemical dependency. The tribe may also contract directly with the commissioner for treatment of those members of any federally recognized Indian tribe within the state who have been committed by tribal court order to the respective tribal Department of Health for care and treatment of mental illness, developmental disability, or chemical dependency. The contract shall provide that the Indian Health Service and any federally recognized Indian tribe within the state shall not transfer any person for admission to a ~~regional center~~ state-operated treatment program unless the commitment procedure utilized by the tribal court provided due process protections similar to those afforded by sections ~~253B.05~~ 253B.051 to 253B.10.

Sec. 110. Minnesota Statutes 2018, section 253B.212, subdivision 2, is amended to read:

Subd. 2. **Effect given to tribal commitment order.** (a) When, under an agreement entered into pursuant to subdivision 1, 1a, or 1b, the Indian Health Service or the placing tribe applies to a ~~regional center~~ state-operated treatment program for admission of a person committed to the jurisdiction of the health service by the tribal court ~~as a person who is mentally ill, developmentally disabled, or chemically dependent~~ due to mental illness, developmental disability, or chemical dependency, the commissioner may treat the patient with the consent of the Indian Health Service or the placing tribe.

(b) A person admitted to a ~~regional center~~ state-operated treatment program pursuant to this section has all the rights accorded by section 253B.03. In addition, treatment reports, prepared in accordance with the requirements of section 253B.12, subdivision 1, shall be filed with the Indian Health Service or the placing tribe within 60 days of commencement of the patient's stay at the ~~facility~~ program. A subsequent treatment report shall be filed with the Indian Health Service or the placing tribe within six months of the patient's admission to the ~~facility~~ program or prior to discharge, whichever comes first. Provisional discharge or transfer of the patient may be authorized by the head of the ~~treatment facility~~ program only with the consent of the Indian Health Service or the placing tribe. Discharge from the ~~facility~~ program to the Indian Health Service or the placing tribe may be authorized by the head of the ~~treatment facility~~ program after notice to and consultation with the Indian Health Service or the placing tribe.

Sec. 111. Minnesota Statutes 2018, section 253B.22, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The commissioner shall establish a review board of three or more persons for ~~each regional center~~ the Anoka-Metro Regional Treatment Center, Minnesota Security Hospital, and Minnesota sex offender program to review the admission and retention of ~~its~~ patients of that program receiving services under this chapter. One member shall be qualified in the diagnosis of mental illness, developmental disability, or chemical dependency, and one member shall be an attorney. The commissioner may, upon written request from the appropriate federal authority, establish a review panel for any federal treatment facility within the state to review the admission and retention of patients hospitalized under this chapter. For any review board established for a federal treatment facility, one of the persons appointed by the commissioner shall be the commissioner of veterans affairs or the commissioner's designee.

Sec. 112. Minnesota Statutes 2018, section 253B.22, subdivision 2, is amended to read:

Subd. 2. **Right to appear.** Each ~~treatment facility~~ program specified in subdivision 1 shall be visited by the review board at least once every six months. Upon request each patient in the ~~treatment facility~~ program shall have the right to appear before the review board during the visit.

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Sec. 113. Minnesota Statutes 2018, section 253B.22, subdivision 3, is amended to read:

Subd. 3. **Notice.** The head of ~~the treatment facility~~ each program specified in subdivision 1 shall notify each patient at the time of admission by a simple written statement of the patient's right to appear before the review board and the next date when the board will visit ~~the treatment facility~~ that program. A request to appear before the board need not be in writing. Any employee of the ~~treatment facility~~ program receiving a patient's request to appear before the board shall notify the head of the ~~treatment facility~~ program of the request.

Sec. 114. Minnesota Statutes 2018, section 253B.22, subdivision 4, is amended to read:

Subd. 4. **Review.** The board shall review the admission and retention of patients at ~~its respective treatment facility~~ the program. The board may examine the records of all patients admitted and may examine personally at its own instigation all patients who from the records or otherwise appear to justify reasonable doubt as to continued need of confinement in ~~a treatment facility~~ the program. The review board shall report its findings to the commissioner and to the head of the ~~treatment facility~~ program. The board may also receive reports from patients, interested persons, and ~~treatment facility~~ employees of the program, and investigate conditions affecting the care of patients.

Sec. 115. Minnesota Statutes 2018, section 253B.23, subdivision 1, is amended to read:

Subdivision 1. **Costs of hearings.** (a) In each proceeding under this chapter the court shall allow and order paid to each witness subpoenaed the fees and mileage prescribed by law; to each examiner a reasonable sum for services and for travel; to persons conveying the patient to the place of detention, disbursements for the travel, board, and lodging of the patient and of themselves and their authorized assistants; and to the patient's counsel, when appointed by the court, a reasonable sum for travel and for the time spent in court or in preparing for the hearing. Upon the court's order, the county auditor shall issue a warrant on the county treasurer for payment of the amounts allowed, excluding the costs of the court examiner, which must be paid by the state courts.

(b) Whenever venue of a proceeding has been transferred under this chapter, the costs of the proceedings shall be reimbursed to the county where the proceedings were conducted by the county of financial responsibility.

Sec. 116. Minnesota Statutes 2018, section 253B.23, subdivision 1b, is amended to read:

Subd. 1b. **Responsibility for conducting prepetition screening and filing commitment ~~and early intervention~~ petitions.** (a) The county of financial responsibility is responsible to conduct prepetition screening pursuant to section 253B.07, subdivision 1, and, if statutory conditions for ~~early intervention or~~ commitment are satisfied, to file a petition pursuant to section ~~253B.064, subdivision 1, paragraph (a);~~ 253B.07, subdivision ~~1~~ 2, paragraph (a)~~;~~, or 253D.07.

(b) Except in cases under chapter 253D, if the county of financial responsibility refuses or fails to conduct prepetition screening or file a petition, or if it is unclear which county is the county of financial responsibility, the county where the proposed patient is present is responsible to conduct the prepetition screening and, if statutory conditions for ~~early intervention or~~ commitment are satisfied, file the petition.

(c) In cases under chapter 253D, if the county of financial responsibility refuses or fails to file a petition, or if it is unclear which county is the county of financial responsibility, then (1) the county where the conviction for which the person is incarcerated was entered, or (2) the county where the proposed patient

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is present, if the person is not currently incarcerated based on conviction, is responsible to file the petition if statutory conditions for commitment are satisfied.

(d) When a proposed patient is an inmate confined to an adult correctional facility under the control of the commissioner of corrections and commitment proceedings are initiated or proposed to be initiated pursuant to section 241.69, the county where the correctional facility is located may agree to perform the responsibilities specified in paragraph (a).

(e) Any dispute concerning financial responsibility for the costs of the proceedings and treatment will be resolved pursuant to chapter 256G.

(f) This subdivision and the sections of law cited in this subdivision address venue only. Nothing in this chapter is intended to limit the statewide jurisdiction of district courts over civil commitment matters.

Sec. 117. Minnesota Statutes 2018, section 253B.23, subdivision 2, is amended to read:

Subd. 2. **Legal results of commitment status.** (a) Except as otherwise provided in this chapter and in sections 246.15 and 246.16, no person by reason of commitment or treatment pursuant to this chapter shall be deprived of any legal right, including but not limited to the right to dispose of property, sue and be sued, execute instruments, make purchases, enter into contractual relationships, vote, and hold a driver's license. Commitment or treatment of any patient pursuant to this chapter is not a judicial determination of legal incompetency except to the extent provided in section 253B.03, subdivision 6.

(b) Proceedings for determination of legal incompetency and the appointment of a guardian for a person subject to commitment under this chapter may be commenced before, during, or after commitment proceedings have been instituted and may be conducted jointly with the commitment proceedings. The court shall notify the head of the ~~treatment~~ facility or program to which the patient is committed of a finding that the patient is incompetent.

(c) Where the person to be committed is a minor or owns property of value and it appears to the court that the person is not competent to manage a personal estate, the court shall appoint a general conservator of the person's estate as provided by law.

Sec. 118. Minnesota Statutes 2018, section 253B.24, is amended to read:

253B.24 TRANSMITTAL OF DATA TO NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

When a court:

(1) commits a person under this chapter ~~as being mentally ill, developmentally disabled, mentally ill and dangerous, or chemically dependent~~ due to mental illness, developmental disability, or chemical dependency, or as a person who has a mental illness and is dangerous to the public;

(2) determines in a criminal case that a person is incompetent to stand trial or not guilty by reason of mental illness; or

(3) restores a person's ability to possess a firearm under section 609.165, subdivision 1d, or 624.713, subdivision 4,

the court shall ensure that this information is electronically transmitted within three business days to the National Instant Criminal Background Check System.

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Sec. 119. Minnesota Statutes 2018, section 253D.02, subdivision 6, is amended to read:

Subd. 6. **Court examiner.** "Court examiner" has the meaning given in section 253B.02, subdivision ~~7~~ 7a.

Sec. 120. Minnesota Statutes 2018, section 253D.07, subdivision 2, is amended to read:

Subd. 2. **Petition.** Upon the filing of a petition alleging that a proposed respondent is a sexually dangerous person or a person with a sexual psychopathic personality, ~~the court shall hear the petition as provided~~ all of the applicable procedures contained in sections 253B.07 and 253B.08 apply to the commitment proceeding.

Sec. 121. Minnesota Statutes 2018, section 253D.10, subdivision 2, is amended to read:

Subd. 2. **Correctional facilities.** (a) A person who is being petitioned for commitment under this chapter and who is placed under a judicial hold order under section 253B.07, subdivision 2b or 7, may be confined at a Department of Corrections or a county correctional or detention facility, rather than a secure treatment facility, until a determination of the commitment petition as specified in this subdivision.

(b) A court may order that a person who is being petitioned for commitment under this chapter be confined in a Department of Corrections facility pursuant to the judicial hold order under the following circumstances and conditions:

(1) The person is currently serving a sentence in a Department of Corrections facility and the court determines that the person has made a knowing and voluntary (i) waiver of the right to be held in a secure treatment facility and (ii) election to be held in a Department of Corrections facility. The order confining the person in the Department of Corrections facility shall remain in effect until the court vacates the order or the person's criminal sentence and conditional release term expire.

In no case may the person be held in a Department of Corrections facility pursuant only to this subdivision, and not pursuant to any separate correctional authority, for more than 210 days.

(2) A person who has elected to be confined in a Department of Corrections facility under this subdivision may revoke the election by filing a written notice of intent to revoke the election with the court and serving the notice upon the Department of Corrections and the county attorney. The court shall order the person transferred to a secure treatment facility within 15 days of the date that the notice of revocation was filed with the court, except that, if the person has additional time to serve in prison at the end of the 15-day period, the person shall not be transferred to a secure treatment facility until the person's prison term expires. After a person has revoked an election to remain in a Department of Corrections facility under this subdivision, the court may not adopt another election to remain in a Department of Corrections facility without the agreement of both parties and the Department of Corrections.

(3) Upon petition by the commissioner of corrections, after notice to the parties and opportunity for hearing and for good cause shown, the court may order that the person's place of confinement be changed from the Department of Corrections to a secure treatment facility.

(4) While at a Department of Corrections facility pursuant to this subdivision, the person shall remain subject to all rules and practices applicable to correctional inmates in the facility in which the person is placed including~~,~~ but not limited to~~,~~ the powers and duties of the commissioner of corrections under section 241.01, powers relating to use of force under section 243.52, and the right of the commissioner of corrections to determine the place of confinement in a prison, reformatory, or other facility.

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(5) A person may not be confined in a Department of Corrections facility under this provision beyond the end of the person's executed sentence or the end of any applicable conditional release period, whichever is later. If a person confined in a Department of Corrections facility pursuant to this provision reaches the person's supervised release date and is subject to a period of conditional release, the period of conditional release shall commence on the supervised release date even though the person remains in the Department of Corrections facility pursuant to this provision. At the end of the later of the executed sentence or any applicable conditional release period, the person shall be transferred to a secure treatment facility.

(6) Nothing in this section may be construed to establish a right of an inmate in a state correctional facility to participate in sex offender treatment. This section must be construed in a manner consistent with the provisions of section 244.03.

(c) When a person is temporarily confined in a Department of Corrections facility solely under this subdivision and not based on any separate correctional authority, the commissioner of corrections may charge the county of financial responsibility for the costs of confinement, and the Department of Human Services shall use existing appropriations to fund all remaining nonconfinement costs. The funds received by the commissioner for the confinement and nonconfinement costs are appropriated to the department for these purposes.

~~(c)~~ (d) The committing county may offer a person who is being petitioned for commitment under this chapter and who is placed under a judicial hold order under section 253B.07, subdivision 2b or 7, the option to be held in a county correctional or detention facility rather than a secure treatment facility, under such terms as may be agreed to by the county, the commitment petitioner, and the commitment respondent. If a person makes such an election under this paragraph, the court hold order shall specify the terms of the agreement, including the conditions for revoking the election.

Sec. 122. Minnesota Statutes 2018, section 253D.28, subdivision 2, is amended to read:

Subd. 2. **Procedure.** (a) The supreme court shall refer a petition for rehearing and reconsideration to the chief judge of the judicial appeal panel. The chief judge shall notify the committed person, the county attorneys of the county of commitment and county of financial responsibility, the commissioner, the executive director, any interested person, and other persons the chief judge designates, of the time and place of the hearing on the petition. The notice shall be given at least 14 days prior to the date of the hearing. The hearing may be conducted by interactive video conference under General Rules of Practice, rule 131, and Minnesota Rules of Civil Commitment, rule 14.

(b) Any person may oppose the petition. The committed person, the committed person's counsel, the county attorneys of the committing county and county of financial responsibility, and the commissioner shall participate as parties to the proceeding pending before the judicial appeal panel and shall, no later than 20 days before the hearing on the petition, inform the judicial appeal panel and the opposing party in writing whether they support or oppose the petition and provide a summary of facts in support of their position.

(c) The judicial appeal panel may appoint court examiners and may adjourn the hearing from time to time. It shall hear and receive all relevant testimony and evidence and make a record of all proceedings. The committed person, the committed person's counsel, and the county attorney of the committing county or the county of financial responsibility have the right to be present and may present and cross-examine all witnesses and offer a factual and legal basis in support of their positions.

(d) The petitioning party seeking discharge or provisional discharge bears the burden of going forward with the evidence, which means presenting a prima facie case with competent evidence to show that the

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person is entitled to the requested relief. If the petitioning party has met this burden, the party opposing discharge or provisional discharge bears the burden of proof by clear and convincing evidence that the discharge or provisional discharge should be denied.

(e) A party seeking transfer under section 253D.29 must establish by a preponderance of the evidence that the transfer is appropriate.

Sec. 123. **REVISOR INSTRUCTION.**

The revisor of statutes shall renumber Minnesota Statutes, section 253B.02, so that the subdivisions are alphabetical. The revisor shall correct any cross-references that arise as a result of the renumbering.

Sec. 124. **REPEALER.**

Minnesota Statutes 2018, sections 253B.02, subdivisions 6 and 12a; 253B.05, subdivisions 1, 2, 2b, 3, and 4; 253B.064; 253B.065; 253B.066; 253B.09, subdivision 3; 253B.12, subdivision 2; 253B.15, subdivision 11; and 253B.20, subdivision 7, are repealed.

ARTICLE 7

MALTREATMENT OF MINORS ACT REORGANIZATION

Section 1. **[260E.01] POLICY.**

(a) The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through maltreatment. While it is recognized that most parents want to keep their children safe, sometimes circumstances or conditions interfere with their ability to do so. When this occurs, the health and safety of the children must be of paramount concern. Intervention and prevention efforts must address immediate concerns for child safety and the ongoing risk of maltreatment and should engage the protective capacities of families. In furtherance of this public policy, it is the intent of the legislature under this chapter to:

(1) protect children and promote child safety;

(2) strengthen the family;

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

(4) provide, when necessary, a safe temporary or permanent home environment for maltreated children.

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

(1) require the reporting of maltreatment of children in the home, school, and community settings;

(2) provide for the voluntary reporting of maltreatment of children;

(3) require an investigation when the report alleges sexual abuse or substantial child endangerment;

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

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

Sec. 2. **[260E.02] MULTIDISCIPLINARY CHILD PROTECTION TEAM.**

Subdivision 1. **Establishment of team.** A county shall establish a multidisciplinary child protection team that may include, but not be limited to, the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, representatives of health and education, representatives of mental health or other appropriate human service or community-based agencies, and parent groups. As used in this section, a "community-based agency" may include, but is not limited to, schools, social service agencies, family service and mental health collaboratives, children's advocacy centers, early childhood and family education programs, Head Start, or other agencies serving children and families. A member of the team must be designated as the lead person of the team responsible for the planning process to develop standards for the team's activities with battered women's and domestic abuse programs and services.

Subd. 2. **Duties of team.** A multidisciplinary child protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency or other interested community-based agencies. The community-based agencies may request case consultation from the multidisciplinary child protection team regarding a child or family for whom the community-based agency is providing services. As used in this section, "case consultation" means a case review process in which recommendations are made concerning services to be provided to the identified children and family. Case consultation may be performed by a committee or subcommittee of members representing human services, including mental health and chemical dependency; law enforcement, including probation and parole; the county attorney; a children's advocacy center; health care; education; community-based agencies and other necessary agencies; and persons directly involved in an individual case as designated by other members performing case consultation.

Subd. 3. **Sexually exploited youth outreach program.** A multidisciplinary child protection team may assist the local welfare agency, local law enforcement agency, or an appropriate private organization in developing a program of outreach services for sexually exploited youth, including homeless, runaway, and truant youth who are at risk of sexual exploitation. For the purposes of this subdivision, at least one representative of a youth intervention program or, where this type of program is unavailable, one representative of a nonprofit agency serving youth in crisis shall be appointed to and serve on the multidisciplinary child protection team in addition to the standing members of the team. These services may include counseling, medical care, short-term shelter, alternative living arrangements, and drop-in centers. A juvenile's receipt of intervention services under this subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

Subd. 4. **Information sharing.** (a) The local welfare agency may make available to the case consultation committee or subcommittee all records collected and maintained by the agency under this chapter and in connection with case consultation. A case consultation committee or subcommittee member may share information acquired in the member's professional capacity with the committee or subcommittee to assist in case consultation.

(b) Case consultation committee or subcommittee members must annually sign a data sharing agreement, approved by the commissioner of human services, assuring compliance with chapter 13. Not public data, as defined in section 13.02, subdivision 8a, may be shared with members appointed to the committee or subcommittee in connection with an individual case when the members have signed the data sharing agreement.

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(c) All data acquired by the case consultation committee or subcommittee in exercising case consultation duties are confidential as defined in section 13.02, subdivision 3, and shall not be disclosed except to the extent necessary to perform case consultation, and shall not be subject to subpoena or discovery.

(d) No members of a case consultation committee or subcommittee meeting shall disclose what transpired at a case consultation meeting, except to the extent necessary to carry out the case consultation plan. The proceedings and records of the case consultation meeting are not subject to discovery, and may not be introduced into evidence in any civil or criminal action against a professional or local welfare agency arising out of the matter or matters which are the subject of consideration of the case consultation meeting. Information, documents, or records otherwise available from original sources are not immune from discovery or use in any civil or criminal action merely because they were presented during a case consultation meeting. Any person who presented information before the consultation committee or subcommittee or who is a member shall not be prevented from testifying as to matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information before the case consultation committee or subcommittee or about opinions formed as a result of the case consultation meetings.

(e) A person who violates this subdivision is subject to the civil remedies and penalties provided under chapter 13.

Subd. 5. **Children's advocacy center; definition.** (a) For purposes of this section, "children's advocacy center" means an organization using a multidisciplinary team approach whose primary purpose is to provide children who have been the victims of abuse and their nonoffending family members with:

(1) support and advocacy;

(2) specialized medical evaluation;

(3) trauma-focused mental health services; and

(4) forensic interviews.

(b) Children's advocacy centers provide multidisciplinary case review and the tracking and monitoring of case progress.

Sec. 3. **[260E.03] DEFINITIONS.**

Subdivision 1. **Scope.** As used in this chapter, the following terms have the meanings given them unless the specific content indicates otherwise.

Subd. 2. **Accidental.** "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence or event that:

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

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

Subd. 3. **Child fatality.** "Child fatality" means the death of a child from maltreatment.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of human services unless otherwise indicated in this chapter.

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Subd. 5. **Egregious harm.** "Egregious harm" means harm under section 260C.007, subdivision 14, or a similar law of another jurisdiction.

Subd. 6. **Facility.** "Facility" means:

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

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

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

Subd. 7. **Family assessment.** "Family assessment" means a comprehensive assessment of child safety, risk of subsequent maltreatment, and family strengths and needs that is applied to a maltreatment report that does not allege sexual abuse or substantial child endangerment. Family assessment does not include a determination as to whether maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

Subd. 8. **Findings and information.** "Findings and information" means a written summary described in section 260E.35, subdivision 7, paragraph (b), of actions taken or services rendered by a local welfare agency following receipt of a report.

Subd. 9. **Immediately.** "Immediately" means as soon as possible but in no event longer than 24 hours.

Subd. 10. **Interested person acting on behalf of the child.** "Interested person acting on behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been determined to be the offender who committed the maltreatment.

Subd. 11. **Investigation.** "Investigation" means fact gathering conducted during:

(1) a family investigation related to the current safety of a child and the risk of subsequent maltreatment that determines whether maltreatment occurred and whether child protective services are needed; or

(2) a facility investigation related to duties under section 260E.28.

Subd. 12. **Maltreatment.** "Maltreatment" means any of the following acts or omissions:

(1) egregious harm under subdivision 5;

(2) neglect under subdivision 15;

(3) physical abuse under subdivision 18;

(4) sexual abuse under subdivision 20;

(5) substantial child endangerment under subdivision 22;

(6) threatened injury under subdivision 23;

(7) mental injury under subdivision 13; and

(8) maltreatment of a child in a facility.

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Subd. 13. **Mental injury.** "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

Subd. 14. **Near fatality.** "Near fatality" means a case in which a physician, advanced practice registered nurse, or physician assistant determines that a child is in serious or critical condition as the result of sickness or injury caused by maltreatment.

Subd. 15. **Neglect.** (a) "Neglect" means the commission or omission of any of the acts specified under clauses (1) to (8), other than by accidental means:

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

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

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

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

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

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

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

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

(b) Nothing in this chapter shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care.

(c) This chapter does not impose upon persons not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care a duty to provide that care.

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Subd. 16. **Person in a current or recent position of authority.** "Person in a current or recent position of authority" means an individual in a position of authority over a child and includes but is not limited to any person who is a parent or acting in the place of a parent and charged with any of a parent's rights, duties, or responsibilities to a child, or a person who is charged with any duty or responsibility for the health, welfare, or supervision of a child, either independently or through another, no matter how brief, within 120 days immediately preceding the act. Person in a position of authority includes a psychotherapist.

Subd. 17. **Person responsible for the child's care.** "Person responsible for the child's care" means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employee or agent, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

Subd. 18. **Physical abuse.** (a) "Physical abuse" means any physical injury, mental injury under subdivision 13, or threatened injury under subdivision 23, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 125A.0942 or 245.825.

(b) Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian that does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582.

(c) For the purposes of this subdivision, actions that are not reasonable and moderate include, but are not limited to, any of the following:

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

(2) striking a child with a closed fist;

(3) shaking a child under age three;

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

(5) unreasonable interference with a child's breathing;

(6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

(7) striking a child under age one on the face or head;

(8) striking a child who is at least age one but under age four on the face or head, which results in an injury;

(9) purposely giving a child:

(i) poison, alcohol, or dangerous, harmful, or controlled substances that were not prescribed for the child by a practitioner in order to control or punish the child; or

(ii) other substances that substantially affect the child's behavior, motor coordination, or judgment; that result in sickness or internal injury; or that subject the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

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(10) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or

(11) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

Subd. 19. **Report.** "Report" means any communication received by the local welfare agency, police department, county sheriff, or agency responsible for child protection pursuant to this section that describes maltreatment of a child and contains sufficient content to identify the child and any person believed to be responsible for the maltreatment, if known.

Subd. 20. **Sexual abuse.** "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, or by a person in a current or recent position of authority, to any act that constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), 609.3451 (criminal sexual conduct in the fifth degree), or 609.352 (solicitation of children to engage in sexual conduct; communication of sexually explicit materials to children). Sexual abuse also includes any act involving a child that constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse, which includes the status of a parent or household member who has committed a violation that requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

Subd. 21. **Significant relationship.** "Significant relationship" means a situation in which the alleged offender is:

(1) the child's parent, stepparent, or guardian;

(2) any of the following persons related to the child by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or

(3) an adult who jointly resides intermittently or regularly in the same dwelling as the child and who is not the child's spouse.

Subd. 22. **Substantial child endangerment.** "Substantial child endangerment" means that a person responsible for a child's care, by act or omission, commits or attempts to commit an act against a child under their care that constitutes any of the following:

(1) egregious harm under subdivision 5;

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

(3) neglect under subdivision 15, paragraph (a), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

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

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

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

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

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

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

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

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

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

Subd. 23. **Threatened injury.** (a) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

(b) Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in subdivision 17, who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm under subdivision 5 or a similar law of another jurisdiction;

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

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

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

(c) A child is the subject of a report of threatened injury when the local welfare agency receives birth match data under section 260E.14, subdivision 4, from the Department of Human Services.

Sec. 4. **[260E.04] EVIDENCE.**

No evidence relating to the maltreatment of a child or to any prior incident of maltreatment involving any of the same persons accused of maltreatment shall be excluded in any proceeding arising out of the alleged maltreatment on the grounds of privilege set forth in section 595.02, subdivision 1, paragraph (a), (d), or (g).

Sec. 5. **[260E.05] CULTURAL PRACTICES.**

A person who conducts an assessment or investigation under this chapter shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices that are not injurious to the child's health, welfare, and safety.

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Sec. 6. **[260E.06] MALTREATMENT REPORTING.**

Subdivision 1. **Mandatory reporters.** (a) A person who knows or has reason to believe a child is being maltreated, as defined in section 260E.03, or has been maltreated within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department if the person is:

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

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

(b) "Practice of social services," for the purposes of this subdivision, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

Subd. 2. **Voluntary reporters.** Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department if the person knows, has reason to believe, or suspects a child is being or has been maltreated.

Subd. 3. **Reporting in cases where selection of spiritual means or prayer for treatment or care may cause serious danger to child's health.** If the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care, the parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 1, has a duty to report if a lack of medical care may cause serious danger to the child's health.

Subd. 4. **Licensing board duty to report.** A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall report the alleged maltreatment to the commissioner of education.

Sec. 7. **[260E.07] RETALIATION PROHIBITED.**

(a) An employer of any person required to make reports under section 260E.06, subdivision 1, or 260E.11, subdivision 1, shall not retaliate against the person for reporting in good faith maltreatment pursuant to this chapter or against a child with respect to whom a report is made, because of the report.

(b) The employer of any person required to report under section 260E.06, subdivision 1, or 260E.11, subdivision 1, who retaliates against the person because of a report of maltreatment is liable to that person for actual damages and, in addition, a penalty of up to $10,000.

(c) There shall be a rebuttable presumption that any adverse action within 90 days of a report is retaliatory. For purposes of this paragraph, the term "adverse action" refers to action taken by an employer of a person required to report under section 260E.06, subdivision 1, or 260E.11, subdivision 1, which is involved in a report against the person making the report or the child with respect to whom the report was made because of the report, and includes, but is not limited to:

(1) discharge, suspension, termination, or transfer from the facility, institution, school, or agency;

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(2) discharge from or termination of employment;

(3) demotion or reduction in remuneration for services; or

(4) restriction or prohibition of access to the facility, institution, school, agency, or persons affiliated with it.

Sec. 8. **[260E.08] CRIMINAL PENALTIES FOR FAILURE TO REPORT; CIVIL PENALTY FOR MAKING FALSE REPORT.**

(a) A person mandated by section 260E.06, subdivision 1, to report who knows or has reason to believe that a child is maltreated, as defined in section 260E.03, or has been maltreated within the preceding three years, and fails to report is guilty of a misdemeanor.

(b) A person mandated by section 260E.06, subdivision 1, to report who knows or has reason to believe that two or more children not related to the offender have been maltreated, as defined in section 260E.03, by the same offender within the preceding ten years, and fails to report is guilty of a gross misdemeanor.

(c) A parent, guardian, or caretaker who knows or reasonably should know that the child's health is in serious danger and who fails to report as required by section 260E.06, subdivision 3, is guilty of a gross misdemeanor if the child suffers substantial or great bodily harm because of the lack of medical care. If the child dies because of the lack of medical care, the person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than $4,000, or both. The provision in section 609.378, subdivision 1, paragraph (a), clause (1), providing that a parent, guardian, or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report under this chapter.

(d) Any person who knowingly or recklessly makes a false report under the provisions of this chapter 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, plus costs and reasonable attorney fees.

Sec. 9. **[260E.09] REPORTING REQUIREMENTS.**

(a) An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under section 260E.06, subdivision 1, to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency.

(b) Any report shall be of sufficient content to identify the child, any person believed to be responsible for the maltreatment of the child if the person is known, the nature and extent of the maltreatment, and the name and address of the reporter. The local welfare agency or agency responsible for assessing or investigating the report shall accept a report made under section 260E.06 notwithstanding refusal by a reporter to provide the reporter's name or address as long as the report is otherwise sufficient under this paragraph.

Sec. 10. **[260E.10] NOTIFICATION TO REPORTERS.**

Subdivision 1. **Screening notification.** If requested, the agency responsible for assessing or investigating a report shall inform the reporter within ten days after the report was made, either orally or in writing, whether the report was accepted or not. If the responsible agency determines the report does not constitute a report under this chapter, the agency shall advise the reporter that the report was screened out.

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Subd. 2. **Final notification.** Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

Sec. 11. **[260E.11] AGENCY DESIGNATED TO RECEIVE REPORTS.**

Subdivision 1. **Reports of maltreatment in facility.** A person mandated to report child maltreatment occurring within a licensed facility shall report the information to the agency responsible for licensing or certifying the facility under sections 144.50 to 144.58, 241.021, and 245A.01 to 245A.16; or chapter 144H, 245D, or 245H; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a.

Subd. 2. **Reporting deprivation of parental rights or kidnapping to law enforcement.** A person mandated to report under section 260E.06, subdivision 1, who knows or has reason to know of a violation of section 609.25 or 609.26 shall report the information to the local police department or the county sheriff.

Subd. 3. **Report to medical examiner or coroner; notification to local agency and law enforcement; report ombudsman.** (a) A person mandated to report maltreatment who knows or has reason to believe a child has died as a result of maltreatment shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department, or county sheriff.

(b) The medical examiner or coroner shall notify the local welfare agency, police department, or county sheriff in instances in which the medical examiner or coroner believes that the child has died as a result of maltreatment. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local welfare agency.

(c) If the child was receiving services or treatment for mental illness, developmental disability, chemical dependency, or emotional disturbance from an agency, facility, or program as defined in section 245.91, the medical examiner or coroner shall also notify and report findings to the ombudsman established under sections 245.91 to 245.97.

Sec. 12. **[260E.12] REQUIRED ACTIONS OF THE RESPONSIBLE AGENCY AND LAW ENFORCEMENT UPON RECEIVING REPORT.**

Subdivision 1. **Police department or county sheriff.** (a) The police department or the county sheriff shall immediately notify the local welfare agency or agency responsible for child protection reports under this chapter orally and in writing when a report is received.

(b) Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them.

(c) The county sheriff and the head of each local welfare agency, agency responsible for child protection reports, and police department shall designate a person within the agency, department, or office who is responsible for ensuring that the notification duties of this section are carried out. If the alleged maltreatment occurs on tribal land, the local welfare agency or agency responsible for child protection reports and the local police department or county sheriff shall immediately notify the tribe's social services agency and tribal law enforcement orally and in writing when a report is received. When a police department or county

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determines that a child has been the subject of maltreatment by a person licensed by the Professional Educator Licensing and Standards Board or the Board of School Administrators, the department or sheriff shall, in addition to other duties under this section, immediately inform the licensing board.

(d) If a child is the victim of an alleged crime under subdivision 2, paragraph (c), the law enforcement agency shall immediately notify the local welfare agency, which shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the maltreated child.

Subd. 2. **Local welfare agency or agency responsible for maltreatment report.** (a) The local welfare agency or agency responsible for child protection reports shall immediately notify the local police department or the county sheriff orally and in writing when a report is received.

(b) Copies of written reports received by a local welfare agency or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

(c) Receipt by a local welfare agency of a report or notification of a report of kidnapping under section 609.25 or depriving another of custodial or parental rights under section 609.26 shall not be construed to invoke the duties under this chapter except notification of law enforcement and the offer of services under section 260E.20, subdivision 1, paragraph (a), as appropriate.

Subd. 3. **Penalties for failure to cross notify.** (a) If a local welfare agency receives a report under section 260E.06 and fails to notify the local police department or county sheriff as required by subdivision 2, the person within the agency who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees.

(b) If a local police department or a county sheriff receives a report under section 260E.06 and fails to notify the local welfare agency as required by subdivision 1, the person within the police department or county sheriff's office who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees.

Sec. 13. **[260E.13] REPORT TO OMBUDSMAN.**

When a local welfare agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of maltreatment at an agency, facility, or program, as defined in section 245.91, the local welfare agency shall, in addition to its other duties under this chapter, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of education shall inform the ombudsman established under sections 245.91 to 245.97 of reports regarding a child who is a client, as defined in section 245.91, that maltreatment occurred at a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

Sec. 14. **[260E.14] AGENCY RESPONSIBLE FOR SCREENING AND ASSESSMENT OR INVESTIGATION.**

Subdivision 1. **Facilities and schools.** (a) The local welfare agency is the agency responsible for investigating allegations of maltreatment in child foster care, family child care, legally nonlicensed child care, and reports involving children served by an unlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.

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(b) The Department of Human Services is the agency responsible for screening and investigating allegations of maltreatment in juvenile correctional facilities listed under section 241.021 located in the local welfare agency's county and in facilities licensed or certified under chapters 245A, 245D, and 245H, except for child foster care and family child care.

(c) The Department of Health is the agency responsible for screening and investigating allegations of maltreatment in facilities licensed under sections 144.50 to 144.58 and 144A.43 to 144A.482 or chapter 144H.

(d) The Department of Education is the agency responsible for screening and investigating allegations of maltreatment in a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E. The Department of Education's responsibility to screen and investigate includes allegations of maltreatment involving students 18 to 21 years of age, including students receiving special education services, up to and including graduation and the issuance of a secondary or high school diploma.

(e) A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to this section and sections 260E.20 and 260E.22.

Subd. 2. **Sexual abuse.** (a) The local welfare agency is the agency responsible for investigating an allegation of sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual functioning within the family unit as a person responsible for the child's care, or a person with a significant relationship to the child if that person resides in the child's household.

(b) The local welfare agency is also responsible for investigating when a child is identified as a victim of sex trafficking.

Subd. 3. **Neglect or physical abuse.** The local welfare agency is responsible for immediately conducting a family assessment or investigation if the report alleges neglect or physical abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care.

Subd. 4. **Birth match.** (a) Upon receiving data under section 144.225, subdivision 2b, contained in a birth record or recognition of parentage identifying a child who is subject to threatened injury under section 260E.03, subdivision 23, the Department of Human Services shall send the data to the responsible local welfare agency. The data is known as "birth match data."

(b) Unless the responsible local welfare agency has already begun an investigation or assessment of the report due to the birth of the child or execution of the recognition of parentage and the parent's previous history with child protection, the agency shall accept the birth match data as a report under section 260E.03, subdivision 23.

Subd. 5. **Law enforcement.** (a) The local law enforcement agency is the agency responsible for investigating a report of maltreatment if a violation of a criminal statute is alleged.

(b) Law enforcement and the responsible agency must coordinate their investigations or assessments as required under this chapter when the report alleges maltreatment that is a violation of a criminal statute by a person who is a parent, guardian, sibling, person responsible for the child's care functioning within the family unit, or person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in section 260E.03.

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Sec. 15. **[260E.15] SCREENING GUIDELINES.**

(a) Child protection staff, supervisors, and others involved in child protection screening shall follow the guidance provided in the maltreatment screening guidelines issued by the commissioner and, when notified by the commissioner, shall immediately implement updated procedures and protocols.

(b) Any modification to the screening guidelines must be preapproved by the commissioner and must not be less protective of children than is mandated by statute. The county agency must consult with the county attorney before proposing modifications to the commissioner. The guidelines may provide additional protection for children but must not limit reports that are screened in or provide additional limits on consideration of reports that were screened out in making a screening determination.

Sec. 16. **[260E.16] TIMELINE FOR SCREENING.**

(a) The local welfare agency shall determine if the report is to be screened in or out as soon as possible but in no event longer than 24 hours after the report is received.

(b) When determining whether a report will be screened in or out, the agency receiving the report must consider, when relevant, all previous history, including reports that were screened out. The agency may communicate with treating professionals and individuals specified under section 260E.35, subdivision 4, paragraph (b).

Sec. 17. **[260E.17] RESPONSE PATH ASSIGNMENT.**

Subdivision 1. **Local welfare agency.** (a) Upon receipt of a report, the local welfare agency shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for maltreatment.

(b) The local welfare agency shall conduct an investigation when the report involves sexual abuse or substantial child endangerment.

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

(d) The local welfare agency may conduct a family assessment for reports that do not allege sexual abuse or substantial child endangerment. In determining that a family assessment is appropriate, the local welfare agency may consider issues of child safety, parental cooperation, and the need for an immediate response.

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

Subd. 2. **Responsible social service agency.** The responsible agency shall conduct an investigation when the report alleges maltreatment in a facility required to be licensed or certified under chapter 144H, 245A, 245D, or 245H; under sections 144.50 to 144.58 and 241.021; in a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E; or in a nonlicensed personal care provider association as defined in section 256B.0625, subdivision 19a.

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Sec. 18. **[260E.18] NOTICE TO CHILD'S TRIBE.**

The local welfare agency shall provide immediate notice, according to section 260.761, subdivision 2, to an Indian child's tribe when the agency has reason to believe the family assessment or investigation may involve an Indian child. For purposes of this section, "immediate notice" means notice provided within 24 hours.

Sec. 19. **[260E.19] CONFLICT OF INTEREST.**

(a) A potential conflict of interest related to assisting in an investigation or assessment under this chapter resulting in a direct or shared financial interest with a child maltreatment treatment provider or resulting from a personal or family relationship with a party in the investigation must be considered by the local welfare agency in an effort to prevent unethical relationships.

(b) A person who conducts an investigation or assessment under this chapter may not have:

(1) any direct or shared financial interest or referral relationship resulting in a direct shared financial gain with a child maltreatment treatment provider; or

(2) a personal or family relationship with a party in the assessment or investigation.

(c) If an independent assessor is not available, the person responsible for making the determination under this chapter may use the services of an assessor with a financial interest, referral, or personal or family relationship.

Sec. 20. **[260E.20] AGENCY DUTIES REGARDING INVESTIGATION AND ASSESSMENT.**

Subdivision 1. **General duties.** (a) The local welfare agency shall offer services to prevent future maltreatment, safeguarding and enhancing the welfare of the maltreated child, and supporting and preserving family life whenever possible.

(b) If the report alleges a violation of a criminal statute involving maltreatment or child endangerment under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of the agency's investigation or assessment.

(c) In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred.

(d) When necessary, the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living.

(e) In performing any of these duties, the local welfare agency shall maintain an appropriate record.

(f) In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence.

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

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(h) The agency may use either a family assessment or investigation to determine whether the child is safe when responding to a report resulting from birth match data under section 260E.03, subdivision 23, paragraph (c). If the child subject of birth match data is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is determined not to be safe, the agency and the county attorney shall take appropriate action as required under section 260C.503, subdivision 2.

Subd. 2. **Face-to-face contact.** (a) Upon receipt of a screened in report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child.

(b) The face-to-face contact with the child and primary caregiver shall occur immediately if sexual abuse or substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation.

(c) At the initial contact with the alleged offender, the local welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(d) The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation.

Subd. 3. **Collection of information.** (a) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent maltreatment, and family strengths and needs and share not public information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose a duty of confidentiality on the local welfare agency in order to implement the tribal state agreement.

(b) The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed.

(c) Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment.

(d) Information relevant to the assessment or investigation must be asked for, and may include:

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

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions;

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

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

(e) Nothing in this subdivision precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation.

(f) Notwithstanding section 13.384 or 144.291 to 144.298, the local welfare agency has access to medical data and records for purposes of paragraph (d), clause (3).

Subd. 4. **Consultation regarding alleged medical neglect.** If the report alleges medical neglect as defined in section 260C.007, subdivision 6, clause (5), 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 independent medical examination of the infant.

Subd. 5. **Law enforcement fact finding.** If the report alleges maltreatment by a person who is not a parent, guardian, sibling, person responsible for the child's care functioning within the family unit, or a person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in section 260E.03, the local welfare agency may rely on the fact-finding efforts of the law enforcement investigation to make a determination whether or not threatened injury or other maltreatment has occurred under section 260E.03, subdivision 12, if an alleged offender has minor children or lives with minors.

Sec. 21. **[260E.21] SCREENED OUT REPORTS.**

Subdivision 1. **Records.** A report that is screened out must be maintained according to section 260E.35, subdivision 6, paragraph (b).

Subd. 2. **Offer of social services.** A local welfare agency or agency responsible for investigating or assessing a report may use a screened out report for making an offer of social services to the subjects of the screened out report.

Sec. 22. **[260E.22] INTERVIEWS.**

Subdivision 1. **Authority to interview.** (a) The agency responsible for assessing or investigating reports of maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged offender, and any other person with knowledge of the maltreatment for the purpose of gathering facts, assessing safety and risk to the child, and formulating a plan.

(b) Authority of the local welfare agency responsible for assessing or investigating the maltreatment report, the agency responsible for assessing or investigating the report, and the local law enforcement agency

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responsible for investigating the alleged maltreatment includes but is not limited to authority to interview, without parental consent, the alleged victim and any other children who currently reside with or who have resided with the alleged offender.

Subd. 2. **Interview procedure.** (a) The interview may take place at school or at any facility or other place where the alleged victim or other children might be found or the child may be transported to, and the interview may be conducted at a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency.

(b) The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official.

(c) For a family assessment, it is the preferred practice to request a parent or guardian's permission to interview the child before conducting the child interview, unless doing so would compromise the safety assessment.

Subd. 3. **Notification after interview.** (a) Except as provided in this subdivision, the parent, legal custodian, or guardian shall be notified by the responsible agency or local law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred.

(b) Notwithstanding notice required under the Minnesota Rules of Juvenile Protection, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this subdivision, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

Subd. 4. **Tennessen notice not required.** In conducting investigations and assessments pursuant to this chapter, the notice required by section 13.04, subdivision 2, need not be provided to a child under the age of ten who is the alleged victim of maltreatment.

Subd. 5. **Court order for interview.** (a) Where the alleged offender or a person responsible for the care of the alleged victim or other child prevents access to the victim or other child by the local welfare agency, the juvenile court may order the parent, legal custodian, or guardian to produce the alleged victim or other child for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(b) Before making an order under paragraph (a), 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 interview 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 appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

Subd. 6. **Interview format.** (a) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses.

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(b) For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

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

(2) in a case of alleged sexual abuse, audio-video recording of each interview with the alleged victim and a child witness.

Subd. 7. **Interviews on school property.** (a) When the local welfare agency, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials before 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 an interview conducted by the local welfare agency, the notification shall be signed by the chair of the local welfare agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this subdivision. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare agency or local law enforcement agency that the investigation or assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare agency, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosure regarding the nature of the assessment or investigation.

(b) Except where the alleged offender is believed to be a school official or employee, the time, place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare agency or 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 another time is considered 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 paragraph, the juvenile court may order the school to comply. Every effort must 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.

Sec. 23. **[260E.23] DOCUMENTING INTERVIEWS WITH CHILD MALTREATMENT VICTIMS.**

Subdivision 1. **Policy.** It is the policy of this state to encourage adequate and accurate documentation of the number and content of interviews conducted with alleged child maltreatment victims during the course of a child maltreatment assessment or investigation, criminal investigation, or prosecution, and to discourage interviews that are unnecessary, duplicative, or otherwise not in the best interests of the child.

Subd. 2. **Definitions.** As used in this section:

(1) "government employee" means an employee of a state or local agency, and any person acting as an agent of a state or local agency;

(2) "interview" means a statement of an alleged maltreatment victim which is given or made to a government employee during the course of a maltreatment assessment or investigation, criminal investigation, or prosecution; and

(3) "record" means an audio or video recording of an interview, or a written record of an interview.

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Subd. 3. **Record required.** Whenever an interview is conducted, the interviewer must make a record of the interview. The record must contain the following information:

(1) the date, time, place, and duration of the interview;

(2) the identity of the persons present at the interview; and

(3) if the record is in writing, a summary of the information obtained during the interview.

Subd. 4. **Records maintained.** The records shall be maintained by the interviewer in accordance with applicable provisions of section 260E.35 and chapter 13.

Subd. 5. **Guidelines on tape recording of interviews.** Every county attorney's office shall be responsible for developing written guidelines on the tape recording of interviews by government employees who conduct child maltreatment assessments or investigations, criminal investigations, or prosecutions. The guidelines are public data as defined in section 13.02, subdivision 14.

Sec. 24. **[260E.24] CONCLUSION OF FAMILY ASSESSMENT OR FAMILY INVESTIGATION BY LOCAL WELFARE AGENCY.**

Subdivision 1. **Timing.** The local welfare agency shall conclude the family assessment or the investigation within 45 days of the receipt of a report. The conclusion of the assessment or investigation may be extended to permit the completion of a criminal investigation or the receipt of expert information requested within 45 days of the receipt of the report.

Subd. 2. **Determination after family assessment.** After conducting a family assessment, the local welfare agency shall determine whether child protective services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment.

Subd. 3. **Determinations after family investigation.** (a) After conducting an investigation, the local welfare agency shall make two determinations: (1) whether maltreatment occurred; and (2) whether child protective services are needed.

(b) No determination of maltreatment shall be made when the alleged offender is a child under the age of ten.

(c) The local welfare agency or the agency responsible for investigating the report may make a determination of no maltreatment early in an investigation, and close the case and retain immunity, if the collected information shows no basis for a full investigation.

Subd. 4. **Child protective services.** For the purposes of this chapter, except for section 260E.37, a determination that child protective services are needed means that the local welfare agency documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 260E.37, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individual or individuals responsible for the child's care have not taken or are not likely to take action to protect the child from maltreatment or risk of maltreatment.

Subd. 5. **Notifications at conclusion of family investigation.** (a) Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for investigating the report shall notify the parent or guardian of the child and the person determined to be maltreating the child, if not the parent or guardian of the child, of the determination and a summary of the specific reasons for the determination.

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(b) The notice must include a certification that the information collection procedures under section 260E.20 were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section.

(c) In addition, the notice shall include the length of time that the records will be kept under section 260E.35, subdivision 6. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person determined to have maltreated the child, of their appeal or review rights under this chapter.

(d) The notice must also state that a finding of maltreatment may result in denial of a license or certification application or background study disqualification under chapter 245C related to employment or services that are licensed or certified by the Department of Human Services under chapter 245A or 245H, the Department of Health under chapter 144 or 144A, the Department of Corrections under section 241.021, and from providing services related to an unlicensed personal care provider organization under chapter 256B.

Subd. 6. **Required referral to early intervention services.** A child under age three who is involved in a substantiated case of maltreatment shall be referred for screening under the Individuals with Disabilities Education Act, part C. Parents must be informed that the evaluation and acceptance of services are voluntary. The commissioner of human services shall monitor referral rates by county and annually report the information to the legislature. Refusal to have a child screened is not a basis for a child in need of protection or services petition under chapter 260C.

Subd. 7. **Notification at conclusion of family assessment.** Within ten working days of the conclusion of a family assessment, the local welfare agency shall notify the parent or guardian of the child of the need for services to address child safety concerns or significant risk of subsequent maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed.

Sec. 25. **[260E.25] PROVISION OF MEDICAL CARE.**

(a) If lack of medical care due to a parent's, guardian's, or caretaker's good faith selection and dependence upon spiritual means or prayer for treatment or care of disease or remedial care for the child in lieu of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(b) If the review or examination required under section 260E.20, subdivision 4, leads to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by initiating legal proceedings under section 260C.141 and by filing an expedited motion to prevent the withholding of medically indicated treatment.

Sec. 26. **[260E.26] PROVISION OF CHILD PROTECTIVE SERVICES.**

The local welfare agency shall create a written plan, in collaboration with the family whenever possible, within 30 days of the determination that child protective services are needed or upon joint agreement of the local welfare agency and the family that family support and preservation services are needed. Child protective services for a family are voluntary unless ordered by the court.

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Sec. 27. **[260E.27] CONSULTATION WITH THE COUNTY ATTORNEY.**

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

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

(2) voluntary child protective services may not provide sufficient protection for the child; or

(3) the family is not cooperating with an investigation or assessment.

Sec. 28. **[260E.28] CONDUCTING INVESTIGATION IN FACILITY OR SCHOOL.**

Subdivision 1. **Immediate investigation for alleged maltreatment in a facility.** (a) The commissioner of human services, health, or education, whichever is responsible for investigating the report, shall immediately investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in section 260E.03 is the victim of maltreatment in a facility by an individual in that facility or has been the victim of maltreatment in a facility by an individual in that facility within the three years preceding the report; or

(2) a child is the victim of maltreatment in a facility by an individual in a facility defined in section 260E.03, subdivision 6, while in the care of that facility within the three years preceding the report.

(b) The commissioner of the agency responsible for investigating the report shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. The commissioner of the agency responsible for investigating the report or local welfare agency may interview any children who are or have been in the care of a facility under investigation and the children's parents, guardians, or legal custodians.

(c) In conducting an investigation under this section, the commissioner has the powers and duties specified for a local welfare agency under this chapter.

Subd. 2. **Preinterview notification for facility investigation.** Before any interview related to maltreatment in a facility under the provisions of section 260E.22, the commissioner of the agency responsible for investigating the report or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in section 260E.22. If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner of the agency responsible for assessing or investigating the report or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in section 260E.30, subdivision 5.

Subd. 3. **Facility records.** The commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter a facility as defined in section 260E.03 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, the commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for

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investigating reports, the commissioner of education, and the local law enforcement agencies also have the right to inform the facility under investigation that an investigation is being conducted, to disclose to the facility the names of the individuals under investigation for maltreating a child, and to provide the facility with a copy of the report and the investigative findings.

Subd. 4. **Access to information.** In conducting investigations under this chapter, the commissioner or local welfare agency shall obtain access to information consistent with section 260E.20, subdivision 3. In conducting investigations under this section, the commissioner of education shall obtain access to reports and investigative data that are relevant to a report of maltreatment and are in the possession of a school facility as defined in section 260E.03, subdivision 6, clause (2), notwithstanding the classification of the data as educational or personnel data under chapter 13. This includes but is not limited to school investigative reports, information concerning the conduct of school personnel alleged to have committed maltreatment of students, information about witnesses, and any protective or corrective action taken by the school facility regarding the school personnel alleged to have committed maltreatment.

Subd. 5. **Investigation involving school facility.** In conducting an investigation involving a school facility as defined in section 260E.03, subdivision 6, clause (2), the commissioner of education shall collect available and relevant information and use the procedures in sections 260E.20, subdivisions 2 and 3, and 260E.22, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the investigation provided that the commissioner may also base the investigation on investigative reports and data received from the school facility and local law enforcement agency, to the extent those investigations satisfy the requirements of sections 260E.20, subdivisions 2 and 3, and 260E.22.

Sec. 29. **[260E.29] NOTIFICATION REQUIREMENTS FOR SCHOOLS AND FACILITIES.**

Subdivision 1. **Notification requirements for school facility.** (a) Notwithstanding section 260E.09, the commissioner of education must inform the parent, guardian, or legal custodian of the child who is the subject of a report of alleged maltreatment in a school facility within ten days of receiving the report, either orally or in writing, whether the commissioner is investigating the report of alleged maltreatment.

(b) Regardless of whether a report is made under section 260E.09, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform the parent, legal guardian, or custodian of the child that an incident occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

Subd. 2. **Notification requirements for other types of facilities.** When a report is received that alleges maltreatment of a child while in the care of a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed or certified according to sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 144H, 245D, or 245H; or a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a, the commissioner of the agency responsible for investigating the report or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been the victim of maltreatment in the facility; the name of the facility; the fact that a report alleging maltreatment in the facility has been received; the nature of the alleged maltreatment in the facility; that the agency is conducting an investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

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Subd. 3. **Discretionary notification.** The commissioner of the agency responsible for investigating the report or local welfare agency may also provide the information in subdivision 2 to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged maltreatment of a child in the facility occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for investigating the report or local welfare agency shall consider the seriousness of the alleged maltreatment of a child in the facility; the number of alleged victims of maltreatment of a child in the facility; the number of alleged offenders; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

Sec. 30. **[260E.30] CONCLUSION OF SCHOOL OR FACILITY INVESTIGATION.**

Subdivision 1. **Investigation involving a school facility.** If the commissioner of education conducts an investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases, the commissioner shall inform the school board or employer that a report was received; the subject of the report; the date of the initial report; the category of maltreatment alleged as defined in section 260E.03, subdivision 12; the fact that maltreatment was not determined; and a summary of the specific reasons for the determination.

Subd. 2. **Investigation involving a facility.** (a) When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in subdivision 4. Determinations under this subdivision must be made based on a preponderance of the evidence and are private data on individuals or nonpublic data as maintained by the commissioner of education.

(b) Any operator, employee, or volunteer worker at any facility who intentionally maltreats any child in the care of that facility may be charged with a violation of section 609.255, 609.377, or 609.378. Any operator of a facility who knowingly permits conditions to exist that result in maltreatment of a child in a facility while in the care of that facility may be charged with a violation of section 609.378. The facility operator shall inform all mandated reporters employed by or otherwise associated with the facility of the duties required of mandated reporters and shall inform all mandatory reporters of the prohibition against retaliation for reports made in good faith under this section.

Subd. 3. **Nonmaltreatment mistake.** (a) If paragraph (b) applies, rather than making a determination of substantiated maltreatment by the individual, the commissioner of human services shall determine that a nonmaltreatment mistake was made by the individual.

(b) A nonmaltreatment mistake occurs when:

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

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

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

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

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

(c) This subdivision only applies to child care centers licensed under Minnesota Rules, chapter 9503.

Subd. 4. **Mitigating factors in investigating facilities.** (a) When determining whether the facility or individual is the responsible party, or whether both the facility and the individual are responsible for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

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

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

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

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

(c) Notwithstanding paragraphs (a) and (b), when maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing or certification actions under sections 245A.06, 245A.07, 245H.06, or 245H.07 apply.

Subd. 5. **Notification when school or facility investigation is completed.** (a) When the commissioner of the agency responsible for investigating the report or local welfare agency has completed its investigation, every parent, guardian, or legal custodian previously notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged maltreatment of a child in the facility; the investigator's name; a summary of the investigation findings; a statement of whether maltreatment was found; and the protective or corrective measures that are being or will be taken.

(b) The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name or, to the extent possible, reveal the identity of the alleged offender or the identity of individuals interviewed during the investigation.

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(c) If maltreatment is determined to exist, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility who had contact with the individual responsible for the maltreatment.

(d) When the facility is the responsible party for maltreatment, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child who received services in the population of the facility where the maltreatment occurred.

(e) This notification must be provided to the parent, guardian, or legal custodian of each child receiving services from the time the maltreatment occurred until either the individual responsible for maltreatment is no longer in contact with a child or children in the facility or the conclusion of the investigation.

(f) In the case of maltreatment within a school facility, as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E, the commissioner of education need not provide notification to parents, guardians, or legal custodians of each child in the facility, but shall, within ten days after the investigation is completed, provide written notification to the parent, guardian, or legal custodian of any student alleged to have been maltreated.

(g) The commissioner of education may notify the parent, guardian, or legal custodian of any student involved as a witness to alleged maltreatment.

Subd. 6. **Notification to parent, child, or offender following investigation.** (a) Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for investigating the report of maltreatment in a facility shall notify the parent or guardian of the child, the person determined to be maltreating the child, and the director of the facility of the determination and a summary of the specific reasons for the determination.

(b) When the investigation involves a child foster care setting that is monitored by a private licensing agency under section 245A.16, the local welfare agency responsible for investigating the report shall notify the private licensing agency of the determination and shall provide a summary of the specific reasons for the determination. The notice to the private licensing agency must include identifying private data, but not the identity of the reporter of maltreatment.

(c) The notice must also include a certification that the information collection procedures under section 260E.20, subdivision 3, were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section.

(d) In addition, the notice shall include the length of time that the records will be kept under section 260E.35, subdivision 6.

(e) The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section.

(f) The notice must also state that a finding of maltreatment may result in denial of a license or certification application or background study disqualification under chapter 245C related to employment or services that are licensed by the Department of Human Services under chapter 245A or 245H, the Department of Health under chapter 144 or 144A, the Department of Corrections under section 241.021, and from providing services related to an unlicensed personal care provider organization under chapter 256B.

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Sec. 31. **[260E.31] REPORTING OF PRENATAL EXPOSURE TO CONTROLLED SUBSTANCES.**

Subdivision 1. **Reports required.** (a) Except as provided in paragraph (b), a person mandated to report under this chapter shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including but not limited to tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.

(b) A health care professional or a social service professional who is mandated to report under this chapter is exempt from reporting under paragraph (a) a woman's use or consumption of tetrahydrocannabinol or alcoholic beverages during pregnancy if the professional is providing the woman with prenatal care or other health care services.

(c) Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy, including but not limited to tetrahydrocannabinol, or has consumed alcoholic beverages during the pregnancy in any way that is habitual or excessive.

(d) An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the local welfare agency. Any report shall be of sufficient content to identify the pregnant woman, the nature and extent of the use, if known, and the name and address of the reporter. The local welfare agency shall accept a report made under paragraph (c) notwithstanding refusal by a voluntary reporter to provide the reporter's name or address as long as the report is otherwise sufficient.

(e) For purposes of this section, "prenatal care" means the comprehensive package of medical and psychological support provided throughout the pregnancy.

Subd. 2. **Local welfare agency.** Upon receipt of a report of prenatal exposure to a controlled substance required under subdivision 1, the local welfare agency shall immediately conduct an appropriate assessment and offer services indicated under the circumstances. Services offered may include but are not limited to a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care. The local welfare agency may also take any appropriate action under chapter 253B, including seeking an emergency admission under section 253B.051. The local welfare agency shall seek an emergency admission under section 253B.051 if the pregnant woman refuses recommended voluntary services or fails recommended treatment.

Subd. 3. **Related provisions.** Reports under this section are governed by sections 260E.05, 260E.06, 260E.34, and 260E.35.

Subd. 4. **Controlled substances.** For purposes of this section and section 260E.32, "controlled substance" means a controlled substance listed in section 253B.02, subdivision 2.

Sec. 32. **[260E.32] TOXICOLOGY TESTS REQUIRED.**

Subdivision 1. **Test; report.** (a) A physician shall administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within eight hours after delivery to determine whether there is evidence that she has ingested a controlled substance, if the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose.

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(b) If the test results are positive, the physician shall report the results under section 260E.31. A negative test result does not eliminate the obligation to report under section 260E.31 if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose.

Subd. 2. **Newborns.** (a) A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy.

(b) If the test results are positive, the physician shall report the results as neglect under section 260E.03. A negative test result does not eliminate the obligation to report under this chapter if other medical evidence of prenatal exposure to a controlled substance is present.

Subd. 3. **Report to Department of Health.** Physicians shall report to the Department of Health the results of tests performed under subdivisions 1 and 2. A report shall be made on the certificate of live birth medical supplement or the report of fetal death medical supplement filed on or after February 1, 1991. The reports are medical data under section 13.384.

Subd. 4. **Reliability of tests.** A positive test result reported under this section must be obtained from a confirmatory test performed by a drug testing laboratory that meets the requirements of section 181.953 and must be performed according to the requirements for performance of confirmatory tests imposed by the licensing, accreditation, or certification program listed in section 181.953, subdivision 1, in which the laboratory participates.

Sec. 33. **[260E.33] RECONSIDERATION AND APPEAL OF MALTREATMENT DETERMINATION FOLLOWING INVESTIGATION.**

Subdivision 1. **Following family assessment.** Administrative reconsideration is not applicable in a family assessment since no determination concerning maltreatment is made.

Subd. 2. **Request for reconsideration.** (a) Except as provided under subdivision 5, an individual or facility that the commissioner of human services, a local welfare agency, or the commissioner of education determines has maltreated a child, an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the request for reconsideration must be postmarked and sent to the investigating agency within 15 calendar days of the individual's or facility's receipt of the final determination. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 15 calendar days after the individual's or facility's receipt of the final determination.

(b) An individual who was determined to have maltreated a child under this chapter and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15 may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the investigating agency within 30 calendar days of the individual's receipt of the

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maltreatment determination and notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 30 calendar days after the individual's receipt of the notice of disqualification.

Subd. 3. **Request for fair hearing.** (a) Except as provided under subdivisions 5 and 6, if the investigating agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services or the commissioner of education a written request for a hearing under section 256.045. Section 256.045 also governs hearings requested to contest a final determination of the commissioner of education. The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The hearings specified under this section are the only administrative appeal of a decision issued under subdivision 2. Determinations under this section are not subject to accuracy and completeness challenges under section 13.04.

(b) Except as provided under subdivision 6, if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall ensure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

Subd. 4. **Change of maltreatment determination.** If, as a result of a reconsideration or fair hearing, the investigating agency changes the determination of maltreatment, that agency shall notify every parent, guardian, or legal custodian previously notified of the investigation, the commissioner of the agency responsible for assessing or investigating the report, the local welfare agency, and, if applicable, the director of the facility and the private licensing agency.

Subd. 5. **Consolidation.** If an individual was disqualified under sections 245C.14 and 245C.15 on the basis of a determination of maltreatment which was serious or recurring, and the individual requested reconsideration of the maltreatment determination under subdivision 2 and requested reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single fair hearing. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration decision, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

Subd. 6. **Contested case hearing.** If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination and disqualification shall not be conducted under section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination as provided under this subdivision, and reconsideration of a disqualification as provided under section 245C.22, shall also not be conducted when:

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

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

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

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under subdivision 2 and section 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under subdivision 2 and sections 245C.27 and 626.557, subdivision 9d.

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

Subd. 7. **Process for correction order or decertification.** If a maltreatment determination is the basis for a correction order under section 245H.06 or decertification under section 245H.07, the certification holder has the right to request reconsideration under sections 245H.06 and 245H.07. If the certification holder appeals the maltreatment determination or disqualification, but does not appeal the correction order or decertification, reconsideration of the maltreatment determination shall be conducted under subdivision 2 and reconsideration of the disqualification shall be conducted under section 245C.22.

Sec. 34. **[260E.34] IMMUNITY.**

(a) The following persons are immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith:

(1) a person making a voluntary or mandated report under this chapter or assisting in an assessment under this chapter;

(2) a person with responsibility for performing duties under this section or supervisor employed by a local welfare agency, the commissioner of an agency responsible for operating or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed or certified under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B or 245H; or a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a, complying with sections 260E.23, subdivisions 2 and 3, and 260E.30; and

(3) a public or private school, facility as defined in section 260E.03, or the employee of any public or private school or facility who permits access by a local welfare agency, the Department of Education, or a local law enforcement agency and assists in an investigation or assessment pursuant to this chapter.

(b) A person who is a supervisor or person with responsibility for performing duties under this chapter employed by a local welfare agency, the commissioner of human services, or the commissioner of education complying with this chapter or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under section 260E.20, subdivision 3.

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(c) Any physician or other medical personnel administering a toxicology test under section 260E.32 to determine the presence of a controlled substance in a pregnant woman, in a woman within eight hours after delivery, or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test, if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice.

(d) This section does not provide immunity to any person for failure to make a required report or for committing maltreatment.

(e) If a person who makes a voluntary or mandatory report under section 260E.06 prevails in a civil action from which the person has been granted immunity under this section, the court may award the person attorney fees and costs.

Sec. 35. **[260E.35] DATA PRACTICES.**

Subdivision 1. **Maintaining data.** Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained according to this section.

Subd. 2. **Data collected during investigation of maltreatment in school.** (a) Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this chapter, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

(b) In conducting an investigation involving a school facility as defined in section 260E.03, subdivision 6, clause (2), the commissioner of education shall collect investigative reports and data that are relevant to a report of maltreatment from local law enforcement and the school facility.

Subd. 3. **Classification and release of data.** (a) A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by paragraphs (g) to (o).

(b) All reports and records created, collected, or maintained under this chapter by a local welfare agency or law enforcement agency may be disclosed to a local welfare or other child welfare agency of another state when the agency certifies that:

(1) the reports and records are necessary to conduct an investigation of actions that would qualify as maltreatment under this chapter; and

(2) the reports and records will be used only for purposes of a child protection assessment or investigation and will not be further disclosed to any other person or agency.

(c) The local social service agency or law enforcement agency in this state shall keep a record of all records or reports disclosed pursuant to this subdivision and of any agency to which the records or reports are disclosed. If in any case records or reports are disclosed before a determination is made under section 260E.24, subdivision 3, paragraph (a), or a disposition of a criminal proceeding is reached, the local social service agency or law enforcement agency in this state shall forward the determination or disposition to any agency that has received a report or record under this subdivision.

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(d) The responsible authority of a local welfare agency or the responsible authority's designee may release private or confidential data on an active case involving assessment or investigation of actions that are defined as maltreatment under this chapter to a court services agency if:

(1) the court services agency has an active case involving a common client who is the subject of the data; and

(2) the data are necessary for the court services agency to effectively process the court services agency's case, including investigating or performing other duties relating to the case required by law.

(e) The data disclosed under paragraph (d) may be used only for purposes of the active court services case described in paragraph (d), clause (1), and may not be further disclosed to any other person or agency, except as authorized by law.

(f) Records maintained under subdivision 4, paragraph (b), may be shared with another local welfare agency that requests the information because it is conducting an assessment or investigation under this section of the subject of the records.

(g) Except as provided in paragraphs (b), (h), (i), (o), and (p); subdivision 1; and sections 260E.22, subdivision 2; and 260E.23, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report under this chapter, including any written reports filed under sections 260E.06 and 260E.09, shall be private data on individuals, except insofar as copies of reports are required by section 260E.12, subdivision 1 or 2, to be sent to the local police department or the county sheriff.

(h) All records concerning determinations of maltreatment by a facility are nonpublic data as maintained by the Department of Education, except insofar as copies of reports are required by section 260E.12, subdivision 1 or 2, to be sent to the local police department or the county sheriff.

(i) Reports maintained by any police department or the county sheriff shall be private data on individuals, except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including a county medical examiner or county coroner.

(j) Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data other than the reports.

(k) The local welfare agency or agency responsible for assessing or investigating the report shall make available to the investigating, petitioning, or prosecuting authority, including a county medical examiner or county coroner or a professional delegate, any records that contain information relating to a specific incident of maltreatment that is under investigation, petition, or prosecution and information relating to any prior incident of maltreatment involving any of the same persons. The records shall be collected and maintained according to chapter 13.

(l) An individual subject of a record shall have access to the record according to those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this section.

(m) Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter before the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made

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in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure.

(n) Upon request of the legislative auditor, data on individuals maintained under this chapter must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data according to chapter 13.

(o) Active law enforcement investigative data received by a local welfare agency or agency responsible for assessing or investigating the report under this chapter are confidential data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals.

(p) Section 13.03, subdivision 4, applies to data received by the commissioner of education from a licensing entity.

Subd. 4. **Data disclosed to reporter.** (a) A local welfare or child protection agency, or the agency responsible for assessing or investigating the report of maltreatment, shall provide relevant private data on individuals obtained under this chapter to a mandated reporter who made the report and who has an ongoing responsibility for the health, education, or welfare of a child affected by the data, unless the agency determines that providing the data would not be in the best interests of the child.

(b) The agency may provide the data to other mandated reporters with ongoing responsibility for the health, education, or welfare of the child. Mandated reporters with ongoing responsibility for the health, education, or welfare of a child affected by the data include the child's teachers or other appropriate school personnel, foster parents, health care providers, respite care workers, therapists, social workers, child care providers, residential care staff, crisis nursery staff, probation officers, and court services personnel. Under this chapter, a mandated reporter need not have made the report to be considered a person with ongoing responsibility for the health, education, or welfare of a child affected by the data. Data provided under this chapter must be limited to data pertinent to the individual's responsibility for caring for the child.

(c) A reporter who receives private data on individuals under this subdivision must treat the data according to that classification, regardless of whether the reporter is an employee of a government entity. The remedies and penalties under sections 13.08 and 13.09 apply if a reporter releases data in violation of this chapter or other law.

Subd. 5. **Data provided to commissioner of education.** The commissioner of education must be provided with all requested data that are relevant to a report of maltreatment and are in possession of a school facility as defined in section 260E.03, subdivision 6, clause (2), when the data are requested pursuant to an assessment or investigation of a maltreatment report of a student in a school. If the commissioner of education makes a determination of maltreatment involving an individual performing work within a school facility who is licensed by a board or other agency, the commissioner shall provide a copy of its offender maltreatment determination report to the licensing entity with all student-identifying information removed. The offender maltreatment determination report shall include but is not limited to the following sections: report of alleged maltreatment; legal standard; investigation; summary of findings; determination; corrective action by a school; reconsideration process; and a listing of records related to the investigation. Notwithstanding section 13.03, subdivision 4, data received by a licensing entity under this paragraph are governed by section 13.41 or other applicable law governing data of the receiving entity, except that this section applies to the classification of and access to data on the reporter of the maltreatment.

Subd. 6. **Data retention.** (a) Notwithstanding sections 138.163 and 138.17, a record maintained or a record derived from a report of maltreatment by a local welfare agency, agency responsible for assessing

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or investigating the report, court services agency, or school under this chapter shall be destroyed as provided in paragraphs (b) to (e) by the responsible authority.

(b) For a report alleging maltreatment that was not accepted for assessment or investigation, a family assessment case, and a case where an investigation results in no determination of maltreatment or the need for child protective services, the record must be maintained for a period of five years after the date the report was not accepted for assessment or investigation or the date of the final entry in the case record. A record of a report that was not accepted must contain sufficient information to identify the subjects of the report, the nature of the alleged maltreatment, and the reasons as to why the report was not accepted. Records under this paragraph may not be used for employment, background checks, or purposes other than to assist in future screening decisions and risk and safety assessments.

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

(d) All records regarding a report of maltreatment, including a notification of intent to interview that was received by a school under section 260E.22, subdivision 7, shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

(e) Private or confidential data released to a court services agency under subdivision 3, paragraph (d), must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency or agency responsible for assessing or investigating the report shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

Subd. 7. **Disclosure to public.** (a) Notwithstanding any other provision of law and subject to this subdivision, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

(1) a person is criminally charged with having caused the child fatality or near fatality;

(2) a county attorney certifies that a person would have been charged with having caused the child fatality or near fatality but for that person's death; or

(3) a child protection investigation resulted in a determination of maltreatment.

(b) Findings and information disclosed under this subdivision consist of a written summary that includes any of the following information the agency is able to provide:

(1) the cause and circumstances regarding the child fatality or near fatality;

(2) the age and gender of the child;

(3) information on any previous reports of maltreatment that are pertinent to the maltreatment that led to the child fatality or near fatality;

(4) information on any previous investigations that are pertinent to the maltreatment that led to the child fatality or near fatality;

(5) the result of any investigations described in clause (4);

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(6) actions of and services provided by the local welfare agency on behalf of a child that are pertinent to the maltreatment that led to the child fatality or near fatality; and

(7) the result of any review of the state child mortality review panel, a local child mortality review panel, a local community child protection team, or any public agency.

(c) Nothing in this subdivision authorizes access to the private data in the custody of a local welfare agency, or the disclosure to the public of the records or content of any psychiatric, psychological, or therapeutic evaluation, or the disclosure of information that would reveal the identities of persons who provided information related to maltreatment of the child.

(d) A person whose request is denied may apply to the appropriate court for an order compelling disclosure of all or part of the findings and information of the public agency. The application must set forth, with reasonable particularity, factors supporting the application. The court has jurisdiction to issue these orders. Actions under this chapter must be set down for immediate hearing, and subsequent proceedings in those actions must be given priority by the appellate courts.

(e) A public agency or its employees acting in good faith in disclosing or declining to disclose information under this chapter are immune from criminal or civil liability that might otherwise be incurred or imposed for that action.

Subd. 8. **Disclosure not required.** When interviewing a child under this chapter, an individual does not include the parent or guardian of the child for purposes of section 13.04, subdivision 2, when the parent or guardian is the alleged offender.

Sec. 36. **[260E.36] SPECIALIZED TRAINING AND EDUCATION REQUIRED.**

Subdivision 1. **Job classification; continuing education.** (a) The commissioner of human services, for employees subject to the Minnesota Merit System, and directors of county personnel systems, for counties not subject to the Minnesota Merit System, shall establish a job classification consisting exclusively of persons with the specialized knowledge, skills, and experience required to satisfactorily perform child protection duties pursuant to this chapter.

(b) All child protection workers or social services staff having responsibility for child protection duties under this chapter shall receive 15 hours of continuing education or in-service training each year relevant to providing child protective services. The local welfare agency shall maintain a record of training completed by each employee having responsibility for performing child protection duties.

Subd. 2. **Child protection worker foundation education.** An individual who seeks employment as a child protection worker after the commissioner of human services has implemented the foundation training program developed under section 260E.37 must complete competency-based foundation training during their first six months of employment as a child protection worker.

Subd. 3. **Background studies.** (a) County employees hired on or after July 1, 2015, who have responsibility for child protection duties or current county employees who are assigned new child protection duties on or after July 1, 2015, are required to undergo a background study. A county may complete these background studies by either:

(1) use of the Department of Human Services NETStudy 2.0 system according to sections 245C.03 and 245C.10; or

(2) an alternative process defined by the county.

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(b) County social services agencies and local welfare agencies must initiate background studies before an individual begins a position allowing direct contact with persons served by the agency.

Subd. 4. **Joint training.** The commissioners of human services and public safety shall cooperate in the development of a joint program for training child maltreatment services professionals in the appropriate techniques for child maltreatment assessment and investigation. The program shall include but need not be limited to the following areas:

(1) the public policy goals of the state as set forth in section 260C.001 and the role of the assessment or investigation in meeting these goals;

(2) the special duties of child protection workers and law enforcement officers under this chapter;

(3) the appropriate methods for directing and managing affiliated professionals who may be utilized in providing protective services and strengthening family ties;

(4) the appropriate methods for interviewing alleged victims of child maltreatment and other children in the course of performing an assessment or an investigation;

(5) the dynamics of child maltreatment within family systems and the appropriate methods for interviewing parents in the course of the assessment or investigation, including training in recognizing cases in which one of the parents is a victim of domestic abuse and in need of special legal or medical services;

(6) the legal, evidentiary considerations that may be relevant to the conduct of an assessment or an investigation;

(7) the circumstances under which it is appropriate to remove the alleged offender or the alleged victim from the home;

(8) the protective social services that are available to protect alleged victims from further maltreatment, to prevent child maltreatment and domestic abuse, and to preserve the family unit; and training in the preparation of case plans to coordinate services for the alleged child victim with services for any parents who are victims of domestic abuse;

(9) the methods by which child protection workers and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts; and

(10) appropriate methods for interviewing alleged victims and conducting investigations in cases where the alleged victim is developmentally, physically, or mentally disabled.

Subd. 5. **Priority training.** The commissioners of human services and public safety shall provide the program courses described in subdivision 2 at convenient times and locations in the state. The commissioners shall give training priority in the program areas cited in subdivision 2 to persons currently performing assessments and investigations pursuant to this chapter.

Subd. 6. **Revenue.** (a) The commissioner of human services shall add the following funds to the funds appropriated under section 260E.37, subdivision 2, to develop and support training.

(b) The commissioner of human services shall submit claims for federal reimbursement earned through the activities and services supported through Department of Human Services child protection or child welfare training funds. Federal revenue earned must be used to improve and expand training services by the department. The department expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds.

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(c) Each year, the commissioner of human services shall withhold from funds distributed to each county under Minnesota Rules, parts 9550.0300 to 9550.0370, an amount equivalent to 1.5 percent of each county's annual title XX allocation under section 256M.50. The commissioner must use these funds to ensure decentralization of training.

(d) The federal revenue under this subdivision is available for these purposes until the funds are expended.

Sec. 37. **[260E.37] CHILD PROTECTION WORKERS; TRAINING.**

Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the meanings given unless the specific context indicates otherwise.

(b) "Advanced training" means training provided to a local child protection worker after the person has performed an initial six months of employment as a child protection worker.

(c) "Child protection agency" means an agency authorized to receive reports, conduct assessments and investigations, and make determinations pursuant to this chapter.

(d) "Child protection services" means the receipt and assessment of reports of maltreatment and the provision of services to families and children when maltreatment has occurred or when there is risk of maltreatment. These services include:

(1) the assessment of risk to a child alleged to have been maltreated;

(2) interviews of any person alleged to have maltreated a child and the child or children involved in the report, and interviews with persons having facts or knowledge necessary to assess the level of risk to a child and the need for protective intervention;

(3) the gathering of written or evidentiary materials;

(4) the recording of case findings and determinations; and

(5) other actions required by this chapter, administrative rule, or agency policy.

(e) "Competency-based training" means a course of instruction that provides both information and skills practice, which is based upon clearly stated and measurable instructional objectives, and which requires demonstration of the achievement of a particular standard of skills and knowledge for satisfactory completion.

(f) "Foundation training" means training provided to a local child protection worker after the person has begun to perform child protection duties, but before the expiration of six months of employment as a child protection worker. This foundation training must occur during the performance of job duties and must include an evaluation of the employee's application of skills and knowledge.

Subd. 2. **Training program; development.** The commissioner of human services shall develop a program of competency-based foundation and advanced training for child protection workers if funds are appropriated to the commissioner for this purpose.

Sec. 38. **[260E.38] AUDIT.**

Subdivision 1. **Audit required.** The commissioner shall regularly audit for accuracy the data reported by counties on maltreatment of children.

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Subd. 2. **Audit procedure.** The commissioner shall develop a plan to perform quality assurance reviews of local welfare agency screening practices and decisions. The commissioner shall provide oversight and guidance to counties to ensure consistent application of screening guidelines, thorough and appropriate screening decisions, and correct documentation and maintenance of reports.

Subd. 3. **Report required.** The commissioner shall produce an annual report of the summary results of the reviews. The report must only contain aggregate data and may not include any data that could be used to personally identify any subject whose data is included in the report. The report is public information and must be provided to the chairs and ranking minority members of the legislative committees having jurisdiction over child protection issues.

Sec. 39. **REPEALER.**

(a) Minnesota Statutes 2018, sections 626.556, subdivisions 1, 3, 3a, 3c, 3d, 3f, 4, 4a, 5, 6, 6a, 7, 7a, 8, 9, 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h, 10i, 10j, 10k, 10l, 10m, 10n, 11a, 11b, 11c, 11d, 12, 14, 15, and 16; 626.5561; 626.5562; 626.558; 626.559, subdivisions 1, 1a, 1b, 2, 3, and 5; 626.5591; and 626.561, are repealed.

(b) Minnesota Statutes 2019 Supplement, section 626.556, subdivisions 2, 3b, 3e, 10, and 11, are repealed.

ARTICLE 8

MALTREATMENT OF MINORS ACT CONFORMING CHANGES

Section 1. Minnesota Statutes 2018, section 13.32, subdivision 3, is amended to read:

Subd. 3. **Private data; when disclosure is permitted.** Except as provided in subdivision 5, educational data is private data on individuals and shall not be disclosed except as follows:

(a) pursuant to section 13.05;

(b) pursuant to a valid court order;

(c) pursuant to a statute specifically authorizing access to the private data;

(d) to disclose information in health, including mental health, and safety emergencies pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code of Federal Regulations, title 34, section 99.36;

(e) pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3), (b)(6), (b)(7), and (i), and Code of Federal Regulations, title 34, sections 99.31, 99.32, 99.33, 99.34, 99.35, and 99.39;

(f) to appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;

(g) when disclosure is required for institutions that participate in a program under title IV of the Higher Education Act, United States Code, title 20, section 1092;

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(h) to the appropriate school district officials to the extent necessary under subdivision 6, annually to indicate the extent and content of remedial instruction, including the results of assessment testing and academic performance at a postsecondary institution during the previous academic year by a student who graduated from a Minnesota school district within two years before receiving the remedial instruction;

(i) to appropriate authorities as provided in United States Code, title 20, section 1232g(b)(1)(E)(ii), if the data concern the juvenile justice system and the ability of the system to effectively serve, prior to adjudication, the student whose records are released; provided that the authorities to whom the data are released submit a written request for the data that certifies that the data will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student and the request and a record of the release are maintained in the student's file;

(j) to volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students;

(k) to provide student recruiting information, from educational data held by colleges and universities, as required by and subject to Code of Federal Regulations, title 32, section 216;

(l) to the juvenile justice system if information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals;

(m) with respect to Social Security numbers of students in the adult basic education system, to Minnesota State Colleges and Universities and the Department of Employment and Economic Development for the purpose and in the manner described in section 124D.52, subdivision 7;

(n) to the commissioner of education for purposes of an assessment or investigation of a report of alleged maltreatment of a student as mandated by ~~section 626.556~~ chapter 260E. Upon request by the commissioner of education, data that are relevant to a report of maltreatment and are from charter school and school district investigations of alleged maltreatment of a student must be disclosed to the commissioner, including, but not limited to, the following:

(1) information regarding the student alleged to have been maltreated;

(2) information regarding student and employee witnesses;

(3) information regarding the alleged perpetrator; and

(4) what corrective or protective action was taken, if any, by the school facility in response to a report of maltreatment by an employee or agent of the school or school district;

(o) when the disclosure is of the final results of a disciplinary proceeding on a charge of a crime of violence or nonforcible sex offense to the extent authorized under United States Code, title 20, section 1232g(b)(6)(A) and (B) and Code of Federal Regulations, title 34, sections 99.31 (a)(13) and (14);

(p) when the disclosure is information provided to the institution under United States Code, title 42, section 14071, concerning registered sex offenders to the extent authorized under United States Code, title 20, section 1232g(b)(7); or

(q) when the disclosure is to a parent of a student at an institution of postsecondary education regarding the student's violation of any federal, state, or local law or of any rule or policy of the institution, governing the use or possession of alcohol or of a controlled substance, to the extent authorized under United States Code, title 20, section 1232g(i), and Code of Federal Regulations, title 34, section 99.31 (a)(15), and provided

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the institution has an information release form signed by the student authorizing disclosure to a parent. The institution must notify parents and students about the purpose and availability of the information release forms. At a minimum, the institution must distribute the information release forms at parent and student orientation meetings.

Sec. 2. Minnesota Statutes 2018, section 13.3805, subdivision 3, is amended to read:

Subd. 3. **Office of Health Facility Complaints; investigative data.** Except for investigative data under ~~section 626.556~~ chapter 260E, all investigative data maintained by the Department of Health's Office of Health Facility Complaints are subject to provisions of and classified pursuant to section 626.557, subdivision 12b, paragraphs (b) to (d). Notwithstanding sections ~~626.556, subdivision 11,~~ 260E.21, subdivision 4; 260E.35; and 626.557, subdivision 12b, paragraph (b), data identifying an individual substantiated as the perpetrator are public data. For purposes of this subdivision, an individual is substantiated as the perpetrator if the commissioner of health determines that the individual is the perpetrator and the determination of the commissioner is upheld after the individual either exercises applicable administrative appeal rights or fails to exercise these rights within the time allowed by law.

Sec. 3. Minnesota Statutes 2018, section 13.43, subdivision 14, is amended to read:

Subd. 14. **Maltreatment data.** (a) When a report of alleged maltreatment of a student in a school facility, as defined in section ~~626.556, subdivision 2, paragraph (c)~~ 260E.03, subdivision 6, is made to the commissioner of education under ~~section 626.556~~ chapter 260E, data that are relevant to a report of maltreatment and are collected by the school facility about the person alleged to have committed maltreatment must be provided to the commissioner of education upon request for purposes of an assessment or investigation of the maltreatment report. Data received by the commissioner of education pursuant to these assessments or investigations are classified under ~~section 626.556~~ chapter 260E.

(b) Personnel data may be released for purposes of providing information to a parent, legal guardian, or custodian of a child under section ~~626.556, subdivision 7~~ 260E.15.

Sec. 4. Minnesota Statutes 2019 Supplement, section 13.46, subdivision 3, is amended to read:

Subd. 3. **Investigative data.** (a) Data on persons, including data on vendors of services, licensees, and applicants that is collected, maintained, used, or disseminated by the welfare system in an investigation, authorized by statute, and relating to the enforcement of rules or law are confidential data on individuals pursuant to section 13.02, subdivision 3, or protected nonpublic data not on individuals pursuant to section 13.02, subdivision 13, and shall not be disclosed except:

(1) pursuant to section 13.05;

(2) pursuant to statute or valid court order;

(3) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense;

(4) to an agent of the welfare system or an investigator acting on behalf of a county, state, or federal government, including a law enforcement officer or attorney in the investigation or prosecution of a criminal, civil, or administrative proceeding, unless the commissioner of human services determines that disclosure may compromise a Department of Human Services ongoing investigation; or

(5) to provide notices required or permitted by statute.

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The data referred to in this subdivision shall be classified as public data upon submission to an administrative law judge or court in an administrative or judicial proceeding. Inactive welfare investigative data shall be treated as provided in section 13.39, subdivision 3.

(b) Notwithstanding any other provision in law, the commissioner of human services shall provide all active and inactive investigative data, including the name of the reporter of alleged maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E, to the ombudsman for mental health and developmental disabilities upon the request of the ombudsman.

(c) Notwithstanding paragraph (a) and section 13.39, the existence of an investigation by the commissioner of human services of possible overpayments of public funds to a service provider or recipient may be disclosed if the commissioner determines that it will not compromise the investigation.

Sec. 5. Minnesota Statutes 2019 Supplement, section 13.46, subdivision 4, is amended to read:

Subd. 4. **Licensing data.** (a) As used in this subdivision:

(1) "licensing data" are all data collected, maintained, used, or disseminated by the welfare system pertaining to persons licensed or registered or who apply for licensure or registration or who formerly were licensed or registered under the authority of the commissioner of human services;

(2) "client" means a person who is receiving services from a licensee or from an applicant for licensure; and

(3) "personal and personal financial data" are Social Security numbers, identity of and letters of reference, insurance information, reports from the Bureau of Criminal Apprehension, health examination reports, and social/home studies.

(b)(1)(i) Except as provided in paragraph (c), the following data on applicants, license holders, and former licensees are public: name, address, telephone number of licensees, date of receipt of a completed application, dates of licensure, licensed capacity, type of client preferred, variances granted, record of training and education in child care and child development, type of dwelling, name and relationship of other family members, previous license history, class of license, the existence and status of complaints, and the number of serious injuries to or deaths of individuals in the licensed program as reported to the commissioner of human services, the local social services agency, or any other county welfare agency. For purposes of this clause, a serious injury is one that is treated by a physician.

(ii) Except as provided in item (v), when a correction order, an order to forfeit a fine, an order of license suspension, an order of temporary immediate suspension, an order of license revocation, an order of license denial, or an order of conditional license has been issued, or a complaint is resolved, the following data on current and former licensees and applicants are public: the general nature of the complaint or allegations leading to the temporary immediate suspension; the substance and investigative findings of the licensing or maltreatment complaint, licensing violation, or substantiated maltreatment; the existence of settlement negotiations; the record of informal resolution of a licensing violation; orders of hearing; findings of fact; conclusions of law; specifications of the final correction order, fine, suspension, temporary immediate suspension, revocation, denial, or conditional license contained in the record of licensing action; whether a fine has been paid; and the status of any appeal of these actions.

(iii) When a license denial under section 245A.05 or a sanction under section 245A.07 is based on a determination that a license holder, applicant, or controlling individual is responsible for maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E, the identity of the applicant, license holder, or controlling

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individual as the individual responsible for maltreatment is public data at the time of the issuance of the license denial or sanction.

(iv) When a license denial under section 245A.05 or a sanction under section 245A.07 is based on a determination that a license holder, applicant, or controlling individual is disqualified under chapter 245C, the identity of the license holder, applicant, or controlling individual as the disqualified individual and the reason for the disqualification are public data at the time of the issuance of the licensing sanction or denial. If the applicant, license holder, or controlling individual requests reconsideration of the disqualification and the disqualification is affirmed, the reason for the disqualification and the reason to not set aside the disqualification are public data.

(v) A correction order or fine issued to a child care provider for a licensing violation is private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9, if the correction order or fine is seven years old or older.

(2) For applicants who withdraw their application prior to licensure or denial of a license, the following data are public: the name of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, and the date of withdrawal of the application.

(3) For applicants who are denied a license, the following data are public: the name and address of the applicant, the city and county in which the applicant was seeking licensure, the dates of the commissioner's receipt of the initial application and completed application, the type of license sought, the date of denial of the application, the nature of the basis for the denial, the existence of settlement negotiations, the record of informal resolution of a denial, orders of hearings, findings of fact, conclusions of law, specifications of the final order of denial, and the status of any appeal of the denial.

(4) When maltreatment is substantiated under section ~~626.556 or~~ 626.557 or chapter 260E and the victim and the substantiated perpetrator are affiliated with a program licensed under chapter 245A, the commissioner of human services, local social services agency, or county welfare agency may inform the license holder where the maltreatment occurred of the identity of the substantiated perpetrator and the victim.

(5) Notwithstanding clause (1), for child foster care, only the name of the license holder and the status of the license are public if the county attorney has requested that data otherwise classified as public data under clause (1) be considered private data based on the best interests of a child in placement in a licensed program.

(c) The following are private data on individuals under section 13.02, subdivision 12, or nonpublic data under section 13.02, subdivision 9: personal and personal financial data on family day care program and family foster care program applicants and licensees and their family members who provide services under the license.

(d) The following are private data on individuals: the identity of persons who have made reports concerning licensees or applicants that appear in inactive investigative data, and the records of clients or employees of the licensee or applicant for licensure whose records are received by the licensing agency for purposes of review or in anticipation of a contested matter. The names of reporters of complaints or alleged violations of licensing standards under chapters 245A, 245B, 245C, and 245D, and applicable rules and alleged maltreatment under ~~sections 626.556 and~~ section 626.557 and chapter 260E, are confidential data and may be disclosed only as provided in ~~section 626.556, subdivision 11,~~ section 260E.21, subdivision 4; 260E.35; or 626.557, subdivision 12b.

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(e) Data classified as private, confidential, nonpublic, or protected nonpublic under this subdivision become public data if submitted to a court or administrative law judge as part of a disciplinary proceeding in which there is a public hearing concerning a license which has been suspended, immediately suspended, revoked, or denied.

(f) Data generated in the course of licensing investigations that relate to an alleged violation of law are investigative data under subdivision 3.

(g) Data that are not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report as defined in section ~~626.556, subdivision 2~~ 260E.03, or 626.5572, subdivision 18, are subject to the destruction provisions of sections ~~626.556, subdivision 11c~~ 260E.35, subdivision 6, and 626.557, subdivision 12b.

(h) Upon request, not public data collected, maintained, used, or disseminated under this subdivision that relate to or are derived from a report of substantiated maltreatment as defined in section ~~626.556 or~~ 626.557 or chapter 260E may be exchanged with the Department of Health for purposes of completing background studies pursuant to section 144.057 and with the Department of Corrections for purposes of completing background studies pursuant to section 241.021.

(i) Data on individuals collected according to licensing activities under chapters 245A and 245C, data on individuals collected by the commissioner of human services according to investigations under section 626.557 and chapters 245A, 245B, 245C, ~~and~~ 245D, and ~~sections 626.556 and 626.557~~ 260E may be shared with the Department of Human Rights, the Department of Health, the Department of Corrections, the ombudsman for mental health and developmental disabilities, and the individual's professional regulatory board when there is reason to believe that laws or standards under the jurisdiction of those agencies may have been violated or the information may otherwise be relevant to the board's regulatory jurisdiction. Background study data on an individual who is the subject of a background study under chapter 245C for a licensed service for which the commissioner of human services is the license holder may be shared with the commissioner and the commissioner's delegate by the licensing division. Unless otherwise specified in this chapter, the identity of a reporter of alleged maltreatment or licensing violations may not be disclosed.

(j) In addition to the notice of determinations required under ~~section 626.556, subdivision 10f,~~ sections 260E.24, subdivisions 5 and 7, and 260E.30, subdivision 6, paragraphs (b), (c), (d), (e), and (f), if the commissioner or the local social services agency has determined that an individual is a substantiated perpetrator of maltreatment of a child based on sexual abuse, as defined in section ~~626.556, subdivision 2~~ 260E.03, and the commissioner or local social services agency knows that the individual is a person responsible for a child's care in another facility, the commissioner or local social services agency shall notify the head of that facility of this determination. The notification must include an explanation of the individual's available appeal rights and the status of any appeal. If a notice is given under this paragraph, the government entity making the notification shall provide a copy of the notice to the individual who is the subject of the notice.

(k) All not public data collected, maintained, used, or disseminated under this subdivision and subdivision 3 may be exchanged between the Department of Human Services, Licensing Division, and the Department of Corrections for purposes of regulating services for which the Department of Human Services and the Department of Corrections have regulatory authority.

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Sec. 6. Minnesota Statutes 2018, section 13.82, subdivision 8, is amended to read:

Subd. 8. **Child abuse identity data.** Active or inactive investigative data that identify a victim of child abuse or neglect reported under ~~section 626.556~~ chapter 260E are private data on individuals. Active or inactive investigative data that identify a reporter of child abuse or neglect under ~~section 626.556~~ chapter 260E are confidential data on individuals, unless the subject of the report compels disclosure under ~~section 626.556, subdivision 11~~ sections 260E.21, subdivision 4, or 260E.35.

Sec. 7. Minnesota Statutes 2018, section 13.82, subdivision 9, is amended to read:

Subd. 9. **Inactive child abuse data.** Investigative data that become inactive under subdivision 7, clause (a) or (b), and that relate to the alleged abuse or neglect of a child by a person responsible for the child's care, as defined in section ~~626.556, subdivision 2~~ 260E.03, are private data.

Sec. 8. Minnesota Statutes 2018, section 13.82, subdivision 17, is amended to read:

Subd. 17. **Protection of identities.** A law enforcement agency or a law enforcement dispatching agency working under direction of a law enforcement agency shall withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

(a) when access to the data would reveal the identity of an undercover law enforcement officer, as provided in section 13.43, subdivision 5;

(b) when access to the data would reveal the identity of a victim or alleged victim of criminal sexual conduct or sex trafficking under section 609.322, 609.341 to 609.3451, or 617.246, subdivision 2;

(c) when access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant;

(d) when access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests not to be identified publicly, unless the agency reasonably determines that revealing the identity of the victim or witness would not threaten the personal safety or property of the individual;

(e) when access to the data would reveal the identity of a deceased person whose body was unlawfully removed from a cemetery in which it was interred;

(f) when access to the data would reveal the identity of a person who placed a call to a 911 system or the identity or telephone number of a service subscriber whose phone is used to place a call to the 911 system and: (1) the agency determines that revealing the identity may threaten the personal safety or property of any person; or (2) the object of the call is to receive help in a mental health emergency. For the purposes of this paragraph, a voice recording of a call placed to the 911 system is deemed to reveal the identity of the caller;

(g) when access to the data would reveal the identity of a juvenile witness and the agency reasonably determines that the subject matter of the investigation justifies protecting the identity of the witness; or

(h) when access to the data would reveal the identity of a mandated reporter under section 60A.952, subdivision 2, 609.456, ~~626.556,~~ or 626.557 or chapter 260E.

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Data concerning individuals whose identities are protected by this subdivision are private data about those individuals. Law enforcement agencies shall establish procedures to acquire the data and make the decisions necessary to protect the identity of individuals described in clauses (c), (d), (f), and (g).

Sec. 9. Minnesota Statutes 2018, section 13.821, is amended to read:

13.821 VIDEOTAPES OF CHILD ABUSE VICTIMS.

(a) Notwithstanding section 13.04, subdivision 3, an individual subject of data may not obtain a copy of a videotape in which a child victim or alleged victim is alleging, explaining, denying, or describing an act of physical or sexual abuse without a court order under section 13.03, subdivision 6, or 611A.90. The definitions of physical abuse and sexual abuse in section ~~626.556, subdivision 2~~ 260E.03, apply to this section, except that abuse is not limited to acts by a person responsible for the child's care or in a significant relationship with the child or position of authority.

(b) This section does not limit other rights of access to data by an individual under section 13.04, subdivision 3, other than the right to obtain a copy of the videotape, nor prohibit rights of access pursuant to discovery in a court proceeding.

Sec. 10. Minnesota Statutes 2018, section 13.84, subdivision 9, is amended to read:

Subd. 9. **Child abuse data; release to child protective services.** A court services agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under ~~section 626.556~~ chapter 260E to a local welfare agency if:

(1) the local welfare agency has an active case involving a common client or clients who are the subject of the data; and

(2) the data are necessary for the local welfare agency to effectively process the agency's case, including investigating or performing other duties relating to the case required by law.

Court services data disclosed under this subdivision may be used only for purposes of the active case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

Sec. 11. Minnesota Statutes 2018, section 13.871, subdivision 6, is amended to read:

Subd. 6. **Training; investigation; apprehension; reports.** (a) **Reports of gunshot wounds.** Disclosure of the name of a person making a report under section 626.52, subdivision 2, is governed by section 626.53.

(b) **Child abuse report records.** Data contained in child abuse report records are classified under ~~section 626.556~~ chapter 260E.

(c) **Interstate data exchange.** Disclosure of child abuse reports to agencies of another state is classified under section ~~626.556, subdivision 10g~~ 260E.35, subdivision 3, paragraphs (b) and (c).

(d) **Release to family court services.** Release of child abuse data to a court services agency is authorized under section ~~626.556, subdivision 10h~~ 260E.35, subdivision 3, paragraphs (d) and (e).

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(e) **Release of data to mandated reporters.** Release of child abuse data to mandated reporters who have an ongoing responsibility for the health, education, or welfare of a child affected by the data is authorized under section ~~626.556, subdivision 10j~~ 260E.35, subdivision 4.

(f) **Release of child abuse assessment or investigative records to other counties.** Release of child abuse investigative records to local welfare agencies is authorized under section ~~626.556, subdivision 10k~~ 260E.35, subdivision 3, paragraph (f).

(g) **Classifying and sharing records and reports of child abuse.** The classification of child abuse data and the sharing of records and reports of child abuse by and between local welfare agencies and law enforcement agencies are governed under ~~section 626.556, subdivision 11~~ sections 260E.21, subdivision 4, and 260E.35.

(h) **Disclosure of information not required in certain cases.** Disclosure of certain data obtained from interviewing a minor is governed by section ~~626.556, subdivision 11a~~ 260E.35, subdivision 8.

(i) **Data received from law enforcement.** Classifying child abuse data received by certain agencies from law enforcement agencies is governed under section ~~626.556, subdivision 11b~~ 260E.35, subdivision 3, paragraph (p).

(j) **Disclosure in child fatality cases.** Disclosure of information relating to a child fatality is governed under section ~~626.556, subdivision 11d~~ 260E.35, subdivision 7.

(k) **Reports of prenatal exposure to controlled substances.** Data on persons making reports under section ~~626.5561~~ 260E.31 are classified under section ~~626.5561, subdivision 3~~ 260E.35, subdivision 3.

(l) **Vulnerable adult report records.** Data contained in vulnerable adult report records are classified under section 626.557, subdivision 12b.

(m) **Adult protection team information sharing.** Sharing of local welfare agency vulnerable adult data with a protection team is governed by section 626.5571, subdivision 3.

(n) **Child protection team.** Data acquired by a case consultation committee or subcommittee of a child protection team are classified by section ~~626.558, subdivision 3~~ 260E.02, subdivision 4.

(o) **Peace officer discipline procedures.** Access by an officer under investigation to the investigating agency's investigative report on the officer is governed by section 626.89, subdivision 6.

(p) **Racial profiling study data.** Racial profiling study data is governed by Minnesota Statutes 2006, section 626.951.

Sec. 12. Minnesota Statutes 2018, section 13.88, is amended to read:

13.88 COMMUNITY DISPUTE RESOLUTION CENTER DATA.

The guidelines shall provide that all files relating to a case in a community dispute resolution program are to be classified as private data on individuals, pursuant to section 13.02, subdivision 12, with the following exceptions:

(1) When a party to the case has been formally charged with a criminal offense, the data are to be classified as public data on individuals, pursuant to section 13.02, subdivision 15.

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(2) Data relating to suspected neglect or physical or sexual abuse of children or maltreatment of vulnerable adults are to be subject to the reporting requirements of ~~sections 626.556 and~~ section 626.557 and chapter 260E.

Sec. 13. Minnesota Statutes 2018, section 120B.22, subdivision 2, is amended to read:

Subd. 2. **In-service training.** Each district is encouraged to provide training for district staff and school board members on the following:

(1) helping students identify violence in the family and the community so that students may learn to resolve conflicts in effective, nonviolent ways;

(2) responding to a disclosure of child sexual abuse in a supportive, appropriate manner; and

(3) complying with mandatory reporting requirements under ~~section 626.556~~ chapter 260E.

The in-service training must be ongoing and involve experts familiar with sexual abuse, domestic violence, and personal safety issues.

Sec. 14. Minnesota Statutes 2019 Supplement, section 122A.20, subdivision 2, is amended to read:

Subd. 2. **Mandatory reporting.** (a) A school board, superintendent, charter school board, charter school executive director, or charter school authorizer must report to the Professional Educator Licensing and Standards Board, the Board of School Administrators, or the Board of Trustees of the Minnesota State Colleges and Universities, whichever has jurisdiction over the teacher's or administrator's license, when its teacher or administrator is discharged or resigns from employment after a charge is filed with the school board under section 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7, or after charges are filed that are grounds for discharge under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5), or when a teacher or administrator is suspended or resigns while an investigation is pending under section 122A.40, subdivision 13, paragraph (a), clauses (1) to (5), or chapter 260E; or 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7; ~~or 626.556,~~ or when a teacher or administrator is suspended without an investigation under section 122A.41, subdivisions 6, paragraph (a), clauses (1), (2), and (3), and 7~~; or 626.556~~, or chapter 260E. The report must be made to the appropriate licensing board within ten days after the discharge, suspension, or resignation has occurred. The licensing board to which the report is made must investigate the report for violation of subdivision 1 and the reporting board, administrator, or authorizer must cooperate in the investigation. Notwithstanding any provision in chapter 13 or any law to the contrary, upon written request from the licensing board having jurisdiction over the license, a board, charter school, authorizer, charter school executive director, or school superintendent shall provide the licensing board with information about the teacher or administrator from the district's files, any termination or disciplinary proceeding, any settlement or compromise, or any investigative file. Upon written request from the appropriate licensing board, a board or school superintendent may, at the discretion of the board or school superintendent, solicit the written consent of a student and the student's parent to provide the licensing board with information that may aid the licensing board in its investigation and license proceedings. The licensing board's request need not identify a student or parent by name. The consent of the student and the student's parent must meet the requirements of chapter 13 and Code of Federal Regulations, title 34, section 99.30. The licensing board may provide a consent form to the district. Any data transmitted to any board under this section is private data under section 13.02, subdivision 12, notwithstanding any other classification of the data when it was in the possession of any other agency.

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

(c) The Professional Educator Licensing and Standards Board and Board of School Administrators must report to the appropriate law enforcement authorities a revocation, suspension, or agreement involving a loss of license, relating to a teacher or administrator's inappropriate sexual conduct with a minor. For purposes of this section, "law enforcement authority" means a police department, county sheriff, or tribal police department. A report by the Professional Educator Licensing and Standards Board to appropriate law enforcement authorities does not diminish, modify, or otherwise affect the responsibilities of a school board or any person mandated to report abuse under ~~section 626.556~~ chapter 260E.

Sec. 15. Minnesota Statutes 2019 Supplement, section 122A.40, subdivision 13, is amended to read:

Subd. 13. **Immediate discharge.** (a) Except as otherwise provided in paragraph (b), a board may discharge a continuing-contract teacher, effective immediately, upon any of the following grounds:

(1) immoral conduct, insubordination, or conviction of a felony;

(2) conduct unbecoming a teacher which requires the immediate removal of the teacher from classroom or other duties;

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

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

(5) willful neglect of duty; or

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

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

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

(b) A board must discharge a continuing-contract teacher, effective immediately, upon receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's license has been revoked due to a conviction for child abuse, as defined in section 609.185; sex trafficking in the first degree under section

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609.322, subdivision 1; sex trafficking in the second degree under section 609.322, subdivision 1a; engaging in hiring or agreeing to hire a minor to engage in prostitution under section 609.324, subdivision 1; sexual abuse under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23, subdivision 3; solicitation of children to engage in sexual conduct or communication of sexually explicit materials to children under section 609.352; interference with privacy under section 609.746 or harassment or stalking under section 609.749 and the victim was a minor; using minors in a sexual performance under section 617.246; possessing pornographic works involving a minor under section 617.247; or any other offense not listed in this paragraph that requires the person to register as a predatory offender under section 243.166, or a crime under a similar law of another state or the United States.

(c) When a teacher is discharged under paragraph (b) or when the commissioner makes a final determination of child maltreatment involving a teacher under section ~~626.556, subdivision 11,~~ 260E.21, subdivision 4, or 260E.35, the school principal or other person having administrative control of the school must include in the teacher's employment record the information contained in the record of the disciplinary action or the final maltreatment determination, consistent with the definition of public data under section 13.41, subdivision 5, and must provide the Professional Educator Licensing and Standards Board and the licensing division at the department with the necessary and relevant information to enable the Professional Educator Licensing and Standards Board and the department's licensing division to fulfill their statutory and administrative duties related to issuing, renewing, suspending, or revoking a teacher's license. Information received by the Professional Educator Licensing and Standards Board or the licensing division at the department under this paragraph is governed by section 13.41 or other applicable law governing data of the receiving entity. In addition to the background check required under section 123B.03, a school board or other school hiring authority must contact the Professional Educator Licensing and Standards Board and the department to determine whether the teacher's license has been suspended or revoked, consistent with the discharge and final maltreatment determinations identified in this paragraph. Unless restricted by federal or state data practices law or by the terms of a collective bargaining agreement, the responsible authority for a school district must disseminate to another school district private personnel data on a current or former teacher employee or contractor of the district, including the results of background investigations, if the requesting school district seeks the information because the subject of the data has applied for employment with the requesting school district.

Sec. 16. Minnesota Statutes 2019 Supplement, section 122A.41, subdivision 6, is amended to read:

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

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

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

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

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

(5) discontinuance of position or lack of pupils.

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

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(b) A probationary or continuing-contract teacher must be discharged immediately upon receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's license has been revoked due to a conviction for child abuse, as defined in section 609.185; sex trafficking in the first degree under section 609.322, subdivision 1; sex trafficking in the second degree under section 609.322, subdivision 1a; engaging in hiring or agreeing to hire a minor to engage in prostitution under section 609.324, subdivision 1; sexual abuse under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23, subdivision 3; solicitation of children to engage in sexual conduct or communication of sexually explicit materials to children under section 609.352; interference with privacy under section 609.746 or harassment or stalking under section 609.749 and the victim was a minor; using minors in a sexual performance under section 617.246; possessing pornographic works involving a minor under section 617.247; or any other offense not listed in this paragraph that requires the person to register as a predatory offender under section 243.166, or a crime under a similar law of another state or the United States.

(c) When a teacher is discharged under paragraph (b) or when the commissioner makes a final determination of child maltreatment involving a teacher under section ~~626.556, subdivision 11,~~ 260E.21, subdivision 4, or 260E.35, the school principal or other person having administrative control of the school must include in the teacher's employment record the information contained in the record of the disciplinary action or the final maltreatment determination, consistent with the definition of public data under section 13.41, subdivision 5, and must provide the Professional Educator Licensing and Standards Board and the licensing division at the department with the necessary and relevant information to enable the Professional Educator Licensing and Standards Board and the department's licensing division to fulfill their statutory and administrative duties related to issuing, renewing, suspending, or revoking a teacher's license. Information received by the Professional Educator Licensing and Standards Board or the licensing division at the department under this paragraph is governed by section 13.41 or other applicable law governing data of the receiving entity. In addition to the background check required under section 123B.03, a school board or other school hiring authority must contact the Professional Educator Licensing and Standards Board and the department to determine whether the teacher's license has been suspended or revoked, consistent with the discharge and final maltreatment determinations identified in this paragraph. Unless restricted by federal or state data practices law or by the terms of a collective bargaining agreement, the responsible authority for a school district must disseminate to another school district private personnel data on a current or former teacher employee or contractor of the district, including the results of background investigations, if the requesting school district seeks the information because the subject of the data has applied for employment with the requesting school district.

Sec. 17. Minnesota Statutes 2018, section 125A.0942, subdivision 4, is amended to read:

Subd. 4. **Prohibitions.** The following actions or procedures are prohibited:

(1) engaging in conduct prohibited under section 121A.58;

(2) requiring a child to assume and maintain a specified physical position, activity, or posture that induces physical pain;

(3) totally or partially restricting a child's senses as punishment;

(4) presenting an intense sound, light, or other sensory stimuli using smell, taste, substance, or spray as punishment;

(5) denying or restricting a child's access to equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the child's functioning, except when temporarily removing

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the equipment or device is needed to prevent injury to the child or others or serious damage to the equipment or device, in which case the equipment or device shall be returned to the child as soon as possible;

(6) interacting with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under ~~section 626.556~~ chapter 260E;

(7) withholding regularly scheduled meals or water;

(8) denying access to bathroom facilities;

(9) physical holding that restricts or impairs a child's ability to breathe, restricts or impairs a child's ability to communicate distress, places pressure or weight on a child's head, throat, neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's torso; and

(10) prone restraint.

Sec. 18. Minnesota Statutes 2018, section 135A.15, subdivision 10, is amended to read:

Subd. 10. **Applicability of other laws.** This section does not exempt mandatory reporters from the requirements of section ~~626.556 or~~ 626.557 or chapter 260E governing the reporting of maltreatment of minors or vulnerable adults. Nothing in this section limits the authority of an institution to comply with other applicable state or federal laws related to investigations or reports of sexual harassment, sexual violence, or sexual assault.

Sec. 19. Minnesota Statutes 2018, section 144.225, subdivision 2b, is amended to read:

Subd. 2b. **Commissioner of health; duties.** Notwithstanding the designation of certain of this data as confidential under subdivision 2 or private under subdivision 2a, the commissioner shall give the commissioner of human services access to birth record data and data contained in recognitions of parentage prepared according to section 257.75 necessary to enable the commissioner of human services to identify a child who is subject to threatened injury, as defined in section ~~626.556, subdivision 2, paragraph (p)~~ 260E.03, subdivision 23, by a person responsible for the child's care, as defined in section ~~626.556, subdivision 2, paragraph (j), clause (1)~~ 260E.03, subdivision 17. The commissioner shall be given access to all data included on official birth records.

Sec. 20. Minnesota Statutes 2018, section 144.343, subdivision 4, is amended to read:

Subd. 4. **Limitations.** No notice shall be required under this section if:

(1) the attending physician certifies in the pregnant woman's medical record that the abortion is necessary to prevent the woman's death and there is insufficient time to provide the required notice; or

(2) the abortion is authorized in writing by the person or persons who are entitled to notice; or

(3) the pregnant minor woman declares that she is a victim of sexual abuse, neglect, or physical abuse as defined in ~~section 626.556~~ chapter 260E. Notice of that declaration shall be made to the proper authorities as provided in section ~~626.556, subdivision 3~~ 260E.06.

Sec. 21. Minnesota Statutes 2018, section 144.7065, subdivision 10, is amended to read:

Subd. 10. **Relation to other law; data classification.** (a) Adverse health events described in subdivisions 2 to 6 do not constitute "maltreatment," "neglect," or "a physical injury that is not reasonably explained"

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under section ~~626.556 or~~ 626.557 or chapter 260E and are excluded from the reporting requirements of ~~sections 626.556 and~~ section 626.557 and chapter 260E, provided the facility makes a determination within 24 hours of the discovery of the event that this section is applicable and the facility files the reports required under this section in a timely fashion.

(b) A facility that has determined that an event described in subdivisions 2 to 6 has occurred must inform persons who are mandated reporters under section ~~626.556, subdivision 3,~~ 260E.06 or 626.5572, subdivision 16, of that determination. A mandated reporter otherwise required to report under section ~~626.556, subdivision 3,~~ 260E.06 or 626.557, subdivision 3, paragraph (e), is relieved of the duty to report an event that the facility determines under paragraph (a) to be reportable under subdivisions 2 to 6.

(c) The protections and immunities applicable to voluntary reports under ~~sections 626.556 and~~ section 626.557 and chapter 260E are not affected by this section.

(d) Notwithstanding section ~~626.556,~~ 626.557, chapter 260E, or any other provision of Minnesota statute or rule to the contrary, a lead agency under section ~~626.556, subdivision 3c~~ 260E.14, subdivision 1, paragraphs (a), (b), and (c), a lead investigative agency under section 626.5572, subdivision 13, the commissioner of health, or the director of the Office of Health Facility Complaints is not required to conduct an investigation of or obtain or create investigative data or reports regarding an event described in subdivisions 2 to 6. If the facility satisfies the requirements described in paragraph (a), the review or investigation shall be conducted and data or reports shall be obtained or created only under sections 144.706 to 144.7069, except as permitted or required under sections 144.50 to 144.564, or as necessary to carry out the state's certification responsibility under the provisions of sections 1864 and 1867 of the Social Security Act. If a licensed health care provider reports an event to the facility required to be reported under subdivisions 2 to 6 in a timely manner, the provider's licensing board is not required to conduct an investigation of or obtain or create investigative data or reports regarding the individual reporting of the events described in subdivisions 2 to 6.

(e) Data contained in the following records are nonpublic and, to the extent they contain data on individuals, confidential data on individuals, as defined in section 13.02:

(1) reports provided to the commissioner under sections 147.155, 147A.155, 148.267, 151.301, and 153.255;

(2) event reports, findings of root cause analyses, and corrective action plans filed by a facility under this section; and

(3) records created or obtained by the commissioner in reviewing or investigating the reports, findings, and plans described in clause (2).

For purposes of the nonpublic data classification contained in this paragraph, the reporting facility shall be deemed the subject of the data.

Sec. 22. Minnesota Statutes 2018, section 144.7068, is amended to read:

144.7068 REPORTS FROM LICENSING BOARDS.

(a) Effective upon full implementation of the adverse health care events reporting system, the records maintained under sections 147.155, 147A.155, 148.267, 151.301, and 153.255, shall be reported to the commissioner on the schedule established in those sections.

(b) The commissioner shall forward these reports to the facility named in the report.

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(c) The facility shall determine whether the event has been previously reported under section 144.7065. The facility shall notify the commissioner whether the event has been reported previously. If the event has not been previously reported, the facility shall make a determination whether the event was reportable under section 144.7065. If the facility determines the event was reportable, the date of discovery of the event for the purposes of section 144.7065, subdivision 10, paragraph (d), shall be as follows:

(1) if the commissioner determines that the facility knew or reasonably should have known about the occurrence of the event, the date the event occurred shall be the date of discovery. The facility shall be considered out of compliance with the reporting act, and the event shall be subject to ~~sections 626.556 and~~ section 626.557 and chapter 260E; or

(2) if the commissioner determines that the facility did not know about the occurrence of the event, the date the facility receives the report from the commissioner shall serve as the date of discovery.

If the facility determines that the event was not reportable under section 144.7065, the facility shall notify the commissioner of that determination.

Sec. 23. Minnesota Statutes 2018, section 144A.472, subdivision 1, is amended to read:

Subdivision 1. **License applications.** Each application for a home care provider license must include information sufficient to show that the applicant meets the requirements of licensure, including:

(1) the applicant's name, e-mail address, physical address, and mailing address, including the name of the county in which the applicant resides and has a principal place of business;

(2) the initial license fee in the amount specified in subdivision 7;

(3) the e-mail address, physical address, mailing address, and telephone number of the principal administrative office;

(4) the e-mail address, physical address, mailing address, and telephone number of each branch office, if any;

(5) the names, e-mail and mailing addresses, and telephone numbers of all owners and managerial officials;

(6) documentation of compliance with the background study requirements of section 144A.476 for all persons involved in the management, operation, or control of the home care provider;

(7) documentation of a background study as required by section 144.057 for any individual seeking employment, paid or volunteer, with the home care provider;

(8) evidence of workers' compensation coverage as required by sections 176.181 and 176.182;

(9) documentation of liability coverage, if the provider has it;

(10) identification of the license level the provider is seeking;

(11) documentation that identifies the managerial official who is in charge of day-to-day operations and attestation that the person has reviewed and understands the home care provider regulations;

(12) documentation that the applicant has designated one or more owners, managerial officials, or employees as an agent or agents, which shall not affect the legal responsibility of any other owner or managerial official under this chapter;

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(13) the signature of the officer or managing agent on behalf of an entity, corporation, association, or unit of government;

(14) verification that the applicant has the following policies and procedures in place so that if a license is issued, the applicant will implement the policies and procedures and keep them current:

(i) requirements in ~~sections 626.556~~ chapter 260E, reporting of maltreatment of minors, and section 626.557, reporting of maltreatment of vulnerable adults;

(ii) conducting and handling background studies on employees;

(iii) orientation, training, and competency evaluations of home care staff, and a process for evaluating staff performance;

(iv) handling complaints from clients, family members, or client representatives regarding staff or services provided by staff;

(v) conducting initial evaluation of clients' needs and the providers' ability to provide those services;

(vi) conducting initial and ongoing client evaluations and assessments and how changes in a client's condition are identified, managed, and communicated to staff and other health care providers as appropriate;

(vii) orientation to and implementation of the home care client bill of rights;

(viii) infection control practices;

(ix) reminders for medications, treatments, or exercises, if provided; and

(x) conducting appropriate screenings, or documentation of prior screenings, to show that staff are free of tuberculosis, consistent with current United States Centers for Disease Control and Prevention standards; and

(15) other information required by the department.

Sec. 24. Minnesota Statutes 2018, section 144A.479, subdivision 6, is amended to read:

Subd. 6. **Reporting maltreatment of vulnerable adults and minors.** (a) All home care providers must comply with requirements for the reporting of maltreatment of minors in ~~section 626.556~~ chapter 260E and the requirements for the reporting of maltreatment of vulnerable adults in section 626.557. Each home care provider must establish and implement a written procedure to ensure that all cases of suspected maltreatment are reported.

(b) Each home care provider must develop and implement an individual abuse prevention plan for each vulnerable minor or adult for whom home care services are provided by a home care provider. The plan shall contain an individualized review or assessment of the person's susceptibility to abuse by another individual, including other vulnerable adults or minors; the person's risk of abusing other vulnerable adults or minors; and statements of the specific measures to be taken to minimize the risk of abuse to that person and other vulnerable adults or minors. For purposes of the abuse prevention plan, the term abuse includes self-abuse.

Sec. 25. Minnesota Statutes 2019 Supplement, section 144A.4796, subdivision 2, is amended to read:

Subd. 2. **Content.** (a) The orientation must contain the following topics:

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(1) an overview of sections 144A.43 to 144A.4798;

(2) introduction and review of all the provider's policies and procedures related to the provision of home care services by the individual staff person;

(3) handling of emergencies and use of emergency services;

(4) compliance with and reporting of the maltreatment of minors or vulnerable adults under ~~sections 626.556 and~~ section 626.557 and chapter 260E;

(5) home care bill of rights under section 144A.44;

(6) handling of clients' complaints, reporting of complaints, and where to report complaints including information on the Office of Health Facility Complaints and the Common Entry Point;

(7) consumer advocacy services of the Office of Ombudsman for Long-Term Care, Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care Ombudsman at the Department of Human Services, county managed care advocates, or other relevant advocacy services; and

(8) review of the types of home care services the employee will be providing and the provider's scope of licensure.

(b) In addition to the topics listed in paragraph (a), orientation may also contain training on providing services to clients with hearing loss. Any training on hearing loss provided under this subdivision must be high quality and research-based, may include online training, and must include training on one or more of the following topics:

(1) an explanation of age-related hearing loss and how it manifests itself, its prevalence, and challenges it poses to communication;

(2) health impacts related to untreated age-related hearing loss, such as increased incidence of dementia, falls, hospitalizations, isolation, and depression; or

(3) information about strategies and technology that may enhance communication and involvement, including communication strategies, assistive listening devices, hearing aids, visual and tactile alerting devices, communication access in real time, and closed captions.

Sec. 26. Minnesota Statutes 2018, section 144A.4796, subdivision 6, is amended to read:

Subd. 6. **Required annual training.** (a) All staff that perform direct home care services must complete at least eight hours of annual training for each 12 months of employment. The training may be obtained from the home care provider or another source and must include topics relevant to the provision of home care services. The annual training must include:

(1) training on reporting of maltreatment of minors under ~~section 626.556~~ chapter 260E and maltreatment of vulnerable adults under section 626.557, whichever is applicable to the services provided;

(2) review of the home care bill of rights in section 144A.44;

(3) review of infection control techniques used in the home and implementation of infection control standards including a review of hand-washing techniques; the need for and use of protective gloves, gowns, and masks; appropriate disposal of contaminated materials and equipment, such as dressings, needles,

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syringes, and razor blades; disinfecting reusable equipment; disinfecting environmental surfaces; and reporting of communicable diseases; and

(4) review of the provider's policies and procedures relating to the provision of home care services and how to implement those policies and procedures.

(b) In addition to the topics listed in paragraph (a), annual training may also contain training on providing services to clients with hearing loss. Any training on hearing loss provided under this subdivision must be high quality and research-based, may include online training, and must include training on one or more of the following topics:

(1) an explanation of age-related hearing loss and how it manifests itself, its prevalence, and challenges it poses to communication;

(2) health impacts related to untreated age-related hearing loss, such as increased incidence of dementia, falls, hospitalizations, isolation, and depression; or

(3) information about strategies and technology that may enhance communication and involvement, including communication strategies, assistive listening devices, hearing aids, visual and tactile alerting devices, communication access in real time, and closed captions.

Sec. 27. Minnesota Statutes 2018, section 144H.16, subdivision 1, is amended to read:

Subdivision 1. **Reporting of maltreatment of minors.** A PPEC center must develop policies and procedures for reporting suspected child maltreatment that fulfill the requirements of ~~section 626.556~~ chapter 260E. The policies and procedures must include the telephone numbers of the local county child protection agency for reporting suspected maltreatment. The policies and procedures specified in this subdivision must be provided to the parents or guardians of all children at the time of admission to the PPEC center and must be available upon request.

Sec. 28. Minnesota Statutes 2018, section 144H.18, subdivision 3, is amended to read:

Subd. 3. **Fines for violations of other statutes.** The commissioner shall impose a fine of $250 on a PPEC center, employee, or contractor for each violation by that PPEC center, employee, or contractor of section 144H.16, subdivision 2, ~~or 626.556~~ or chapter 260E.

Sec. 29. Minnesota Statutes 2018, section 145.902, subdivision 3, is amended to read:

Subd. 3. **Immunity.** (a) A safe place with responsibility for performing duties under this section, and any employee, doctor, ambulance personnel, or other medical professional working at the safe place, are immune from any criminal liability that otherwise might result from their actions, if they are acting in good faith in receiving a newborn, and are immune from any civil liability that otherwise might result from merely receiving a newborn.

(b) A safe place performing duties under this section, or an employee, doctor, ambulance personnel, or other medical professional working at the safe place who is a mandated reporter under ~~section 626.556~~ chapter 260E, is immune from any criminal or civil liability that otherwise might result from the failure to make a report under that section if the person is acting in good faith in complying with this section.

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Sec. 30. Minnesota Statutes 2018, section 145.952, subdivision 2, is amended to read:

Subd. 2. **Abuse.** "Abuse" means physical abuse, sexual abuse, neglect, mental injury, and threatened injury, as those terms are defined in ~~section 626.556, subdivision 2~~ chapter 260E.

Sec. 31. Minnesota Statutes 2018, section 146A.025, is amended to read:

146A.025 MALTREATMENT OF MINORS.

Nothing in this chapter shall restrict the ability of a local welfare agency, local law enforcement agency, the commissioner of human services, or the state to take action regarding the maltreatment of minors under section 609.378 ~~or 626.556~~ or chapter 260E. A parent who obtains complementary and alternative health care for the parent's minor child is not relieved of the duty to seek necessary medical care consistent with the requirements of ~~sections~~ section 609.378 ~~and 626.556~~ and chapter 260E. A complementary or alternative health care practitioner who is providing services to a child who is not receiving necessary medical care must make a report under ~~section 626.556~~ chapter 260E. A complementary or alternative health care provider is a mandated reporter under section ~~626.556, subdivision 3~~ 260E.06.

Sec. 32. Minnesota Statutes 2019 Supplement, section 148B.593, is amended to read:

148B.593 DISCLOSURE OF INFORMATION.

(a) A person licensed under sections 148B.50 to 148B.593 may not disclose without written consent of the client any communication made by the client to the licensee in the course of the practice of professional counseling, nor may any employee of the licensee reveal the information without the consent of the employer or client except as provided under section ~~626.556 or~~ 626.557 or chapter 260E.

(b) For purposes of sections 148B.50 to 148B.593, the confidential relations and communications between the licensee and a client are placed upon the same basis as those that exist between a licensed psychologist and client. Nothing in sections 148B.50 to 148B.593 may be construed to require any communications to be disclosed except by court order or as provided in paragraph (c).

(c) Private information may be disclosed without the consent of the client when a duty to warn arises, or as otherwise provided by law or court order. The duty to warn of, or take reasonable precautions to provide protection from, violent behavior arises only when a client or other person has communicated to the provider a specific, serious threat of physical violence to self or a specific, clearly identified or identifiable potential victim. If a duty to warn arises, the duty is discharged by the provider if reasonable efforts are made to communicate the threat to law enforcement agencies, the potential victim, the family of the client, or appropriate third parties who are in a position to prevent or avert the harm. No monetary liability and no cause of action or disciplinary action by the board may arise against a provider for disclosure of confidences to third parties, for failure to disclose confidences to third parties, or for erroneous disclosure of confidences to third parties in a good faith effort to warn against or take precautions against a client's violent behavior or threat of suicide.

(d) For purposes of this section, (1) "provider" includes a licensee, an applicant for licensure, and a student or intern practicing professional counseling or professional clinical counseling under supervision as part of an accredited graduate educational program or under a supervised postgraduate experience in professional counseling or professional clinical counseling required for licensure; (2) "other person" means an immediate family member or someone who personally knows the client and has reason to believe the client is capable of and will carry out the serious, specific threat of harm to a specific, clearly identified, or identifiable victim; and (3) "reasonable efforts" means communicating the serious, specific threat to the

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potential victim and if unable to make contact with the potential victim, communicating the serious, specific threat to the law enforcement agency closest to the potential victim of the client.

Sec. 33. Minnesota Statutes 2018, section 148E.240, subdivision 7, is amended to read:

Subd. 7. **Reporting maltreatment of minors.** An applicant or licensee must comply with the reporting of maltreatment of minors established by ~~section 626.556~~ chapter 260E.

Sec. 34. Minnesota Statutes 2018, section 148F.13, subdivision 12, is amended to read:

Subd. 12. **Abuse or neglect of minors or vulnerable adults.** An applicant or licensee must comply with the reporting of maltreatment of minors established in ~~section 626.556~~ chapter 260E and the reporting of maltreatment of vulnerable adults established in section 626.557.

Sec. 35. Minnesota Statutes 2018, section 148F.205, subdivision 1, is amended to read:

Subdivision 1. **Mandatory reporting requirements.** A provider is required to file a complaint when the provider knows or has reason to believe that another provider:

(1) is unable to practice with reasonable skill and safety as a result of a physical or mental illness or condition, including, but not limited to, substance abuse or dependence, except that this mandated reporting requirement is deemed fulfilled by a report made to the Health Professionals Services Program (HPSP) as provided by section 214.33, subdivision 1;

(2) is engaging in or has engaged in sexual behavior with a client or former client in violation of section 148F.165, subdivision 6 or 7;

(3) has failed to report abuse or neglect of children or vulnerable adults in violation of section ~~626.556 or~~ 626.557 or chapter 260E; or

(4) has employed fraud or deception in obtaining or renewing an alcohol and drug counseling license.

Sec. 36. Minnesota Statutes 2018, section 153B.70, is amended to read:

153B.70 GROUNDS FOR DISCIPLINARY ACTION.

(a) The board may refuse to issue or renew a license, revoke or suspend a license, or place on probation or reprimand a licensee for one or any combination of the following:

(1) making a material misstatement in furnishing information to the board;

(2) violating or intentionally disregarding the requirements of this chapter;

(3) conviction of a crime, including a finding or verdict of guilt, an admission of guilt, or a no-contest plea, in this state or elsewhere, reasonably related to the practice of the profession. Conviction, as used in this clause, includes a conviction of an offense which, if committed in this state, would be deemed a felony, gross misdemeanor, or misdemeanor, without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilty is made or returned but the adjudication of guilt is either withheld or not entered;

(4) making a misrepresentation in order to obtain or renew a license;

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(5) displaying a pattern of practice or other behavior that demonstrates incapacity or incompetence to practice;

(6) aiding or assisting another person in violating the provisions of this chapter;

(7) failing to provide information within 60 days in response to a written request from the board, including documentation of completion of continuing education requirements;

(8) engaging in dishonorable, unethical, or unprofessional conduct;

(9) engaging in conduct of a character likely to deceive, defraud, or harm the public;

(10) inability to practice due to habitual intoxication, addiction to drugs, or mental or physical illness;

(11) being disciplined by another state or territory of the United States, the federal government, a national certification organization, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to one of the grounds in this section;

(12) directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered;

(13) incurring a finding by the board that the licensee, after the licensee has been placed on probationary status, has violated the conditions of the probation;

(14) abandoning a patient or client;

(15) willfully making or filing false records or reports in the course of the licensee's practice including, but not limited to, false records or reports filed with state or federal agencies;

(16) willfully failing to report child maltreatment as required under the Maltreatment of Minors Act, ~~section 626.556~~ chapter 260E; or

(17) soliciting professional services using false or misleading advertising.

(b) A license to practice is automatically suspended if (1) a guardian of a licensee is appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other than the minority of the licensee, or (2) the licensee is committed by order of a court pursuant to chapter 253B. The license remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing. The licensee may be reinstated to practice, either with or without restrictions, by demonstrating clear and convincing evidence of rehabilitation. The regulated person is not required to prove rehabilitation if the subsequent court decision overturns previous court findings of public risk.

(c) If the board has probable cause to believe that a licensee or applicant has violated paragraph (a), clause (10), it may direct the person to submit to a mental or physical examination. For the purpose of this section, every person is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and to have waived all objections to the admissibility of the examining physician's testimony or examination report on the grounds that the testimony or report constitutes a privileged communication. Failure of a regulated person to submit to an examination when directed constitutes an admission of the allegations against the person, unless the failure was due to circumstances beyond the person's control, in which case a default and final order may be entered without the taking of testimony or presentation of evidence. A regulated person affected under this paragraph shall at reasonable intervals be

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given an opportunity to demonstrate that the person can resume the competent practice of the regulated profession with reasonable skill and safety to the public. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a regulated person in any other proceeding.

(d) In addition to ordering a physical or mental examination, the board may, notwithstanding section 13.384 or 144.293, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a licensee or applicant without the person's or applicant's consent if the board has probable cause to believe that a licensee is subject to paragraph (a), clause (10). The medical data may be requested from a provider as defined in section 144.291, subdivision 2, paragraph (i), an insurance company, or a government agency, including the Department of Human Services. A provider, insurance company, or government agency shall comply with any written request of the board under this section and is not liable in any action for damages for releasing the data requested by the board if the data are released pursuant to a written request under this section, unless the information is false and the provider giving the information knew, or had reason to know, the information was false. Information obtained under this section is private data on individuals as defined in section 13.02.

(e) If the board issues an order of immediate suspension of a license, a hearing must be held within 30 days of the suspension and completed without delay.

Sec. 37. Minnesota Statutes 2018, section 214.103, subdivision 8, is amended to read:

Subd. 8. **Dismissal and reopening of a complaint.** (a) A complaint may not be dismissed without the concurrence of at least two board members and, upon the request of the complainant, a review by a representative of the attorney general's office. The designee of the attorney general must review before dismissal any complaints which allege any violation of chapter 609, any conduct which would be required to be reported under section ~~626.556 or~~ 626.557 or chapter 260E, any sexual contact or sexual conduct with a client, any violation of a federal law, any actual or potential inability to practice the regulated profession or occupation by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental or physical condition, any violation of state medical assistance laws, or any disciplinary action related to credentialing in another jurisdiction or country which was based on the same or related conduct specified in this subdivision.

(b) The board may reopen a dismissed complaint if the board receives newly discovered information that was not available to the board during the initial investigation of the complaint, or if the board receives a new complaint that indicates a pattern of behavior or conduct.

Sec. 38. Minnesota Statutes 2018, section 214.104, is amended to read:

214.104 HEALTH-RELATED LICENSING BOARDS; SUBSTANTIATED MALTREATMENT.

(a) A health-related licensing board shall make determinations as to whether regulated persons who are under the board's jurisdiction should be the subject of disciplinary or corrective action because of substantiated maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E. The board shall make a determination upon receipt, and after the review, of an investigation memorandum or other notice of substantiated maltreatment under section ~~626.556 or~~ 626.557, chapter 260E, or of a notice from the commissioner of human services that a background study of a regulated person shows substantiated maltreatment.

(b) Upon completion of its review of a report of substantiated maltreatment, the board shall notify the commissioner of human services of its determination. The board shall notify the commissioner of human

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services if, following a review of the report of substantiated maltreatment, the board determines that it does not have jurisdiction in the matter and the commissioner shall make the appropriate disqualification decision regarding the regulated person as otherwise provided in chapter 245C. The board shall also notify the commissioner of health or the commissioner of human services immediately upon receipt of knowledge of a facility or program allowing a regulated person to provide direct contact services at the facility or program while not complying with requirements placed on the regulated person.

(c) In addition to any other remedy provided by law, the board may, through its designated board member, temporarily suspend the license of a licensee; deny a credential to an applicant; or require the regulated person to be continuously supervised, if the board finds there is probable cause to believe the regulated person referred to the board according to paragraph (a) poses an immediate risk of harm to vulnerable persons. The board shall consider all relevant information available, which may include but is not limited to:

(1) the extent the action is needed to protect persons receiving services or the public;

(2) the recency of the maltreatment;

(3) the number of incidents of maltreatment;

(4) the intrusiveness or violence of the maltreatment; and

(5) the vulnerability of the victim of maltreatment.

The action shall take effect upon written notice to the regulated person, served by certified mail, specifying the statute violated. The board shall notify the commissioner of health or the commissioner of human services of the suspension or denial of a credential. The action shall remain in effect until the board issues a temporary stay or a final order in the matter after a hearing or upon agreement between the board and the regulated person. At the time the board issues the notice, the regulated person shall inform the board of all settings in which the regulated person is employed or practices. The board shall inform all known employment and practice settings of the board action and schedule a disciplinary hearing to be held under chapter 14. The board shall provide the regulated person with at least 30 days' notice of the hearing, unless the parties agree to a hearing date that provides less than 30 days' notice, and shall schedule the hearing to begin no later than 90 days after issuance of the notice of hearing.

Sec. 39. Minnesota Statutes 2019 Supplement, section 243.166, subdivision 7, is amended to read:

Subd. 7. **Use of data.** (a) Except as otherwise provided in subdivision 4b or 7a or sections 244.052 and 299C.093, the data provided under this section is private data on individuals under section 13.02, subdivision 12.

(b) The data may be used only by law enforcement and corrections agencies for law enforcement and corrections purposes. Law enforcement or a corrections agent may disclose the status of an individual as a predatory offender to a child protection worker with a local welfare agency for purposes of doing a family assessment under ~~section 626.556~~ chapter 260E. A corrections agent may also disclose the status of an individual as a predatory offender to comply with section 244.057.

(c) The commissioner of human services is authorized to have access to the data for:

(1) state-operated services, as defined in section 246.014, for the purposes described in section 246.13, subdivision 2, paragraph (b); and

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(2) purposes of completing background studies under chapter 245C.

Sec. 40. Minnesota Statutes 2018, section 245.8261, subdivision 9, is amended to read:

Subd. 9. **Conditions on use of restrictive procedures.** Restrictive procedures must not:

(1) be implemented with a child in a manner that constitutes sexual abuse, neglect, or physical abuse under ~~section 626.556~~ chapter 260E, the reporting of maltreatment of minors;

(2) restrict a child's normal access to a nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, or necessary clothing or to any protection required by state licensing standards and federal regulations governing the program;

(3) be used as punishment or for the convenience of staff; or

(4) deny the child visitation or contact with legal counsel and next of kin.

Sec. 41. Minnesota Statutes 2018, section 245A.04, subdivision 5, is amended to read:

Subd. 5. **Commissioner's right of access.** (a) When the commissioner is exercising the powers conferred by this chapter ~~and~~, sections 245.69~~, 626.556,~~ and 626.557, and chapter 260E, the commissioner must be given access to:

(1) the physical plant and grounds where the program is provided;

(2) documents and records, including records maintained in electronic format;

(3) persons served by the program; and

(4) staff and personnel records of current and former staff whenever the program is in operation and the information is relevant to inspections or investigations conducted by the commissioner. Upon request, the license holder must provide the commissioner verification of documentation of staff work experience, training, or educational requirements.

The commissioner must be given access without prior notice and as often as the commissioner considers necessary if the commissioner is investigating alleged maltreatment, conducting a licensing inspection, or investigating an alleged violation of applicable laws or rules. In conducting inspections, the commissioner may request and shall receive assistance from other state, county, and municipal governmental agencies and departments. The applicant or license holder shall allow the commissioner to photocopy, photograph, and make audio and video tape recordings during the inspection of the program at the commissioner's expense. The commissioner shall obtain a court order or the consent of the subject of the records or the parents or legal guardian of the subject before photocopying hospital medical records.

(b) Persons served by the program have the right to refuse to consent to be interviewed, photographed, or audio or videotaped. Failure or refusal of an applicant or license holder to fully comply with this subdivision is reasonable cause for the commissioner to deny the application or immediately suspend or revoke the license.

Sec. 42. Minnesota Statutes 2018, section 245A.06, subdivision 8, is amended to read:

Subd. 8. **Requirement to post conditional license.** For licensed family child care providers and child care centers, upon receipt of any order of conditional license issued by the commissioner under this section,

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and notwithstanding a pending request for reconsideration of the order of conditional license by the license holder, the license holder shall post the order of conditional license in a place that is conspicuous to the people receiving services and all visitors to the facility for two years. When the order of conditional license is accompanied by a maltreatment investigation memorandum prepared under section ~~626.556 or~~ 626.557 or chapter 260E, the investigation memoranda must be posted with the order of conditional license.

Sec. 43. Minnesota Statutes 2019 Supplement, section 245A.07, subdivision 3, is amended to read:

Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend or revoke a license, or impose a fine if:

(1) a license holder fails to comply fully with applicable laws or rules including but not limited to the requirements of this chapter and chapter 245C;

(2) a license holder, a controlling individual, or an individual living in the household where the licensed services are provided or is otherwise subject to a background study has been disqualified and the disqualification was not set aside and no variance has been granted;

(3) a license holder knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license, in connection with the background study status of an individual, during an investigation, or regarding compliance with applicable laws or rules;

(4) a license holder is excluded from any program administered by the commissioner under section 245.095; or

(5) revocation is required under section 245A.04, subdivision 7, paragraph (d).

A license holder who has had a license issued under this chapter suspended, revoked, or has been ordered to pay a fine must be given notice of the action by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state in plain language the reasons the license was suspended or revoked, or a fine was ordered.

(b) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a timely appeal of an order suspending or revoking a license, the license holder may continue to operate the program as provided in section 245A.04, subdivision 7, paragraphs (f) and (g), until the commissioner issues a final order on the suspension or revocation.

(c)(1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an order to pay a fine must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order.

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(2) The license holder shall pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(3) A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail or personal service that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows:

(i) the license holder shall forfeit $1,000 for each determination of maltreatment of a child under ~~section 626.556~~ chapter 260E or the maltreatment of a vulnerable adult under section 626.557 for which the license holder is determined responsible for the maltreatment under section ~~626.556, subdivision 10e, paragraph (i),~~ 260E.30, subdivision 4, paragraphs (a) and (b), or 626.557, subdivision 9c, paragraph (c);

(ii) if the commissioner determines that a determination of maltreatment for which the license holder is responsible is the result of maltreatment that meets the definition of serious maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit $5,000;

(iii) for a program that operates out of the license holder's home and a program licensed under Minnesota Rules, parts 9502.0300 to 9502.0445, the fine assessed against the license holder shall not exceed $1,000 for each determination of maltreatment;

(iv) the license holder shall forfeit $200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff-to-child or adult ratios, and failure to comply with background study requirements under chapter 245C; and

(v) the license holder shall forfeit $100 for each occurrence of a violation of law or rule other than those subject to a $5,000, $1,000, or $200 fine in items (i) to (iv).

For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order. Fines assessed against a license holder that holds a license to provide home and community-based services, as identified in section 245D.03, subdivision 1, and a community residential setting or day services facility license under chapter 245D where the services are provided, may be assessed against both licenses for the same occurrence, but the combined amount of the fines shall not exceed the amount specified in this clause for that occurrence.

(5) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

(d) Except for background study violations involving the failure to comply with an order to immediately remove an individual or an order to provide continuous, direct supervision, the commissioner shall not issue a fine under paragraph (c) relating to a background study violation to a license holder who self-corrects a background study violation before the commissioner discovers the violation. A license holder who has

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previously exercised the provisions of this paragraph to avoid a fine for a background study violation may not avoid a fine for a subsequent background study violation unless at least 365 days have passed since the license holder self-corrected the earlier background study violation.

Sec. 44. Minnesota Statutes 2018, section 245A.07, subdivision 5, is amended to read:

Subd. 5. **Requirement to post licensing order or fine.** For licensed family child care providers and child care centers, upon receipt of any order of license suspension, temporary immediate suspension, fine, or revocation issued by the commissioner under this section, and notwithstanding a pending appeal of the order of license suspension, temporary immediate suspension, fine, or revocation by the license holder, the license holder shall post the order of license suspension, temporary immediate suspension, fine, or revocation in a place that is conspicuous to the people receiving services and all visitors to the facility for two years. When the order of license suspension, temporary immediate suspension, fine, or revocation is accompanied by a maltreatment investigation memorandum prepared under section ~~626.556 or~~ 626.557 or chapter 260E, the investigation memoranda must be posted with the order of license suspension, temporary immediate suspension, fine, or revocation.

Sec. 45. Minnesota Statutes 2018, section 245A.08, subdivision 2a, is amended to read:

Subd. 2a. **Consolidated contested case hearings.** (a) When a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, subdivision 3, is based on a disqualification for which reconsideration was timely requested and which was not set aside under section 245C.22, the scope of the contested case hearing shall include the disqualification and the licensing sanction or denial of a license, unless otherwise specified in this subdivision. When the licensing sanction or denial of a license is based on a determination of maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E, or a disqualification for serious or recurring maltreatment which was not set aside, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and the licensing sanction or denial of a license, unless otherwise specified in this subdivision. In such cases, a fair hearing under section 256.045 shall not be conducted as provided for in sections 245C.27, ~~626.556, subdivision 10i~~ 260E.33, and 626.557, subdivision 9d.

(b) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections ~~626.556, subdivision 10i,~~ 260E.33 and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted when:

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

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

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction. In these cases, a fair hearing shall not be conducted under sections 245C.27, ~~626.556, subdivision 10i~~ 260E.33, and 626.557, subdivision 9d. The scope of the contested case hearing must include the maltreatment determination, disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections ~~626.556, subdivision 10i,~~ 260E.33 and 626.557,

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subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, ~~626.556, subdivision 10i~~ 260E.33, and 626.557, subdivision 9d.

(c) In consolidated contested case hearings regarding sanctions issued in family child care, child foster care, family adult day services, adult foster care, and community residential settings, the county attorney shall defend the commissioner's orders in accordance with section 245A.16, subdivision 4.

(d) The commissioner's final order under subdivision 5 is the final agency action on the issue of maltreatment and disqualification, including for purposes of subsequent background studies under chapter 245C and is the only administrative appeal of the final agency determination, specifically, including a challenge to the accuracy and completeness of data under section 13.04.

(e) When consolidated hearings under this subdivision involve a licensing sanction based on a previous maltreatment determination for which the commissioner has issued a final order in an appeal of that determination under section 256.045, or the individual failed to exercise the right to appeal the previous maltreatment determination under section ~~626.556, subdivision 10i,~~ 260E.33 or 626.557, subdivision 9d, the commissioner's order is conclusive on the issue of maltreatment. In such cases, the scope of the administrative law judge's review shall be limited to the disqualification and the licensing sanction or denial of a license. In the case of a denial of a license or a licensing sanction issued to a facility based on a maltreatment determination regarding an individual who is not the license holder or a household member, the scope of the administrative law judge's review includes the maltreatment determination.

(f) The hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge, if:

(1) a maltreatment determination or disqualification, which was not set aside under section 245C.22, is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07;

(2) the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under section 245C.03; and

(3) the individual has a hearing right under section 245C.27.

(g) When a denial of a license under section 245A.05 or a licensing sanction under section 245A.07 is based on a disqualification for which reconsideration was requested and was not set aside under section 245C.22, and the individual otherwise has no hearing right under section 245C.27, the scope of the administrative law judge's review shall include the denial or sanction and a determination whether the disqualification should be set aside, unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether the disqualification should be set aside, the administrative law judge shall consider the factors under section 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any person receiving services from the license holder.

(h) Notwithstanding section 245C.30, subdivision 5, when a licensing sanction under section 245A.07 is based on the termination of a variance under section 245C.30, subdivision 4, the scope of the administrative law judge's review shall include the sanction and a determination whether the disqualification should be set aside, unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether the disqualification should be set aside, the administrative law judge shall consider the factors under section 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any person receiving services from the license holder.

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Sec. 46. Minnesota Statutes 2018, section 245A.085, is amended to read:

245A.085 CONSOLIDATION OF HEARINGS; RECONSIDERATION.

Hearings authorized under this chapter, ~~chapter 245C, and~~ sections 256.045, 256B.04, ~~626.556,~~ and 626.557, and chapters 245C and 260E, shall be consolidated if feasible and in accordance with other applicable statutes and rules. Reconsideration under sections 245C.28; ~~626.556, subdivision 10i~~ 260E.33; and 626.557, subdivision 9d, shall also be consolidated if feasible.

Sec. 47. Minnesota Statutes 2018, section 245A.11, subdivision 7b, is amended to read:

Subd. 7b. **Adult foster care data privacy and security.** (a) An adult foster care or community residential setting license holder who creates, collects, records, maintains, stores, or discloses any individually identifiable recipient data, whether in an electronic or any other format, must comply with the privacy and security provisions of applicable privacy laws and regulations, including:

(1) the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-1; and the HIPAA Privacy Rule, Code of Federal Regulations, title 45, part 160, and subparts A and E of part 164; and

(2) the Minnesota Government Data Practices Act as codified in chapter 13.

(b) For purposes of licensure, the license holder shall be monitored for compliance with the following data privacy and security provisions:

(1) the license holder must control access to data on residents served by the program according to the definitions of public and private data on individuals under section 13.02; classification of the data on individuals as private under section 13.46, subdivision 2; and control over the collection, storage, use, access, protection, and contracting related to data according to section 13.05, in which the license holder is assigned the duties of a government entity;

(2) the license holder must provide each resident served by the program with a notice that meets the requirements under section 13.04, in which the license holder is assigned the duties of the government entity, and that meets the requirements of Code of Federal Regulations, title 45, part 164.52. The notice shall describe the purpose for collection of the data, and to whom and why it may be disclosed pursuant to law. The notice must inform the individual that the license holder uses electronic monitoring and, if applicable, that recording technology is used;

(3) the license holder must not install monitoring cameras in bathrooms;

(4) electronic monitoring cameras must not be concealed from the residents served by the program; and

(5) electronic video and audio recordings of residents served by the program shall be stored by the license holder for five days unless: (i) a resident served by the program or legal representative requests that the recording be held longer based on a specific report of alleged maltreatment; or (ii) the recording captures an incident or event of alleged maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E or a crime under chapter 609. When requested by a resident served by the program or when a recording captures an incident or event of alleged maltreatment or a crime, the license holder must maintain the recording in a secured area for no longer than 30 days to give the investigating agency an opportunity to make a copy of the recording. The investigating agency will maintain the electronic video or audio recordings as required in section 626.557, subdivision 12b.

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(c) The commissioner shall develop, and make available to license holders and county licensing workers, a checklist of the data privacy provisions to be monitored for purposes of licensure.

Sec. 48. Minnesota Statutes 2019 Supplement, section 245A.145, subdivision 1, is amended to read:

Subdivision 1. **Policies and procedures.** (a) The Department of Human Services must develop policies and procedures for reporting suspected child maltreatment that fulfill the requirements in ~~section 626.556~~ chapter 260E and provide the policies and procedures to all licensed child care providers. The policies and procedures must be written in plain language.

(b) The policies and procedures required in paragraph (a) must:

(1) be provided to the parents of all children at the time of enrollment in the child care program; and

(2) be made available upon request.

Sec. 49. Minnesota Statutes 2019 Supplement, section 245A.40, subdivision 1, is amended to read:

Subdivision 1. **Orientation.** (a) The child care center license holder must ensure that the director, staff persons, substitutes, and unsupervised volunteers are given orientation training and successfully complete the training before starting assigned duties. The orientation training must include information about:

(1) the center's philosophy, child care program, and procedures for maintaining health and safety according to section 245A.41 and Minnesota Rules, part 9503.0140, and handling emergencies and accidents according to Minnesota Rules, part 9503.0110;

(2) specific job responsibilities;

(3) the behavior guidance standards in Minnesota Rules, part 9503.0055;

(4) the reporting responsibilities in ~~section 626.556,~~ chapter 260E and Minnesota Rules, part 9503.0130;

(5) the center's drug and alcohol policy under section 245A.04, subdivision 1, paragraph (c);

(6) the center's risk reduction plan as required under section 245A.66, subdivision 2;

(7) at least one-half hour of training on the standards under section 245A.1435 and on reducing the risk of sudden unexpected infant death as required in subdivision 5, if applicable;

(8) at least one-half hour of training on the risk of abusive head trauma as required for the director and staff under subdivision 5a, if applicable; and

(9) training required by a child's individual child care program plan as required under Minnesota Rules, part 9503.0065, subpart 3, if applicable.

(b) In addition to paragraph (a), before having unsupervised direct contact with a child, the director and staff persons within the first 90 days of employment, and substitutes and unsupervised volunteers within 90 days after the first date of direct contact with a child, must complete:

(1) pediatric first aid, in accordance with subdivision 3; and

(2) pediatric cardiopulmonary resuscitation, in accordance with subdivision 4.

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(c) In addition to paragraph (b), the director and staff persons within the first 90 days of employment, and substitutes and unsupervised volunteers within 90 days from the first date of direct contact with a child, must complete training in child development, in accordance with subdivision 2.

(d) The license holder must ensure that documentation, as required in subdivision 10, identifies the number of hours completed for each topic with a minimum training time identified, if applicable, and that all required content is included.

(e) Training in this subdivision must not be used to meet in-service training requirements in subdivision 7.

(f) Training completed within the previous 12 months under paragraphs (a), clauses (7) and (8), and (c) are transferable to another child care center.

Sec. 50. Minnesota Statutes 2018, section 245C.05, subdivision 6, is amended to read:

Subd. 6. **Applicant, license holder, other entities, and agencies.** (a) The applicant, license holder, other entities as provided in this chapter, Bureau of Criminal Apprehension, law enforcement agencies, commissioner of health, and county agencies shall help with the study by giving the commissioner criminal conviction data and reports about the maltreatment of adults substantiated under section 626.557 and the maltreatment of minors substantiated under ~~section 626.556~~ chapter 260E.

(b) If a background study is initiated by an applicant, license holder, or other entities as provided in this chapter, and the applicant, license holder, or other entity receives information about the possible criminal or maltreatment history of an individual who is the subject of the background study, the applicant, license holder, or other entity must immediately provide the information to the commissioner.

(c) The program or county or other agency must provide written notice to the individual who is the subject of the background study of the requirements under this subdivision.

Sec. 51. Minnesota Statutes 2018, section 245C.15, subdivision 4, is amended to read:

Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed, if any, for the offense; and (2) the individual has committed a misdemeanor-level violation of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182 (fraud); 393.07, subdivision 10, paragraph (c) (federal Food Stamp Program fraud); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree); 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for protection under 609.3232 (protective order authorized; procedures; penalties); 609.466 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota); 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored checks); 609.611 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns); 609.746 (interference with privacy); 609.79 (obscene or harassing telephone calls); 609.795 (letter, telegram, or package; opening; harassment); 609.82 (fraud in obtaining credit); 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a minor; 617.293 (harmful materials; dissemination and display to minors prohibited); or Minnesota Statutes 2012, section 609.21; or violation of an order for protection under section 518B.01 (Domestic Abuse Act).

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(b) An individual is disqualified under section 245C.14 if less than seven years has passed since a determination or disposition of the individual's:

(1) failure to make required reports under section ~~626.556, subdivision 3,~~ 260E.06 or 626.557, subdivision 3, for incidents in which: (i) the final disposition under section ~~626.556 or~~ 626.557 or chapter 260E was substantiated maltreatment, and (ii) the maltreatment was recurring or serious; or

(2) substantiated serious or recurring maltreatment of a minor under ~~section 626.556~~ chapter 260E, a vulnerable adult under section 626.557, or serious or recurring maltreatment in any other state, the elements of which are substantially similar to the elements of maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E for which: (i) there is a preponderance of evidence that the maltreatment occurred, and (ii) the subject was responsible for the maltreatment.

(c) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota Statutes.

(d) An individual is disqualified under section 245C.14 if less than seven years has passed since the discharge of the sentence imposed for an offense in any other state or country, the elements of which are substantially similar to the elements of any of the offenses listed in paragraphs (a) and (b).

(e) When a disqualification is based on a judicial determination other than a conviction, the disqualification period begins from the date of the court order. When a disqualification is based on an admission, the disqualification period begins from the date of an admission in court. When a disqualification is based on an Alford Plea, the disqualification period begins from the date the Alford Plea is entered in court. When a disqualification is based on a preponderance of evidence of a disqualifying act, the disqualification date begins from the date of the dismissal, the date of discharge of the sentence imposed for a conviction for a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

(f) An individual is disqualified under section 245C.14 if less than seven years has passed since the individual was disqualified under section 256.98, subdivision 8.

Sec. 52. Minnesota Statutes 2018, section 245C.16, subdivision 1, is amended to read:

Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines that the individual studied has a disqualifying characteristic, the commissioner shall review the information immediately available and make a determination as to the subject's immediate risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people receiving services.

(b) The commissioner shall consider all relevant information available, including the following factors in determining the immediate risk of harm:

(1) the recency of the disqualifying characteristic;

(2) the recency of discharge from probation for the crimes;

(3) the number of disqualifying characteristics;

(4) the intrusiveness or violence of the disqualifying characteristic;

(5) the vulnerability of the victim involved in the disqualifying characteristic;

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(6) the similarity of the victim to the persons served by the program where the individual studied will have direct contact;

(7) whether the individual has a disqualification from a previous background study that has not been set aside; and

(8) if the individual has a disqualification which may not be set aside because it is a permanent bar under section 245C.24, subdivision 1, or the individual is a child care background study subject who has a felony-level conviction for a drug-related offense in the last five years, the commissioner may order the immediate removal of the individual from any position allowing direct contact with, or access to, persons receiving services from the program.

(c) This section does not apply when the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the subject is determined to be responsible for substantiated maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E.

(d) This section does not apply to a background study related to an initial application for a child foster care license.

(e) Except for paragraph (f), this section does not apply to a background study that is also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for a personal care assistant or a qualified professional as defined in section 256B.0659, subdivision 1.

(f) If the commissioner has reason to believe, based on arrest information or an active maltreatment investigation, that an individual poses an imminent risk of harm to persons receiving services, the commissioner may order that the person be continuously supervised or immediately removed pending the conclusion of the maltreatment investigation or criminal proceedings.

Sec. 53. Minnesota Statutes 2018, section 245C.17, subdivision 3, is amended to read:

Subd. 3. **Disqualification notification.** (a) The commissioner shall notify an applicant, license holder, or other entity as provided in this chapter who is not the subject of the study:

(1) that the commissioner has found information that disqualifies the individual studied from being in a position allowing direct contact with, or access to, people served by the program; and

(2) the commissioner's determination of the individual's risk of harm under section 245C.16.

(b) If the commissioner determines under section 245C.16 that an individual studied poses an imminent risk of harm to persons served by the program where the individual studied will have direct contact with, or access to, people served by the program, the commissioner shall order the license holder to immediately remove the individual studied from any position allowing direct contact with, or access to, people served by the program.

(c) If the commissioner determines under section 245C.16 that an individual studied poses a risk of harm that requires continuous, direct supervision, the commissioner shall order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from any position allowing direct contact with, or access to, people receiving services; or

(2) before allowing the disqualified individual to be in a position allowing direct contact with, or access to, people receiving services, the applicant, license holder, or other entity, as provided in this chapter, must:

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(i) obtain from the disqualified individual a copy of the individual's notice of disqualification from the commissioner that explains the reason for disqualification;

(ii) ensure that the individual studied is under continuous, direct supervision when in a position allowing direct contact with, or access to, people receiving services during the period in which the individual may request a reconsideration of the disqualification under section 245C.21; and

(iii) ensure that the disqualified individual requests reconsideration within 30 days of receipt of the notice of disqualification.

(d) If the commissioner determines under section 245C.16 that an individual studied does not pose a risk of harm that requires continuous, direct supervision, the commissioner shall order the applicant, license holder, or other entities as provided in this chapter to:

(1) immediately remove the individual studied from any position allowing direct contact with, or access to, people receiving services; or

(2) before allowing the disqualified individual to be in any position allowing direct contact with, or access to, people receiving services, the applicant, license holder, or other entity as provided in this chapter must:

(i) obtain from the disqualified individual a copy of the individual's notice of disqualification from the commissioner that explains the reason for disqualification; and

(ii) ensure that the disqualified individual requests reconsideration within 15 days of receipt of the notice of disqualification.

(e) The commissioner shall not notify the applicant, license holder, or other entity as provided in this chapter of the information contained in the subject's background study unless:

(1) the basis for the disqualification is failure to cooperate with the background study or substantiated maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E;

(2) the Data Practices Act under chapter 13 provides for release of the information; or

(3) the individual studied authorizes the release of the information.

Sec. 54. Minnesota Statutes 2018, section 245C.21, subdivision 2, is amended to read:

Subd. 2. **Time frame for requesting reconsideration.** (a) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (1) or (2), the disqualified individual must submit the request for a reconsideration within 30 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 30 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 30 calendar days after the individual's receipt of the notice of disqualification. Upon showing that the information under subdivision 3 cannot be obtained within 30 days, the disqualified individual may request additional time, not to exceed 30 days, to obtain the information.

(b) When the commissioner sends an individual a notice of disqualification based on a finding under section 245C.16, subdivision 2, paragraph (a), clause (3), the disqualified individual must submit the request for reconsideration within 15 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 15 calendar

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days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 15 calendar days after the individual's receipt of the notice of disqualification.

(c) An individual who was determined to have maltreated a child under ~~section 626.556~~ chapter 260E or a vulnerable adult under section 626.557, and who is disqualified on the basis of serious or recurring maltreatment, may request a reconsideration of both the maltreatment and the disqualification determinations. The request must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 30 calendar days of the individual's receipt of the notice of disqualification. If a request for reconsideration is made by personal service, it must be received by the commissioner within 30 calendar days after the individual's receipt of the notice of disqualification.

(d) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections ~~626.556, subdivision 10i,~~ 260E.33 and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, shall not be conducted when:

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

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

(3) the license holder appeals the maltreatment determination, disqualification, and denial of a license or licensing sanction. In such cases, a fair hearing under section 256.045 must not be conducted under sections 245C.27, ~~626.556, subdivision 10i~~ 260E.33, and 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the maltreatment determination, disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections ~~626.556, subdivision 10i,~~ 260E.33 and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, ~~626.556, subdivision 10i~~ 260E.33, and 626.557, subdivision 9d.

Sec. 55. Minnesota Statutes 2018, section 245C.24, subdivision 4, is amended to read:

Subd. 4. **Seven-year bar to set aside disqualification.** The commissioner may not set aside the disqualification of an individual in connection with a license to provide family child care for children, foster care for children in the provider's home, or foster care or day care services for adults in the provider's home if within seven years preceding the study:

(1) the individual committed an act that constitutes maltreatment of a child under ~~section 626.556, subdivision 10e,~~ sections 260E.24, subdivisions 1, 2, and 3, and 260E.30, subdivisions 1, 2, and 4, and the maltreatment resulted in substantial bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence; or

(2) the individual was determined under section 626.557 to be the perpetrator of a substantiated incident of maltreatment of a vulnerable adult that resulted in substantial bodily harm as defined in section 609.02,

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subdivision 7a, or substantial mental or emotional harm as supported by competent psychological or psychiatric evidence.

Sec. 56. Minnesota Statutes 2018, section 245C.25, is amended to read:

245C.25 CONSOLIDATED RECONSIDERATION OF MALTREATMENT DETERMINATION AND DISQUALIFICATION.

If an individual is disqualified on the basis of a determination of maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E, which was serious or recurring, and the individual requests reconsideration of the maltreatment determination under section ~~626.556, subdivision 10i,~~ 260E.33 or 626.557, subdivision 9d, and also requests reconsideration of the disqualification under section 245C.21, the commissioner shall consolidate the reconsideration of the maltreatment determination and the disqualification into a single reconsideration.

Sec. 57. Minnesota Statutes 2018, section 245C.27, subdivision 1, is amended to read:

Subdivision 1. **Fair hearing following a reconsideration decision.** (a) An individual who is disqualified on the basis of a preponderance of evidence that the individual committed an act or acts that meet the definition of any of the crimes listed in section 245C.15; for a determination under section ~~626.556 or~~ 626.557 or chapter 260E of substantiated maltreatment that was serious or recurring under section 245C.15; or for failure to make required reports under section ~~626.556, subdivision 3;~~ 260E.06, subdivision 1 or 2; 260E.11, subdivision 1; or 626.557, subdivision 3, pursuant to section 245C.15, subdivision 4, paragraph (b), clause (1), may request a fair hearing under section 256.045, following a reconsideration decision issued under section 245C.23, unless the disqualification is deemed conclusive under section 245C.29.

(b) The fair hearing is the only administrative appeal of the final agency determination for purposes of appeal by the disqualified individual. The disqualified individual does not have the right to challenge the accuracy and completeness of data under section 13.04.

(c) Except as provided under paragraph (e), if the individual was disqualified based on a conviction of, admission to, or Alford Plea to any crimes listed in section 245C.15, subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision 8, the reconsideration decision under section 245C.22 is the final agency determination for purposes of appeal by the disqualified individual and is not subject to a hearing under section 256.045. If the individual was disqualified based on a judicial determination, that determination is treated the same as a conviction for purposes of appeal.

(d) This subdivision does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

(e) Notwithstanding paragraph (c), if the commissioner does not set aside a disqualification of an individual who was disqualified based on both a preponderance of evidence and a conviction or admission, the individual may request a fair hearing under section 256.045, unless the disqualifications are deemed conclusive under section 245C.29. The scope of the hearing conducted under section 256.045 with regard to the disqualification based on a conviction or admission shall be limited solely to whether the individual poses a risk of harm, according to section 256.045, subdivision 3b. In this case, the reconsideration decision under section 245C.22 is not the final agency decision for purposes of appeal by the disqualified individual.

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Sec. 58. Minnesota Statutes 2018, section 245C.27, subdivision 2, is amended to read:

Subd. 2. **Consolidated fair hearing following a reconsideration decision.** (a) If an individual who is disqualified on the bases of serious or recurring maltreatment requests a fair hearing on the maltreatment determination under section ~~626.556, subdivision 10i,~~ 260E.33 or 626.557, subdivision 9d, and requests a fair hearing under this section on the disqualification following a reconsideration decision under section 245C.23, the scope of the fair hearing under section 256.045 shall include the maltreatment determination and the disqualification.

(b) A fair hearing is the only administrative appeal of the final agency determination. The disqualified individual does not have the right to challenge the accuracy and completeness of data under section 13.04.

(c) This subdivision does not apply to a public employee's appeal of a disqualification under section 245C.28, subdivision 3.

Sec. 59. Minnesota Statutes 2018, section 245C.28, subdivision 1, is amended to read:

Subdivision 1. **License holder.** (a) If a maltreatment determination or a disqualification for which reconsideration was timely requested and which was not set aside is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder must submit the appeal under section 245A.05 or 245A.07, subdivision 3.

(b) As provided under section 245A.08, subdivision 2a, if the denial of a license or licensing sanction is based on a disqualification for which reconsideration was timely requested and was not set aside, the scope of the consolidated contested case hearing must include:

(1) the disqualification, to the extent the license holder otherwise has a hearing right on the disqualification under this chapter; and

(2) the licensing sanction or denial of a license.

(c) As provided for under section 245A.08, subdivision 2a, if the denial of a license or licensing sanction is based on a determination of maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E, or a disqualification for serious or recurring maltreatment which was not set aside, the scope of the contested case hearing must include:

(1) the maltreatment determination, if the maltreatment is not conclusive under section 245C.29;

(2) the disqualification, if the disqualification is not conclusive under section 245C.29; and

(3) the licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under section 256.045. If the disqualification was based on a determination of substantiated serious or recurring maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E, the appeal must be submitted under sections 245A.07, subdivision 3, ~~and 626.556, subdivision 10i,~~ 260E.33, or 626.557, subdivision 9d.

(d) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections ~~626.556, subdivision 10i,~~ 260E.33 and 626.557, subdivision 9d, and reconsideration of a disqualification under section 245C.22, must not be conducted when:

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

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

(3) the license holder appeals the maltreatment determination, disqualification, and denial of a license or licensing sanction. In such cases a fair hearing under section 256.045 must not be conducted under sections 245C.27, ~~626.556, subdivision 10i,~~ 260E.33, and 626.557, subdivision 9d. Under section 245A.08, subdivision 2a, the scope of the consolidated contested case hearing must include the maltreatment determination, disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections ~~626.556, subdivision 10i,~~ 260E.33 and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, ~~626.556, subdivision 10i,~~ 260E.33, and 626.557, subdivision 9d.

Sec. 60. Minnesota Statutes 2018, section 245C.29, subdivision 1, is amended to read:

Subdivision 1. **Conclusive maltreatment determination or disposition.** Unless otherwise specified in statute, a maltreatment determination or disposition under section ~~626.556 or~~ 626.557 or chapter 260E is conclusive, if:

(1) the commissioner has issued a final order in an appeal of that determination or disposition under section 245A.08, subdivision 5, or 256.045;

(2) the individual did not request reconsideration of the maltreatment determination or disposition under section ~~626.556 or~~ 626.557 or chapter 260E; or

(3) the individual did not request a hearing of the maltreatment determination or disposition under section 256.045.

Sec. 61. Minnesota Statutes 2018, section 245C.31, subdivision 1, is amended to read:

Subdivision 1. **Board determines disciplinary or corrective action.** (a) When the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the commissioner determines that the regulated individual is responsible for substantiated maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E, instead of the commissioner making a decision regarding disqualification, the board shall make a determination whether to impose disciplinary or corrective action under chapter 214.

(b) This section does not apply to a background study of an individual regulated by a health-related licensing board if the individual's study is related to child foster care, adult foster care, or family child care licensure.

Sec. 62. Minnesota Statutes 2018, section 245C.32, subdivision 2, is amended to read:

Subd. 2. **Use.** (a) The commissioner may also use these systems and records to obtain and provide criminal history data from the Bureau of Criminal Apprehension, criminal history data held by the commissioner, and data about substantiated maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E, for other purposes, provided that:

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(1) the background study is specifically authorized in statute; or

(2) the request is made with the informed consent of the subject of the study as provided in section 13.05, subdivision 4.

(b) An individual making a request under paragraph (a), clause (2), must agree in writing not to disclose the data to any other individual without the consent of the subject of the data.

(c) The commissioner may recover the cost of obtaining and providing background study data by charging the individual or entity requesting the study a fee of no more than $20 per study. The fees collected under this paragraph are appropriated to the commissioner for the purpose of conducting background studies.

(d) The commissioner shall recover the cost of obtaining background study data required under section 524.5-118 through a fee of $50 per study for an individual who has not lived outside Minnesota for the past ten years, and a fee of $100 for an individual who has resided outside of Minnesota for any period during the ten years preceding the background study. The commissioner shall recover, from the individual, any additional fees charged by other states' licensing agencies that are associated with these data requests. Fees under subdivision 3 also apply when criminal history data from the National Criminal Records Repository is required.

Sec. 63. Minnesota Statutes 2018, section 245D.02, subdivision 11, as amended by Laws 2020, chapter 115, article 4, section 81, is amended to read:

Subd. 11. **Incident.** "Incident" means an occurrence which involves a person and requires the program to make a response that is not a part of the program's ordinary provision of services to that person, and includes:

(1) serious injury of a person as determined by section 245.91, subdivision 6;

(2) a person's death;

(3) any medical emergency, unexpected serious illness, or significant unexpected change in an illness or medical condition of a person that requires the program to call 911, physician or advanced practice registered nurse treatment, or hospitalization;

(4) any mental health crisis that requires the program to call 911, a mental health crisis intervention team, or a similar mental health response team or service when available and appropriate;

(5) an act or situation involving a person that requires the program to call 911, law enforcement, or the fire department;

(6) a person's unauthorized or unexplained absence from a program;

(7) conduct by a person receiving services against another person receiving services that:

(i) is so severe, pervasive, or objectively offensive that it substantially interferes with a person's opportunities to participate in or receive service or support;

(ii) places the person in actual and reasonable fear of harm;

(iii) places the person in actual and reasonable fear of damage to property of the person; or

(iv) substantially disrupts the orderly operation of the program;

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(8) any sexual activity between persons receiving services involving force or coercion as defined under section 609.341, subdivisions 3 and 14;

(9) any emergency use of manual restraint as identified in section 245D.061 or successor provisions; or

(10) a report of alleged or suspected child or vulnerable adult maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E.

Sec. 64. Minnesota Statutes 2018, section 245D.06, subdivision 1, is amended to read:

Subdivision 1. **Incident response and reporting.** (a) The license holder must respond to incidents under section 245D.02, subdivision 11, that occur while providing services to protect the health and safety of and minimize risk of harm to the person.

(b) The license holder must maintain information about and report incidents to the person's legal representative or designated emergency contact and case manager within 24 hours of an incident occurring while services are being provided, within 24 hours of discovery or receipt of information that an incident occurred, unless the license holder has reason to know that the incident has already been reported, or as otherwise directed in a person's coordinated service and support plan or coordinated service and support plan addendum. An incident of suspected or alleged maltreatment must be reported as required under paragraph (d), and an incident of serious injury or death must be reported as required under paragraph (e).

(c) When the incident involves more than one person, the license holder must not disclose personally identifiable information about any other person when making the report to each person and case manager unless the license holder has the consent of the person.

(d) Within 24 hours of reporting maltreatment as required under section ~~626.556 or~~ 626.557 or chapter 260E, the license holder must inform the case manager of the report unless there is reason to believe that the case manager is involved in the suspected maltreatment. The license holder must disclose the nature of the activity or occurrence reported and the agency that received the report.

(e) The license holder must report the death or serious injury of the person as required in paragraph (b) and to the Department of Human Services Licensing Division, and the Office of Ombudsman for Mental Health and Developmental Disabilities as required under section 245.94, subdivision 2a, within 24 hours of the death or serious injury, or receipt of information that the death or serious injury occurred, unless the license holder has reason to know that the death or serious injury has already been reported.

(f) When a death or serious injury occurs in a facility certified as an intermediate care facility for persons with developmental disabilities, the death or serious injury must be reported to the Department of Health, Office of Health Facility Complaints, and the Office of Ombudsman for Mental Health and Developmental Disabilities, as required under sections 245.91 and 245.94, subdivision 2a, unless the license holder has reason to know that the death or serious injury has already been reported.

(g) The license holder must conduct an internal review of incident reports of deaths and serious injuries that occurred while services were being provided and that were not reported by the program as alleged or suspected maltreatment, for identification of incident patterns, and implementation of corrective action as necessary to reduce occurrences. The review must include an evaluation of whether related policies and procedures were followed, whether the policies and procedures were adequate, whether there is a need for additional staff training, whether the reported event is similar to past events with the persons or the services involved, and whether there is a need for corrective action by the license holder to protect the health and safety of persons receiving services. Based on the results of this review, the license holder must develop,

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document, and implement a corrective action plan designed to correct current lapses and prevent future lapses in performance by staff or the license holder, if any.

(h) The license holder must verbally report the emergency use of manual restraint of a person as required in paragraph (b) within 24 hours of the occurrence. The license holder must ensure the written report and internal review of all incident reports of the emergency use of manual restraints are completed according to the requirements in section 245D.061 or successor provisions.

Sec. 65. Minnesota Statutes 2018, section 245D.06, subdivision 6, is amended to read:

Subd. 6. **Restricted procedures.** (a) The following procedures are allowed when the procedures are implemented in compliance with the standards governing their use as identified in clauses (1) to (3). Allowed but restricted procedures include:

(1) permitted actions and procedures subject to the requirements in subdivision 7;

(2) procedures identified in a positive support transition plan subject to the requirements in subdivision 8; or

(3) emergency use of manual restraint subject to the requirements in section 245D.061.

(b) A restricted procedure identified in paragraph (a) must not:

(1) be implemented with a child in a manner that constitutes sexual abuse, neglect, physical abuse, or mental injury, as defined in section ~~626.556, subdivision 2~~ 260E.03;

(2) be implemented with an adult in a manner that constitutes abuse or neglect as defined in section 626.5572, subdivision 2 or 17;

(3) be implemented in a manner that violates a person's rights identified in section 245D.04;

(4) restrict a person's normal access to a nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, necessary clothing, or any protection required by state licensing standards or federal regulations governing the program;

(5) deny the person visitation or ordinary contact with legal counsel, a legal representative, or next of kin;

(6) be used for the convenience of staff, as punishment, as a substitute for adequate staffing, or as a consequence if the person refuses to participate in the treatment or services provided by the program;

(7) use prone restraint. For purposes of this section, "prone restraint" means use of manual restraint that places a person in a face-down position. Prone restraint does not include brief physical holding of a person who, during an emergency use of manual restraint, rolls into a prone position, if the person is restored to a standing, sitting, or side-lying position as quickly as possible;

(8) apply back or chest pressure while a person is in a prone position as identified in clause (7), supine position, or side-lying position; or

(9) be implemented in a manner that is contraindicated for any of the person's known medical or psychological limitations.

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Sec. 66. Minnesota Statutes 2018, section 245D.09, subdivision 4, is amended to read:

Subd. 4. **Orientation to program requirements.** Except for a license holder who does not supervise any direct support staff, within 60 calendar days of hire, unless stated otherwise, the license holder must provide and ensure completion of orientation sufficient to create staff competency for direct support staff that combines supervised on-the-job training with review of and instruction in the following areas:

(1) the job description and how to complete specific job functions, including:

(i) responding to and reporting incidents as required under section 245D.06, subdivision 1; and

(ii) following safety practices established by the license holder and as required in section 245D.06, subdivision 2;

(2) the license holder's current policies and procedures required under this chapter, including their location and access, and staff responsibilities related to implementation of those policies and procedures;

(3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff responsibilities related to complying with data privacy practices;

(4) the service recipient rights and staff responsibilities related to ensuring the exercise and protection of those rights according to the requirements in section 245D.04;

(5) sections 245A.65, 245A.66, ~~626.556,~~ and 626.557 and chapter 260E, governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment. This orientation must be provided within 72 hours of first providing direct contact services and annually thereafter according to section 245A.65, subdivision 3;

(6) the principles of person-centered service planning and delivery as identified in section 245D.07, subdivision 1a, and how they apply to direct support service provided by the staff person;

(7) the safe and correct use of manual restraint on an emergency basis according to the requirements in section 245D.061 or successor provisions, and what constitutes the use of restraints, time out, and seclusion, including chemical restraint;

(8) staff responsibilities related to prohibited procedures under section 245D.06, subdivision 5, or successor provisions, why such procedures are not effective for reducing or eliminating symptoms or undesired behavior, and why such procedures are not safe;

(9) basic first aid; and

(10) other topics as determined necessary in the person's coordinated service and support plan by the case manager or other areas identified by the license holder.

Sec. 67. Minnesota Statutes 2018, section 245D.32, subdivision 5, is amended to read:

Subd. 5. **Investigations of alleged or suspected maltreatment.** Nothing in this section changes the commissioner's responsibilities to investigate alleged or suspected maltreatment of a minor under ~~section 626.556~~ chapter 260E or a vulnerable adult under section 626.557.

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Sec. 68. Minnesota Statutes 2018, section 245F.04, subdivision 1, is amended to read:

Subdivision 1. **General application and license requirements.** An applicant for licensure as a clinically managed withdrawal management program or medically monitored withdrawal management program must meet the following requirements, except where otherwise noted. All programs must comply with federal requirements and the general requirements in ~~chapters 245A and 245C and~~ sections ~~626.556,~~ 626.557~~,~~ and 626.5572 and chapters 245A, 245C, and 260E. A withdrawal management program must be located in a hospital licensed under sections 144.50 to 144.581, or must be a supervised living facility with a class B license from the Department of Health under Minnesota Rules, parts 4665.0100 to 4665.9900.

Sec. 69. Minnesota Statutes 2018, section 245F.15, subdivision 3, is amended to read:

Subd. 3. **Program director qualifications.** A program director must:

(1) have at least one year of work experience in direct service to individuals with substance use disorders or one year of work experience in the management or administration of direct service to individuals with substance use disorders;

(2) have a baccalaureate degree or three years of work experience in administration or personnel supervision in human services; and

(3) know and understand the requirements of this chapter ~~and chapters 245A and 245C, and~~, sections 253B.04, ~~253B.05, 626.556~~ 253B.051, 626.557, and 626.5572, and chapters 245A, 245C, and 260E.

Sec. 70. Minnesota Statutes 2018, section 245F.15, subdivision 5, is amended to read:

Subd. 5. **Responsible staff person qualifications.** Each responsible staff person must know and understand the requirements of this chapter ~~and~~, sections 245A.65, 253B.04, ~~253B.05, 626.556,~~ 626.557, 253B.051, and 626.5572, and chapter 260E. In a clinically managed program, the responsible staff person must be a licensed practical nurse employed by or under contract with the license holder. In a medically monitored program, the responsible staff person must be a registered nurse, program director, or physician.

Sec. 71. Minnesota Statutes 2018, section 245F.16, subdivision 1, is amended to read:

Subdivision 1. **Policy requirements.** A license holder must have written personnel policies and must make them available to staff members at all times. The personnel policies must:

(1) ensure that a staff member's retention, promotion, job assignment, or pay are not affected by a good-faith communication between the staff member and the Department of Human Services, Department of Health, Ombudsman for Mental Health and Developmental Disabilities, law enforcement, or local agencies that investigate complaints regarding patient rights, health, or safety;

(2) include a job description for each position that specifies job responsibilities, degree of authority to execute job responsibilities, standards of job performance related to specified job responsibilities, and qualifications;

(3) provide for written job performance evaluations for staff members of the license holder at least annually;

(4) describe behavior that constitutes grounds for disciplinary action, suspension, or dismissal, including policies that address substance use problems and meet the requirements of section 245F.15, subdivisions 1

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and 2. The policies and procedures must list behaviors or incidents that are considered substance use problems. The list must include:

(i) receiving treatment for substance use disorder within the period specified for the position in the staff qualification requirements;

(ii) substance use that has a negative impact on the staff member's job performance;

(iii) substance use that affects the credibility of treatment services with patients, referral sources, or other members of the community; and

(iv) symptoms of intoxication or withdrawal on the job;

(5) include policies prohibiting personal involvement with patients and policies prohibiting patient maltreatment as specified under ~~chapter 604 and~~ sections 245A.65, ~~626.556,~~ 626.557, and 626.5572 and chapters 260E and 604;

(6) include a chart or description of organizational structure indicating the lines of authority and responsibilities;

(7) include a written plan for new staff member orientation that, at a minimum, includes training related to the specific job functions for which the staff member was hired, program policies and procedures, patient needs, and the areas identified in subdivision 2, paragraphs (b) to (e); and

(8) include a policy on the confidentiality of patient information.

Sec. 72. Minnesota Statutes 2018, section 245F.16, subdivision 2, is amended to read:

Subd. 2. **Staff development.** (a) A license holder must ensure that each staff member receives orientation training before providing direct patient care and at least 30 hours of continuing education every two years. A written record must be kept to demonstrate completion of training requirements.

(b) Within 72 hours of beginning employment, all staff having direct patient contact must be provided orientation on the following:

(1) specific license holder and staff responsibilities for patient confidentiality;

(2) standards governing the use of protective procedures;

(3) patient ethical boundaries and patient rights, including the rights of patients admitted under chapter 253B;

(4) infection control procedures;

(5) mandatory reporting under sections 245A.65~~, 626.556,~~ and 626.557~~,~~ and chapter 260E, including specific training covering the facility's policies concerning obtaining patient releases of information;

(6) HIV minimum standards as required in section 245A.19;

(7) motivational counseling techniques and identifying stages of change; and

(8) eight hours of training on the program's protective procedures policy required in section 245F.09, including:

(i) approved therapeutic holds;

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(ii) protective procedures used to prevent patients from imminent danger of harming self or others;

(iii) the emergency conditions under which the protective procedures may be used, if any;

(iv) documentation standards for using protective procedures;

(v) how to monitor and respond to patient distress; and

(vi) person-centered planning and trauma-informed care.

(c) All staff having direct patient contact must be provided annual training on the following:

(1) infection control procedures;

(2) mandatory reporting under sections 245A.65~~, 626.556,~~ and 626.557~~,~~ and chapter 260E, including specific training covering the facility's policies concerning obtaining patient releases of information;

(3) HIV minimum standards as required in section 245A.19; and

(4) motivational counseling techniques and identifying stages of change.

(d) All staff having direct patient contact must be provided training every two years on the following:

(1) specific license holder and staff responsibilities for patient confidentiality;

(2) standards governing use of protective procedures, including:

(i) approved therapeutic holds;

(ii) protective procedures used to prevent patients from imminent danger of harming self or others;

(iii) the emergency conditions under which the protective procedures may be used, if any;

(iv) documentation standards for using protective procedures;

(v) how to monitor and respond to patient distress; and

(vi) person-centered planning and trauma-informed care; and

(3) patient ethical boundaries and patient rights, including the rights of patients admitted under chapter 253B.

(e) Continuing education that is completed in areas outside of the required topics must provide information to the staff person that is useful to the performance of the individual staff person's duties.

Sec. 73. Minnesota Statutes 2018, section 245F.18, is amended to read:

245F.18 POLICY AND PROCEDURES MANUAL.

A license holder must develop a written policy and procedures manual that is alphabetically indexed and has a table of contents, so that staff have immediate access to all policies and procedures, and that consumers of the services and other authorized parties have access to all policies and procedures. The manual must contain the following materials:

(1) a description of patient education services as required in section 245F.06;

(2) personnel policies that comply with section 245F.16;

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(3) admission information and referral and discharge policies that comply with section 245F.05;

(4) a health monitoring plan that complies with section 245F.12;

(5) a protective procedures policy that complies with section 245F.09, if the program elects to use protective procedures;

(6) policies and procedures for assuring appropriate patient-to-staff ratios that comply with section 245F.14;

(7) policies and procedures for assessing and documenting the susceptibility for risk of abuse to the patient as the basis for the individual abuse prevention plan required by section 245A.65;

(8) procedures for mandatory reporting as required by sections 245A.65~~, 626.556,~~ and 626.557 and chapter 260E;

(9) a medication control plan that complies with section 245F.13; and

(10) policies and procedures regarding HIV that meet the minimum standards under section 245A.19.

Sec. 74. Minnesota Statutes 2018, section 245G.03, subdivision 1, is amended to read:

Subdivision 1. **License requirements.** (a) An applicant for a license to provide substance use disorder treatment must comply with the general requirements in ~~chapters 245A and 245C, sections 626.556 and~~ section 626.557, chapters 245A, 245C, and 260E, and Minnesota Rules, chapter 9544.

(b) The commissioner may grant variances to the requirements in this chapter that do not affect the client's health or safety if the conditions in section 245A.04, subdivision 9, are met.

Sec. 75. Minnesota Statutes 2018, section 245G.10, subdivision 3, is amended to read:

Subd. 3. **Responsible staff member.** A treatment director must designate a staff member who, when present in the facility, is responsible for the delivery of treatment service. A license holder must have a designated staff member during all hours of operation. A license holder providing room and board and treatment at the same site must have a responsible staff member on duty 24 hours a day. The designated staff member must know and understand the implications of this chapter, ~~and~~ sections 245A.65, ~~626.556,~~ 626.557, and 626.5572, and chapter 260E.

Sec. 76. Minnesota Statutes 2018, section 245G.11, subdivision 3, is amended to read:

Subd. 3. **Treatment directors.** A treatment director must:

(1) have at least one year of work experience in direct service to an individual with substance use disorder or one year of work experience in the management or administration of direct service to an individual with substance use disorder;

(2) have a baccalaureate degree or three years of work experience in administration or personnel supervision in human services; and

(3) know and understand the implications of this chapter, ~~chapter 245A, and~~ sections ~~626.556,~~ 626.557~~,~~ and 626.5572, and chapters 245A and 260E. Demonstration of the treatment director's knowledge must be documented in the personnel record.

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Sec. 77. Minnesota Statutes 2018, section 245G.11, subdivision 4, is amended to read:

Subd. 4. **Alcohol and drug counselor supervisors.** An alcohol and drug counselor supervisor must:

(1) meet the qualification requirements in subdivision 5;

(2) have three or more years of experience providing individual and group counseling to individuals with substance use disorder; and

(3) know and understand the implications of this chapter ~~and~~, sections 245A.65, ~~626.556,~~ 626.557, and 626.5572, and chapter 260E.

Sec. 78. Minnesota Statutes 2019 Supplement, section 245G.12, is amended to read:

245G.12 PROVIDER POLICIES AND PROCEDURES.

A license holder must develop a written policies and procedures manual, indexed according to section 245A.04, subdivision 14, paragraph (c), that provides staff members immediate access to all policies and procedures and provides a client and other authorized parties access to all policies and procedures. The manual must contain the following materials:

(1) assessment and treatment planning policies, including screening for mental health concerns and treatment objectives related to the client's identified mental health concerns in the client's treatment plan;

(2) policies and procedures regarding HIV according to section 245A.19;

(3) the license holder's methods and resources to provide information on tuberculosis and tuberculosis screening to each client and to report a known tuberculosis infection according to section 144.4804;

(4) personnel policies according to section 245G.13;

(5) policies and procedures that protect a client's rights according to section 245G.15;

(6) a medical services plan according to section 245G.08;

(7) emergency procedures according to section 245G.16;

(8) policies and procedures for maintaining client records according to section 245G.09;

(9) procedures for reporting the maltreatment of minors according to ~~section 626.556~~ chapter 260E, and vulnerable adults according to sections 245A.65, 626.557, and 626.5572;

(10) a description of treatment services that: (i) includes the amount and type of services provided; (ii) identifies which services meet the definition of group counseling under section 245G.01, subdivision 13a; and (iii) defines the program's treatment week;

(11) the methods used to achieve desired client outcomes;

(12) the hours of operation; and

(13) the target population served.

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Sec. 79. Minnesota Statutes 2019 Supplement, section 245G.13, subdivision 1, is amended to read:

Subdivision 1. **Personnel policy requirements.** A license holder must have written personnel policies that are available to each staff member. The personnel policies must:

(1) ensure that staff member retention, promotion, job assignment, or pay are not affected by a good faith communication between a staff member and the department, the Department of Health, the ombudsman for mental health and developmental disabilities, law enforcement, or a local agency for the investigation of a complaint regarding a client's rights, health, or safety;

(2) contain a job description for each staff member position specifying responsibilities, degree of authority to execute job responsibilities, and qualification requirements;

(3) provide for a job performance evaluation based on standards of job performance conducted on a regular and continuing basis, including a written annual review;

(4) describe behavior that constitutes grounds for disciplinary action, suspension, or dismissal, including policies that address staff member problematic substance use and the requirements of section 245G.11, subdivision 1, policies prohibiting personal involvement with a client in violation of chapter 604, and policies prohibiting client abuse described in sections 245A.65, ~~626.556,~~ 626.557, and 626.5572, and chapter 260E;

(5) identify how the program will identify whether behaviors or incidents are problematic substance use, including a description of how the facility must address:

(i) receiving treatment for substance use within the period specified for the position in the staff qualification requirements, including medication-assisted treatment;

(ii) substance use that negatively impacts the staff member's job performance;

(iii) substance use that affects the credibility of treatment services with a client, referral source, or other member of the community;

(iv) symptoms of intoxication or withdrawal on the job; and

(v) the circumstances under which an individual who participates in monitoring by the health professional services program for a substance use or mental health disorder is able to provide services to the program's clients;

(6) include a chart or description of the organizational structure indicating lines of authority and responsibilities;

(7) include orientation within 24 working hours of starting for each new staff member based on a written plan that, at a minimum, must provide training related to the staff member's specific job responsibilities, policies and procedures, client confidentiality, HIV minimum standards, and client needs; and

(8) include policies outlining the license holder's response to a staff member with a behavior problem that interferes with the provision of treatment service.

Sec. 80. Minnesota Statutes 2018, section 245G.13, subdivision 2, is amended to read:

Subd. 2. **Staff development.** (a) A license holder must ensure that each staff member has the training described in this subdivision.

(b) Each staff member must be trained every two years in:

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(1) client confidentiality rules and regulations and client ethical boundaries; and

(2) emergency procedures and client rights as specified in sections 144.651, 148F.165, and 253B.03.

(c) Annually each staff member with direct contact must be trained on mandatory reporting as specified in sections 245A.65, ~~626.556, 626.5561,~~ 626.557, and 626.5572, and chapter 260E, including specific training covering the license holder's policies for obtaining a release of client information.

(d) Upon employment and annually thereafter, each staff member with direct contact must receive training on HIV minimum standards according to section 245A.19.

(e) A treatment director, supervisor, nurse, or counselor must have a minimum of 12 hours of training in co-occurring disorders that includes competencies related to philosophy, trauma-informed care, screening, assessment, diagnosis and person-centered treatment planning, documentation, programming, medication, collaboration, mental health consultation, and discharge planning. A new staff member who has not obtained the training must complete the training within six months of employment. A staff member may request, and the license holder may grant, credit for relevant training obtained before employment, which must be documented in the staff member's personnel file.

Sec. 81. Minnesota Statutes 2019 Supplement, section 245H.11, as amended by Laws 2020, chapter 115, article 4, section 90, is amended to read:

245H.11 REPORTING.

(a) The certification holder must comply and must have written policies for staff to comply with the reporting requirements for abuse and neglect specified in ~~section 626.556~~ chapter 260E. A person mandated to report physical or sexual child abuse or neglect occurring within a certified center shall report the information to the commissioner.

(b) The certification holder must inform the commissioner within 24 hours of:

(1) the death of a child in the program; and

(2) any injury to a child in the program that required treatment by a physician or advanced practice registered nurse.

Sec. 82. Minnesota Statutes 2018, section 254A.09, is amended to read:

254A.09 CONFIDENTIALITY OF RECORDS.

The Department of Human Services shall assure confidentiality to individuals who are the subject of research by the state authority or are recipients of substance misuse or substance use disorder information, assessment, or treatment from a licensed or approved program. The commissioner shall withhold from all persons not connected with the conduct of the research the names or other identifying characteristics of a subject of research unless the individual gives written permission that information relative to treatment and recovery may be released. Persons authorized to protect the privacy of subjects of research may not be compelled in any federal, state or local, civil, criminal, administrative or other proceeding to identify or disclose other confidential information about the individuals. Identifying information and other confidential information related to substance misuse or substance use disorder information, assessment, treatment, or aftercare services may be ordered to be released by the court for the purpose of civil or criminal investigations or proceedings if, after review of the records considered for disclosure, the court determines that the information is relevant to the purpose for which disclosure is requested. The court shall order disclosure of

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only that information which is determined relevant. In determining whether to compel disclosure, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the treatment relationship in the program affected and in other programs similarly situated, and the actual or potential harm to the ability of programs to attract and retain patients if disclosure occurs. This section does not exempt any person from the reporting obligations under ~~section 626.556~~ chapter 260E, nor limit the use of information reported in any proceeding arising out of the abuse or neglect of a child. Identifying information and other confidential information related to substance misuse or substance use disorder, assessment, treatment, or aftercare services may be ordered to be released by the court for the purpose of civil or criminal investigations or proceedings. No information may be released pursuant to this section that would not be released pursuant to section 595.02, subdivision 2.

Sec. 83. Minnesota Statutes 2019 Supplement, section 254B.04, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** (a) Persons eligible for benefits under Code of Federal Regulations, title 25, part 20, who meet the income standards of section 256B.056, subdivision 4, and are not enrolled in medical assistance, are entitled to chemical dependency fund services. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

(b) Persons with dependent children who are determined to be in need of chemical dependency treatment pursuant to an assessment under section ~~626.556, subdivision 10,~~ 260E.20, subdivision 1, or a case plan under section 260C.201, subdivision 6, or 260C.212, shall be assisted by the local agency to access needed treatment services. Treatment services must be appropriate for the individual or family, which may include long-term care treatment or treatment in a facility that allows the dependent children to stay in the treatment facility. The county shall pay for out-of-home placement costs, if applicable.

(c) Notwithstanding paragraph (a), persons enrolled in medical assistance are eligible for room and board services under section 254B.05, subdivision 5, paragraph (b), clause (12).

Sec. 84. Minnesota Statutes 2018, section 256.01, subdivision 12, is amended to read:

Subd. 12. **Child mortality review panel.** (a) The commissioner shall establish a child mortality review panel to review deaths of children in Minnesota, including deaths attributed to maltreatment or in which maltreatment may be a contributing cause and to review near fatalities as defined in section ~~626.556, subdivision 11d~~ 260E.35. The commissioners of health, education, and public safety and the attorney general shall each designate a representative to the child mortality review panel. Other panel members shall be appointed by the commissioner, including a board-certified pathologist and a physician who is a coroner or a medical examiner. The purpose of the panel shall be to make recommendations to the state and to county agencies for improving the child protection system, including modifications in statute, rule, policy, and procedure.

(b) The commissioner may require a county agency to establish a local child mortality review panel. The commissioner may establish procedures for conducting local reviews and may require that all professionals with knowledge of a child mortality case participate in the local review. In this section, "professional" means a person licensed to perform or a person performing a specific service in the child protective service system. "Professional" includes law enforcement personnel, social service agency attorneys, educators, and social service, health care, and mental health care providers.

(c) If the commissioner of human services has reason to believe that a child's death was caused by maltreatment or that maltreatment was a contributing cause, the commissioner has access to not public data under chapter 13 maintained by state agencies, statewide systems, or political subdivisions that are related

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to the child's death or circumstances surrounding the care of the child. The commissioner shall also have access to records of private hospitals as necessary to carry out the duties prescribed by this section. Access to data under this paragraph is limited to police investigative data; autopsy records and coroner or medical examiner investigative data; hospital, public health, or other medical records of the child; hospital and other medical records of the child's parent that relate to prenatal care; and records created by social service agencies that provided services to the child or family within three years preceding the child's death. A state agency, statewide system, or political subdivision shall provide the data upon request of the commissioner. Not public data may be shared with members of the state or local child mortality review panel in connection with an individual case.

(d) Notwithstanding the data's classification in the possession of any other agency, data acquired by a local or state child mortality review panel in the exercise of its duties is protected nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary to carry out the purposes of the review panel. The data is not subject to subpoena or discovery. The commissioner may disclose conclusions of the review panel, but shall not disclose data that was classified as confidential or private data on decedents, under section 13.10, or private, confidential, or protected nonpublic data in the disseminating agency, except that the commissioner may disclose local social service agency data as provided in section ~~626.556, subdivision 11d~~ 260E.35, on individual cases involving a fatality or near fatality of a person served by the local social service agency prior to the date of death.

(e) A person attending a child mortality review panel meeting shall not disclose what transpired at the meeting, except to carry out the purposes of the mortality review panel. The proceedings and records of the mortality review panel are protected nonpublic data as defined in section 13.02, subdivision 13, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state or a county agency, arising out of the matters the panel is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the review panel. A person who presented information before the review panel or who is a member of the panel shall not be prevented from testifying about matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information to the review panel or opinions formed by the person as a result of the review meetings.

Sec. 85. Minnesota Statutes 2019 Supplement, section 256.01, subdivision 14b, is amended to read:

Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of human services may authorize projects to initiate tribal delivery of child welfare services to American Indian children and their parents and custodians living on the reservation. The commissioner has authority to solicit and determine which tribes may participate in a project. Grants may be issued to Minnesota Indian tribes to support the projects. The commissioner may waive existing state rules as needed to accomplish the projects. The commissioner may authorize projects to use alternative methods of (1) screening, investigating, and assessing reports of child maltreatment, and (2) administrative reconsideration, administrative appeal, and judicial appeal of maltreatment determinations, provided the alternative methods used by the projects comply with the provisions of ~~sections~~ section 256.045 ~~and 626.556~~ and chapter 260E that deal with the rights of individuals who are the subjects of reports or investigations, including notice and appeal rights and data practices requirements. The commissioner shall only authorize alternative methods that comply with the public policy under section ~~626.556, subdivision 1~~ 260E.01. The commissioner may seek any federal approvals necessary to carry out the projects as well as seek and use any funds available to the commissioner, including use of federal funds, foundation funds, existing grant funds, and other funds. The commissioner is authorized to advance state funds as necessary to operate the projects. Federal reimbursement applicable to the projects

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is appropriated to the commissioner for the purposes of the projects. The projects must be required to address responsibility for safety, permanency, and well-being of children.

(b) For the purposes of this section, "American Indian child" means a person under 21 years old and who is a tribal member or eligible for membership in one of the tribes chosen for a project under this subdivision and who is residing on the reservation of that tribe.

(c) In order to qualify for an American Indian child welfare project, a tribe must:

(1) be one of the existing tribes with reservation land in Minnesota;

(2) have a tribal court with jurisdiction over child custody proceedings;

(3) have a substantial number of children for whom determinations of maltreatment have occurred;

(4)(i) have capacity to respond to reports of abuse and neglect under ~~section 626.556~~ chapter 260E; or (ii) have codified the tribe's screening, investigation, and assessment of reports of child maltreatment procedures, if authorized to use an alternative method by the commissioner under paragraph (a);

(5) provide a wide range of services to families in need of child welfare services; and

(6) have a tribal-state title IV-E agreement in effect.

(d) Grants awarded under this section may be used for the nonfederal costs of providing child welfare services to American Indian children on the tribe's reservation, including costs associated with:

(1) assessment and prevention of child abuse and neglect;

(2) family preservation;

(3) facilitative, supportive, and reunification services;

(4) out-of-home placement for children removed from the home for child protective purposes; and

(5) other activities and services approved by the commissioner that further the goals of providing safety, permanency, and well-being of American Indian children.

(e) When a tribe has initiated a project and has been approved by the commissioner to assume child welfare responsibilities for American Indian children of that tribe under this section, the affected county social service agency is relieved of responsibility for responding to reports of abuse and neglect under ~~section 626.556~~ chapter 260E for those children during the time within which the tribal project is in effect and funded. The commissioner shall work with tribes and affected counties to develop procedures for data collection, evaluation, and clarification of ongoing role and financial responsibilities of the county and tribe for child welfare services prior to initiation of the project. Children who have not been identified by the tribe as participating in the project shall remain the responsibility of the county. Nothing in this section shall alter responsibilities of the county for law enforcement or court services.

(f) Participating tribes may conduct children's mental health screenings under section 245.4874, subdivision 1, paragraph (a), clause (12), for children who are eligible for the initiative and living on the reservation and who meet one of the following criteria:

(1) the child must be receiving child protective services;

(2) the child must be in foster care; or

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(3) the child's parents must have had parental rights suspended or terminated.

Tribes may access reimbursement from available state funds for conducting the screenings. Nothing in this section shall alter responsibilities of the county for providing services under section 245.487.

(g) Participating tribes may establish a local child mortality review panel. In establishing a local child mortality review panel, the tribe agrees to conduct local child mortality reviews for child deaths or near-fatalities occurring on the reservation under subdivision 12. Tribes with established child mortality review panels shall have access to nonpublic data and shall protect nonpublic data under subdivision 12, paragraphs (c) to (e). The tribe shall provide written notice to the commissioner and affected counties when a local child mortality review panel has been established and shall provide data upon request of the commissioner for purposes of sharing nonpublic data with members of the state child mortality review panel in connection to an individual case.

(h) The commissioner shall collect information on outcomes relating to child safety, permanency, and well-being of American Indian children who are served in the projects. Participating tribes must provide information to the state in a format and completeness deemed acceptable by the state to meet state and federal reporting requirements.

(i) In consultation with the White Earth Band, the commissioner shall develop and submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services a plan to transfer legal responsibility for providing child protective services to White Earth Band member children residing in Hennepin County to the White Earth Band. The plan shall include a financing proposal, definitions of key terms, statutory amendments required, and other provisions required to implement the plan. The commissioner shall submit the plan by January 15, 2012.

Sec. 86. Minnesota Statutes 2018, section 256.01, subdivision 15, is amended to read:

Subd. 15. **Citizen review panels.** (a) The commissioner shall establish a minimum of three citizen review panels to examine the policies and procedures of state and local welfare agencies to evaluate the extent to which the agencies are effectively discharging their child protection responsibilities. Local social service agencies shall cooperate and work with the citizen review panels. Where appropriate, the panels may examine specific cases to evaluate the effectiveness of child protection activities. The panels must examine the extent to which the state and local agencies are meeting the requirements of the federal Child Abuse Prevention and Treatment Act and the Reporting of Maltreatment of Minors Act. The commissioner may authorize mortality review panels or child protection teams to carry out the duties of a citizen review panel if membership meets or is expanded to meet the requirements of this section.

(b) The panel membership must include volunteers who broadly represent the community in which the panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect, child protection advocates, and representatives of the councils of color and ombudsperson for families.

(c) A citizen review panel has access to the following data for specific case review under this paragraph: police investigative data; autopsy records and coroner or medical examiner investigative data; hospital, public health, or other medical records of the child; hospital and other medical records of the child's parent that relate to prenatal care; records created by social service agencies that provided services to the child or family; and personnel data related to an employee's performance in discharging child protection responsibilities. A state agency, statewide system, or political subdivision shall provide the data upon request

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of the commissioner. Not public data may be shared with members of the state or local citizen review panel in connection with an individual case.

(d) Notwithstanding the data's classification in the possession of any other agency, data acquired by a local or state citizen review panel in the exercise of its duties are protected nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary to carry out the purposes of the review panel. The data are not subject to subpoena or discovery. The commissioner may disclose conclusions of the review panel, but may not disclose data on individuals that were classified as confidential or private data on individuals in the possession of the state agency, statewide system, or political subdivision from which the data were received, except that the commissioner may disclose local social service agency data as provided in section ~~626.556, subdivision 11d~~ 260E.35, on individual cases involving a fatality or near fatality of a person served by the local social service agency prior to the date of death.

(e) A person attending a citizen review panel meeting may not disclose what transpired at the meeting, except to carry out the purposes of the review panel. The proceedings and records of the review panel are protected nonpublic data as defined in section 13.02, subdivision 13, and are not subject to discovery or introduction into evidence in a civil or criminal action against a professional, the state, or county agency arising out of the matters the panel is reviewing. Information, documents, and records otherwise available from other sources are not immune from discovery or use in a civil or criminal action solely because they were presented during proceedings of the review panel. A person who presented information before the review panel or who is a member of the panel is not prevented from testifying about matters within the person's knowledge. However, in a civil or criminal proceeding, a person must not be questioned about the person's presentation of information to the review panel or opinions formed by the person as a result of the review panel meetings.

Sec. 87. Minnesota Statutes 2018, section 256.045, subdivision 3, is amended to read:

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

(1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food Stamp Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid;

(2) any patient or relative aggrieved by an order of the commissioner under section 252.27;

(3) a party aggrieved by a ruling of a prepaid health plan;

(4) except as provided under chapter 245C, any individual or facility determined by a lead investigative agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557;

(5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under ~~section 626.556~~ chapter 260E is denied or not acted upon with reasonable promptness, regardless of funding source;

(6) any person to whom a right of appeal according to this section is given by other provision of law;

(7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15;

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(8) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

(9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under ~~section 626.556~~ chapter 260E, after the individual or facility has exercised the right to administrative reconsideration under ~~section 626.556~~ chapter 260E;

(10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section ~~626.556, subdivision 3,~~ 260E.06, subdivision 1, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services judge shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment;

(11) any person with an outstanding debt resulting from receipt of public assistance, medical care, or the federal Food Stamp Act who is contesting a setoff claim by the Department of Human Services or a county agency. The scope of the appeal is the validity of the claimant agency's intention to request a setoff of a refund under chapter 270A against the debt;

(12) a person issued a notice of service termination under section 245D.10, subdivision 3a, from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a;

(13) an individual disability waiver recipient based on a denial of a request for a rate exception under section 256B.4914; or

(14) a person issued a notice of service termination under section 245A.11, subdivision 11, that is not otherwise subject to appeal under subdivision 4a.

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only available when there is no district court action pending. If such action is filed in district court while an administrative review is pending that arises out of some or all of the events or circumstances on which the appeal is based, the administrative review must be suspended until the judicial actions are completed. If the district court proceedings are completed, dismissed, or overturned, the matter may be considered in an administrative hearing.

(c) For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(d) The scope of hearings involving claims to foster care payments under paragraph (a), clause (5), shall be limited to the issue of whether the county is legally responsible for a child's placement under court order

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or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to whether the proposed termination of services is authorized under section 245D.10, subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a, paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of termination of services, the scope of the hearing shall also include whether the case management provider has finalized arrangements for a residential facility, a program, or services that will meet the assessed needs of the recipient by the effective date of the service termination.

(f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(g) An applicant or recipient is not entitled to receive social services beyond the services prescribed under chapter 256M or other social services the person is eligible for under state law.

(h) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

(i) Unless federal or Minnesota law specifies a different time frame in which to file an appeal, an individual or organization specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision 13, why the request was not submitted within the 30-day time limit. The individual filing the appeal has the burden of proving good cause by a preponderance of the evidence.

Sec. 88. Minnesota Statutes 2018, section 256.045, subdivision 3b, is amended to read:

Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.** (a) The state human services judge shall determine that maltreatment has occurred if a preponderance of evidence exists to support the final disposition under ~~sections 626.556 and~~ section 626.557 and chapter 260E. For purposes of hearings regarding disqualification, the state human services judge shall affirm the proposed disqualification in an appeal under subdivision 3, paragraph (a), clause (10), if a preponderance of the evidence shows the individual has:

(1) committed maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E, which is serious or recurring;

(2) committed an act or acts meeting the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or

(3) failed to make required reports under section ~~626.556 or~~ 626.557 or chapter 260E, for incidents in which the final disposition under section ~~626.556 or~~ 626.557 or chapter 260E was substantiated maltreatment that was serious or recurring.

(b) If the disqualification is affirmed, the state human services judge shall determine whether the individual poses a risk of harm in accordance with the requirements of section 245C.22, and whether the

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disqualification should be set aside or not set aside. In determining whether the disqualification should be set aside, the human services judge shall consider all of the characteristics that cause the individual to be disqualified, including those characteristics that were not subject to review under paragraph (a), in order to determine whether the individual poses a risk of harm. A decision to set aside a disqualification that is the subject of the hearing constitutes a determination that the individual does not pose a risk of harm and that the individual may provide direct contact services in the individual program specified in the set aside.

(c) If a disqualification is based solely on a conviction or is conclusive for any reason under section 245C.29, the disqualified individual does not have a right to a hearing under this section.

(d) The state human services judge shall recommend an order to the commissioner of health, education, or human services, as applicable, who shall issue a final order. The commissioner shall affirm, reverse, or modify the final disposition. Any order of the commissioner issued in accordance with this subdivision is conclusive upon the parties unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.482, the commissioner's determination as to maltreatment is conclusive, as provided under section 245C.29.

Sec. 89. Minnesota Statutes 2018, section 256.045, subdivision 4, is amended to read:

Subd. 4. **Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b, or 4a shall be conducted according to the provisions of the federal Social Security Act and the regulations implemented in accordance with that act to enable this state to qualify for federal grants-in-aid, and according to the rules and written policies of the commissioner of human services. County agencies shall install equipment necessary to conduct telephone hearings. A state human services judge may schedule a telephone conference hearing when the distance or time required to travel to the county agency offices will cause a delay in the issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings may be conducted by telephone conferences unless the applicant, recipient, former recipient, person, or facility contesting maltreatment objects. A human services judge may grant a request for a hearing in person by holding the hearing by interactive video technology or in person. The human services judge must hear the case in person if the person asserts that either the person or a witness has a physical or mental disability that would impair the person's or witness's ability to fully participate in a hearing held by interactive video technology. The hearing shall not be held earlier than five days after filing of the required notice with the county or state agency. The state human services judge shall notify all interested persons of the time, date, and location of the hearing at least five days before the date of the hearing. Interested persons may be represented by legal counsel or other representative of their choice, including a provider of therapy services, at the hearing and may appear personally, testify and offer evidence, and examine and cross-examine witnesses. The applicant, recipient, former recipient, person, or facility contesting maltreatment shall have the opportunity to examine the contents of the case file and all documents and records to be used by the county or state agency at the hearing at a reasonable time before the date of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses (4), (9), and (10), either party may subpoena the private data relating to the investigation prepared by the agency under section ~~626.556 or~~ 626.557 or chapter 260E that is not otherwise accessible under section 13.04, provided the identity of the reporter may not be disclosed.

(b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph (a), clause (4), (9), or (10), must be subject to a protective order which prohibits its disclosure for any other purpose outside the hearing provided for in this section without prior order of the district court. Disclosure without court order is punishable by a sentence of not more than 90 days imprisonment or a fine of not more than $1,000, or both. These restrictions on the use of private data do not prohibit access to the data under section 13.03, subdivision 6. Except for appeals under subdivision 3, paragraph (a), clauses (4), (5), (9), and (10), upon

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request, the county agency shall provide reimbursement for transportation, child care, photocopying, medical assessment, witness fee, and other necessary and reasonable costs incurred by the applicant, recipient, or former recipient in connection with the appeal. All evidence, except that privileged by law, commonly accepted by reasonable people in the conduct of their affairs as having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be "a contested case" within the meaning of section 14.02, subdivision 3. The agency must present its evidence prior to or at the hearing, and may not submit evidence after the hearing except by agreement of the parties at the hearing, provided the petitioner has the opportunity to respond.

(c) In hearings under subdivision 3, paragraph (a), clauses (4), (9), and (10), involving determinations of maltreatment or disqualification made by more than one county agency, by a county agency and a state agency, or by more than one state agency, the hearings may be consolidated into a single fair hearing upon the consent of all parties and the state human services judge.

(d) For hearings under subdivision 3, paragraph (a), clause (4) or (10), involving a vulnerable adult, the human services judge shall notify the vulnerable adult who is the subject of the maltreatment determination and, if known, a guardian of the vulnerable adult appointed under section 524.5-310, or a health care agent designated by the vulnerable adult in a health care directive that is currently effective under section 145C.06 and whose authority to make health care decisions is not suspended under section 524.5-310, of the hearing. The notice must be sent by certified mail and inform the vulnerable adult of the right to file a signed written statement in the proceedings. A guardian or health care agent who prepares or files a written statement for the vulnerable adult must indicate in the statement that the person is the vulnerable adult's guardian or health care agent and sign the statement in that capacity. The vulnerable adult, the guardian, or the health care agent may file a written statement with the human services judge hearing the case no later than five business days before commencement of the hearing. The human services judge shall include the written statement in the hearing record and consider the statement in deciding the appeal. This subdivision does not limit, prevent, or excuse the vulnerable adult from being called as a witness testifying at the hearing or grant the vulnerable adult, the guardian, or health care agent a right to participate in the proceedings or appeal the human services judge's decision in the case. The lead investigative agency must consider including the vulnerable adult victim of maltreatment as a witness in the hearing. If the lead investigative agency determines that participation in the hearing would endanger the well-being of the vulnerable adult or not be in the best interests of the vulnerable adult, the lead investigative agency shall inform the human services judge of the basis for this determination, which must be included in the final order. If the human services judge is not reasonably able to determine the address of the vulnerable adult, the guardian, or the health care agent, the human services judge is not required to send a hearing notice under this subdivision.

Sec. 90. Minnesota Statutes 2018, section 256B.0621, subdivision 4, is amended to read:

Subd. 4. **Relocation targeted county case management provider qualifications.** (a) A relocation targeted county case management provider is an enrolled medical assistance provider who is determined by the commissioner to have all of the following characteristics:

(1) the legal authority to provide public welfare under sections 393.01, subdivision 7; and 393.07; or a federally recognized Indian tribe;

(2) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;

(3) the administrative capacity and experience to serve the target population for whom it will provide services and ensure quality of services under state and federal requirements;

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(4) the legal authority to provide complete investigative and protective services under section ~~626.556, subdivision 10~~ 260E.14; and child welfare and foster care services under section 393.07, subdivisions 1 and 2; or a federally recognized Indian tribe;

(5) a financial management system that provides accurate documentation of services and costs under state and federal requirements; and

(6) the capacity to document and maintain individual case records under state and federal requirements.

(b) A provider of targeted case management under section 256B.0625, subdivision 20, may be deemed a certified provider of relocation targeted case management.

(c) A relocation targeted county case management provider may subcontract with another provider to deliver relocation targeted case management services. Subcontracted providers must demonstrate the ability to provide the services outlined in subdivision 6, and have a procedure in place that notifies the recipient and the recipient's legal representative of any conflict of interest if the contracted targeted case management provider also provides, or will provide, the recipient's services and supports. Counties must require that contracted providers must provide information on all conflicts of interest and obtain the recipient's informed consent or provide the recipient with alternatives.

Sec. 91. Minnesota Statutes 2018, section 256B.0625, subdivision 33, is amended to read:

Subd. 33. **Child welfare targeted case management.** Medical assistance, subject to federal approval, covers child welfare targeted case management services as defined in section 256B.094 to children under age 21 who have been assessed and determined in accordance with section 256F.10 to be:

(1) at risk of placement or in placement as defined in section 260C.212, subdivision 1;

(2) at risk of maltreatment or experiencing maltreatment as defined in section ~~626.556, subdivision 10e~~ 260E.03, subdivision 12; or

(3) in need of protection or services as defined in section 260C.007, subdivision 6.

Sec. 92. Minnesota Statutes 2018, section 256B.0945, subdivision 1, is amended to read:

Subdivision 1. **Residential services; provider qualifications.** (a) Counties must arrange to provide residential services for children with severe emotional disturbance according to sections 245.4882, 245.4885, and this section.

(b) Services must be provided by a facility that is licensed according to section 245.4882 and administrative rules promulgated thereunder, and under contract with the county.

(c) Eligible service costs may be claimed for a facility that is located in a state that borders Minnesota if:

(1) the facility is the closest facility to the child's home, providing the appropriate level of care; and

(2) the commissioner of human services has completed an inspection of the out-of-state program according to the interagency agreement with the commissioner of corrections under section 260B.198, subdivision 11, paragraph (b), and the program has been certified by the commissioner of corrections under section 260B.198, subdivision 11, paragraph (a), to substantially meet the standards applicable to children's residential mental health treatment programs under Minnesota Rules, chapter 2960. Nothing in this section requires the

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commissioner of human services to enforce the background study requirements under chapter 245C or the requirements related to prevention and investigation of alleged maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E. Complaints received by the commissioner of human services must be referred to the out-of-state licensing authority for possible follow-up.

(d) Notwithstanding paragraph (b), eligible service costs may be claimed for an out-of-state inpatient treatment facility if:

(1) the facility specializes in providing mental health services to children who are deaf, deafblind, or hard-of-hearing and who use American Sign Language as their first language;

(2) the facility is licensed by the state in which it is located; and

(3) the state in which the facility is located is a member state of the Interstate Compact on Mental Health.

Sec. 93. Minnesota Statutes 2018, section 256B.0949, subdivision 16, is amended to read:

Subd. 16. **Agency duties.** (a) An agency delivering an EIDBI service under this section must:

(1) enroll as a medical assistance Minnesota health care program provider according to Minnesota Rules, part 9505.0195, and section 256B.04, subdivision 21, and meet all applicable provider standards and requirements;

(2) demonstrate compliance with federal and state laws for EIDBI service;

(3) verify and maintain records of a service provided to the person or the person's legal representative as required under Minnesota Rules, parts 9505.2175 and 9505.2197;

(4) demonstrate that while enrolled or seeking enrollment as a Minnesota health care program provider the agency did not have a lead agency contract or provider agreement discontinued because of a conviction of fraud; or did not have an owner, board member, or manager fail a state or federal criminal background check or appear on the list of excluded individuals or entities maintained by the federal Department of Human Services Office of Inspector General;

(5) have established business practices including written policies and procedures, internal controls, and a system that demonstrates the organization's ability to deliver quality EIDBI services;

(6) have an office located in Minnesota;

(7) conduct a criminal background check on an individual who has direct contact with the person or the person's legal representative;

(8) report maltreatment according to ~~sections 626.556 and~~ section 626.557 and chapter 260E;

(9) comply with any data requests consistent with the Minnesota Government Data Practices Act, sections 256B.064 and 256B.27;

(10) provide training for all agency staff on the requirements and responsibilities listed in the Maltreatment of Minors Act, ~~section 626.556~~ chapter 260E, and the Vulnerable Adult Protection Act, section 626.557, including mandated and voluntary reporting, nonretaliation, and the agency's policy for all staff on how to report suspected abuse and neglect;

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(11) have a written policy to resolve issues collaboratively with the person and the person's legal representative when possible. The policy must include a timeline for when the person and the person's legal representative will be notified about issues that arise in the provision of services;

(12) provide the person's legal representative with prompt notification if the person is injured while being served by the agency. An incident report must be completed by the agency staff member in charge of the person. A copy of all incident and injury reports must remain on file at the agency for at least five years from the report of the incident; and

(13) before starting a service, provide the person or the person's legal representative a description of the treatment modality that the person shall receive, including the staffing certification levels and training of the staff who shall provide a treatment.

(b) When delivering the ITP, and annually thereafter, an agency must provide the person or the person's legal representative with:

(1) a written copy and a verbal explanation of the person's or person's legal representative's rights and the agency's responsibilities;

(2) documentation in the person's file the date that the person or the person's legal representative received a copy and explanation of the person's or person's legal representative's rights and the agency's responsibilities; and

(3) reasonable accommodations to provide the information in another format or language as needed to facilitate understanding of the person's or person's legal representative's rights and the agency's responsibilities.

Sec. 94. Minnesota Statutes 2018, section 256B.0951, subdivision 5, is amended to read:

Subd. 5. **Variance of certain standards prohibited.** The safety standards, rights, or procedural protections under ~~chapter 245C and~~ sections 245.825; 245.91 to 245.97; 245A.09, subdivision 2, paragraph (c), clauses (2) and (5); 245A.12; 245A.13; 252.41, subdivision 9; 256B.092, subdivisions 1b, clause (7), and 10; ~~626.556;~~ and 626.557; and chapters 245C and 260E, and procedures for the monitoring of psychotropic medications shall not be varied under the alternative quality assurance licensing system. The commission may make recommendations to the commissioners of human services and health or to the legislature regarding alternatives to or modifications of the rules and procedures referenced in this subdivision.

Sec. 95. Minnesota Statutes 2018, section 256B.0954, is amended to read:

256B.0954 CERTAIN PERSONS DEFINED AS MANDATED REPORTERS.

Members of the Quality Assurance Commission established under section 256B.0951, members of quality assurance review councils established under section 256B.0952, quality assurance managers appointed under section 256B.0952, and members of quality assurance teams established under section 256B.0952 are mandated reporters as that term is defined in sections ~~626.556, subdivision 3~~ 260E.06, subdivision 1, and 626.5572, subdivision 16.

Sec. 96. Minnesota Statutes 2018, section 256B.097, subdivision 4, is amended to read:

Subd. 4. **Regional quality councils.** (a) The commissioner shall establish, as selected by the State Quality Council, regional quality councils of key stakeholders, including regional representatives of:

(1) disability service recipients and their family members;

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(2) disability service providers;

(3) disability advocacy groups; and

(4) county human services agencies and staff from the Department of Human Services and Ombudsman for Mental Health and Developmental Disabilities.

(b) Each regional quality council shall:

(1) direct and monitor the community-based, person-directed quality assurance system in this section;

(2) approve a training program for quality assurance team members under clause (13);

(3) review summary reports from quality assurance team reviews and make recommendations to the State Quality Council regarding program licensure;

(4) make recommendations to the State Quality Council regarding the system;

(5) resolve complaints between the quality assurance teams, counties, providers, persons receiving services, their families, and legal representatives;

(6) analyze and review quality outcomes and critical incident data reporting incidents of life safety concerns immediately to the Department of Human Services licensing division;

(7) provide information and training programs for persons with disabilities and their families and legal representatives on service options and quality expectations;

(8) disseminate information and resources developed to other regional quality councils;

(9) respond to state-level priorities;

(10) establish regional priorities for quality improvement;

(11) submit an annual report to the State Quality Council on the status, outcomes, improvement priorities, and activities in the region;

(12) choose a representative to participate on the State Quality Council and assume other responsibilities consistent with the priorities of the State Quality Council; and

(13) recruit, train, and assign duties to members of quality assurance teams, taking into account the size of the service provider, the number of services to be reviewed, the skills necessary for the team members to complete the process, and ensure that no team member has a financial, personal, or family relationship with the facility, program, or service being reviewed or with anyone served at the facility, program, or service. Quality assurance teams must be comprised of county staff, persons receiving services or the person's families, legal representatives, members of advocacy organizations, providers, and other involved community members. Team members must complete the training program approved by the regional quality council and must demonstrate performance-based competency. Team members may be paid a per diem and reimbursed for expenses related to their participation in the quality assurance process.

(c) The commissioner shall monitor the safety standards, rights, and procedural protections for the monitoring of psychotropic medications and those identified under sections 245.825; 245.91 to 245.97; 245A.09, subdivision 2, paragraph (c), clauses (2) and (5); 245A.12; 245A.13; 252.41, subdivision 9; 256B.092, subdivision 1b, clause (7); ~~626.556;~~ and 626.557; and chapter 260E.

(d) The regional quality councils may hire staff to perform the duties assigned in this subdivision.

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(e) The regional quality councils may charge fees for their services.

(f) The quality assurance process undertaken by a regional quality council consists of an evaluation by a quality assurance team of the facility, program, or service. The process must include an evaluation of a random sample of persons served. The sample must be representative of each service provided. The sample size must be at least five percent but not less than two persons served. All persons must be given the opportunity to be included in the quality assurance process in addition to those chosen for the random sample.

(g) A facility, program, or service may contest a licensing decision of the regional quality council as permitted under chapter 245A.

Sec. 97. Minnesota Statutes 2018, section 256B.097, subdivision 6, is amended to read:

Subd. 6. **Mandated reporters.** Members of the State Quality Council under subdivision 3, the regional quality councils under subdivision 4, and quality assurance team members under subdivision 4, paragraph (b), clause (13), are mandated reporters as defined in sections ~~626.556, subdivision 3~~ 260E.06, subdivision 1, and 626.5572, subdivision 16.

Sec. 98. Minnesota Statutes 2018, section 256B.77, subdivision 17, is amended to read:

Subd. 17. **Approval of alternatives.** The commissioner may approve alternatives to administrative rules if the commissioner determines that appropriate alternative measures are in place to protect the health, safety, and rights of enrollees and to assure that services are of sufficient quality to produce the outcomes described in the personal support plans. Prior approved waivers, if needed by the demonstration project, shall be extended. The commissioner shall not waive the rights or procedural protections under sections 245.825; 245.91 to 245.97; 252.41, subdivision 9; 256B.092, subdivision 10; ~~626.556,~~ and 626.557; and chapter 260E or procedures for the monitoring of psychotropic medications. Prohibited practices as defined in statutes and rules governing service delivery to eligible individuals are applicable to services delivered under this demonstration project.

Sec. 99. Minnesota Statutes 2019 Supplement, section 256B.85, subdivision 10, is amended to read:

Subd. 10. **Agency-provider and FMS provider qualifications and duties.** (a) Agency-providers identified in subdivision 11 and FMS providers identified in subdivision 13a shall:

(1) enroll as a medical assistance Minnesota health care programs provider and meet all applicable provider standards and requirements;

(2) demonstrate compliance with federal and state laws and policies for CFSS as determined by the commissioner;

(3) comply with background study requirements under chapter 245C and maintain documentation of background study requests and results;

(4) verify and maintain records of all services and expenditures by the participant, including hours worked by support workers;

(5) not engage in any agency-initiated direct contact or marketing in person, by telephone, or other electronic means to potential participants, guardians, family members, or participants' representatives;

(6) directly provide services and not use a subcontractor or reporting agent;

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(7) meet the financial requirements established by the commissioner for financial solvency;

(8) have never had a lead agency contract or provider agreement discontinued due to fraud, or have never had an owner, board member, or manager fail a state or FBI-based criminal background check while enrolled or seeking enrollment as a Minnesota health care programs provider; and

(9) have an office located in Minnesota.

(b) In conducting general duties, agency-providers and FMS providers shall:

(1) pay support workers based upon actual hours of services provided;

(2) pay for worker training and development services based upon actual hours of services provided or the unit cost of the training session purchased;

(3) withhold and pay all applicable federal and state payroll taxes;

(4) make arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;

(5) enter into a written agreement with the participant, participant's representative, or legal representative that assigns roles and responsibilities to be performed before services, supports, or goods are provided;

(6) report maltreatment as required under ~~sections 626.556 and~~ section 626.557 and chapter 260E;

(7) comply with the labor market reporting requirements described in section 256B.4912, subdivision 1a;

(8) comply with any data requests from the department consistent with the Minnesota Government Data Practices Act under chapter 13; and

(9) maintain documentation for the requirements under subdivision 16, paragraph (e), clause (2), to qualify for an enhanced rate under this section.

Sec. 100. Minnesota Statutes 2018, section 256B.85, subdivision 12a, is amended to read:

Subd. 12a. **CFSS agency-provider requirements; policies for complaint process and incident response.** (a) The CFSS agency-provider must establish policies and procedures that promote service recipient rights by providing a simple complaint process for participants served by the program and their authorized representatives to bring a grievance. The complaint process must:

(1) provide staff assistance with the complaint process when requested;

(2) allow the participant to bring the complaint to the highest level of authority in the program if the grievance cannot be resolved by other staff members, and provide the name, address, and telephone number of that person;

(3) provide the addresses and telephone numbers of outside agencies to assist the participant;

(4) require a prompt response to all complaints affecting a participant's health and safety and a timely response to all other complaints;

(5) require an evaluation of whether:

(i) related policies and procedures were followed and adequate;

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(ii) there is a need for additional staff training;

(iii) the complaint is similar to past complaints with the persons, staff, or services involved; and

(iv) there is a need for corrective action by the agency-provider to protect the health and safety of participants receiving services;

(6) provide a written summary of the complaint and a notice of the complaint resolution to the participant and, if applicable, case manager or care coordinator; and

(7) require that the complaint summary and resolution notice be maintained in the participant's service record.

(b) The CFSS agency-provider must establish policies and procedures for responding to incidents that occur while services are being provided. When a participant has a legal representative or a participant's representative, incidents must be reported to these representatives. For the purposes of this paragraph, "incident" means an occurrence that involves a participant and requires a response that is not a part of the ordinary provision of the services to that participant, and includes:

(1) serious injury of a participant as determined by section 245.91, subdivision 6;

(2) a participant's death;

(3) any medical emergency, unexpected serious illness, or significant unexpected change in a participant's illness or medical condition that requires a call to 911, physician treatment, or hospitalization;

(4) any mental health crisis that requires a call to 911 or a mental health crisis intervention team;

(5) an act or situation involving a participant that requires a call to 911, law enforcement, or the fire department;

(6) a participant's unexplained absence;

(7) behavior that creates an imminent risk of harm to the participant or another; and

(8) a report of alleged or suspected child or vulnerable adult maltreatment under section ~~626.556 or~~ 626.557 or chapter 260E.

Sec. 101. Minnesota Statutes 2018, section 256E.21, subdivision 5, is amended to read:

Subd. 5. **Child abuse.** "Child abuse" means sexual abuse, neglect, or physical abuse as defined in section ~~626.556, subdivision 2, paragraphs (g), (k), and (n)~~ 260E.03, subdivisions 15, 18, and 20.

Sec. 102. Minnesota Statutes 2018, section 256F.10, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** Persons under 21 years of age who are eligible to receive medical assistance are eligible for child welfare targeted case management services under section 256B.094 and this section if they have received an assessment and have been determined by the local county or tribal social services agency to be:

(1) at risk of placement or in placement as described in section 260C.212, subdivision 1;

(2) at risk of maltreatment or experiencing maltreatment as defined in section ~~626.556, subdivision 10e~~ 260E.03, subdivision 12; or

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(3) in need of protection or services as defined in section 260C.007, subdivision 6.

Sec. 103. Minnesota Statutes 2018, section 256F.10, subdivision 4, is amended to read:

Subd. 4. **Provider qualifications and certification standards.** The commissioner must certify each provider before enrolling it as a child welfare targeted case management provider of services under section 256B.094 and this section. The certification process shall examine the provider's ability to meet the qualification requirements and certification standards in this subdivision and other federal and state requirements of this service. A certified child welfare targeted case management provider is an enrolled medical assistance provider who is determined by the commissioner to have all of the following:

(1) the legal authority to provide public welfare under sections 393.01, subdivision 7, and 393.07 or a federally recognized Indian tribe;

(2) the demonstrated capacity and experience to provide the components of case management to coordinate and link community resources needed by the eligible population;

(3) administrative capacity and experience in serving the target population for whom it will provide services and in ensuring quality of services under state and federal requirements;

(4) the legal authority to provide complete investigative and protective services under section ~~626.556, subdivision 10~~ 260E.20, and child welfare and foster care services under section 393.07, subdivisions 1 and 2, or a federally recognized Indian tribe;

(5) a financial management system that provides accurate documentation of services and costs under state and federal requirements; and

(6) the capacity to document and maintain individual case records under state and federal requirements.

Sec. 104. Minnesota Statutes 2018, section 256L.07, subdivision 4, is amended to read:

Subd. 4. **Families with children in need of chemical dependency treatment.** Premiums for families with children when a parent has been determined to be in need of chemical dependency treatment pursuant to an assessment conducted by the county under section ~~626.556, subdivision 10~~ 260E.20, subdivision 1, paragraph (g), or a case plan under section 260C.201, subdivision 6, or 260C.212, who are eligible for MinnesotaCare under section 256L.04, subdivision 1, may be paid by the county of residence of the person in need of treatment for one year from the date the family is determined to be eligible or if the family is currently enrolled in MinnesotaCare from the date the person is determined to be in need of chemical dependency treatment. Upon renewal, the family is responsible for any premiums owed under section 256L.15. If the family is not currently enrolled in MinnesotaCare, the local county human services agency shall determine whether the family appears to meet the eligibility requirements and shall assist the family in applying for the MinnesotaCare program.

Sec. 105. Minnesota Statutes 2018, section 256M.10, subdivision 2, is amended to read:

Subd. 2. **Vulnerable children and adults services.** (a) "Vulnerable children and adults services" means services provided or arranged for by county boards for vulnerable children under ~~chapter~~ chapters 260C and 260E, ~~and sections 626.556 and 626.5561,~~ and adults under section 626.557 who experience dependency, abuse, or neglect, as well as services for family members to support those individuals. These services may be provided by professionals or nonprofessionals, including the person's natural supports in the community. For the purpose of this chapter, "vulnerable children" means children and adolescents.

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(b) Vulnerable children and adults services do not include services under the public assistance programs known as the Minnesota family investment program, Minnesota supplemental aid, medical assistance, general assistance, MinnesotaCare, or community health services.

Sec. 106. Minnesota Statutes 2018, section 256M.40, subdivision 1, is amended to read:

Subdivision 1. **Formula.** The commissioner shall allocate state funds appropriated under this chapter to each county board on a calendar year basis in an amount determined according to the formula in paragraphs (a) to (e).

(a) For calendar years 2011 and 2012, the commissioner shall allocate available funds to each county in proportion to that county's share in calendar year 2010.

(b) For calendar year 2013 and each calendar year thereafter, the commissioner shall allocate available funds to each county as follows:

(1) 75 percent must be distributed on the basis of the county share in calendar year 2012;

(2) five percent must be distributed on the basis of the number of persons residing in the county as determined by the most recent data of the state demographer;

(3) ten percent must be distributed on the basis of the number of vulnerable children that are subjects of reports under ~~chapter~~ chapters 260C ~~and sections 626.556 and 626.5561~~ and 260E, and in the county as determined by the most recent data of the commissioner; and

(4) ten percent must be distributed on the basis of the number of vulnerable adults that are subjects of reports under section 626.557 in the county as determined by the most recent data of the commissioner.

(c) The commissioner is precluded from changing the formula under this subdivision or recommending a change to the legislature without public review and input.

Sec. 107. Minnesota Statutes 2018, section 256M.41, subdivision 1, is amended to read:

Subdivision 1. **Formula for county staffing funds.** (a) The commissioner shall allocate state funds appropriated under this section to each county board on a calendar year basis in an amount determined according to the following formula:

(1) 50 percent must be distributed on the basis of the child population residing in the county as determined by the most recent data of the state demographer;

(2) 25 percent must be distributed on the basis of the number of screened-in reports of child maltreatment under ~~sections 626.556 and 626.5561~~ chapter 260E, and in the county as determined by the most recent data of the commissioner; and

(3) 25 percent must be distributed on the basis of the number of open child protection case management cases in the county as determined by the most recent data of the commissioner.

(b) Notwithstanding this subdivision, no county shall be awarded an allocation of less than $75,000.

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Sec. 108. Minnesota Statutes 2018, section 257.0764, is amended to read:

257.0764 COMPLAINTS.

An ombudsperson may receive a complaint from any source concerning an action of an agency, facility, or program. After completing a review, the ombudsperson shall inform the complainant, agency, facility, or program. Services to a child shall not be unfavorably altered as a result of an investigation or complaint. An agency, facility, or program shall not retaliate or take adverse action, as defined in section ~~626.556, subdivision 4a,~~ 260E.07, paragraph (c), against an individual who, in good faith, makes a complaint or assists in an investigation.

Sec. 109. Minnesota Statutes 2018, section 260.012, is amended to read:

260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate services, by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, and the court must ensure that the responsible social services agency makes reasonable efforts to finalize an alternative permanent plan for the child as provided in paragraph (e). In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's best interests, health, and safety must be of paramount concern. Reasonable efforts to prevent placement and for rehabilitation and reunification are always required except upon a determination by the court that a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been terminated involuntarily;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parent's custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction;

(5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~ 260E.03, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

(b) When the court makes one of the prima facie determinations under paragraph (a), either permanency pleadings under section 260C.505, or a termination of parental rights petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under sections 260C.503 to 260C.521 must be held within 30 days of this determination.

(c) In the case of an Indian child, in proceedings under sections 260B.178, 260C.178, 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901

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et seq., as to the provision of active efforts. In cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social services agency must provide active efforts as required under United States Code, title 25, section 1911(d).

(d) "Reasonable efforts to prevent placement" means:

(1) the agency has made reasonable efforts to prevent the placement of the child in foster care by working with the family to develop and implement a safety plan; or

(2) given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available which could allow the child to safely remain in the home.

(e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence by the responsible social services agency to:

(1) reunify the child with the parent or guardian from whom the child was removed;

(2) assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by section 260C.219;

(3) conduct a relative search to identify and provide notice to adult relatives as required under section 260C.221;

(4) place siblings removed from their home in the same home for foster care or adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with section 260C.212, subdivision 2; and

(5) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and considers permanent alternative homes for the child inside or outside of the state, preferably through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. At each stage of the proceedings where the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) it has made reasonable efforts to prevent placement of the child in foster care;

(2) it has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) it has made reasonable efforts to finalize an alternative permanent home for the child, and considers permanent alternative homes for the child inside or outside of the state; or

(4) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts the agency believes demonstrate

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there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the court may only require reasonable efforts for reunification after a hearing according to section 260C.163, where the court finds there is not clear and convincing evidence of the facts upon which the court based its prima facie determination. In this case when there is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the child;

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

(4) committing sexual abuse as defined in section ~~626.556, subdivision 2~~ 260E.03, against the child or another child of the parent; or

(5) an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b).

(h) The juvenile court, in proceedings under sections 260B.178, 260C.178, 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and family were:

(1) relevant to the safety and protection of the child;

(2) adequate to meet the needs of the child and family;

(3) culturally appropriate;

(4) available and accessible;

(5) consistent and timely; and

(6) realistic under the circumstances.

In the alternative, the court may determine that provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

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(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose its decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses its decision to proceed on both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

Sec. 110. Minnesota Statutes 2018, section 260.761, subdivision 2, is amended to read:

Subd. 2. **Agency and court notice to tribes.** (a) When a local social services agency has information that a family assessment or investigation being conducted may involve an Indian child, the local social services agency shall notify the Indian child's tribe of the family assessment or investigation according to section ~~626.556, subdivision 10, paragraph (a), clause (5)~~ 260E.18. Initial notice shall be provided by telephone and by e-mail or facsimile. The local social services agency shall request that the tribe or a designated tribal representative participate in evaluating the family circumstances, identifying family and tribal community resources, and developing case plans.

(b) When a local social services agency has information that a child receiving services may be an Indian child, the local social services agency shall notify the tribe by telephone and by e-mail or facsimile of the child's full name and date of birth, the full names and dates of birth of the child's biological parents, and, if known, the full names and dates of birth of the child's grandparents and of the child's Indian custodian. This notification must be provided so the tribe can determine if the child is enrolled in the tribe or eligible for membership, and must be provided within seven days. If information regarding the child's grandparents or Indian custodian is not available within the seven-day period, the local social services agency shall continue to request this information and shall notify the tribe when it is received. Notice shall be provided to all tribes to which the child may have any tribal lineage. If the identity or location of the child's parent or Indian custodian and tribe cannot be determined, the local social services agency shall provide the notice required in this paragraph to the United States secretary of the interior.

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

(d) A local social services agency must provide the notices required under this subdivision at the earliest possible time to facilitate involvement of the Indian child's tribe. Nothing in this subdivision is intended to hinder the ability of the local social services agency and the court to respond to an emergency situation. Lack of participation by a tribe shall not prevent the tribe from intervening in services and proceedings at a later date. A tribe may participate at any time. At any stage of the local social services agency's involvement with an Indian child, the agency shall provide full cooperation to the tribal social services agency, including

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disclosure of all data concerning the Indian child. Nothing in this subdivision relieves the local social services agency of satisfying the notice requirements in the Indian Child Welfare Act.

Sec. 111. Minnesota Statutes 2018, section 260B.171, subdivision 6, is amended to read:

Subd. 6. **Attorney access to records.** An attorney representing a child, parent, or guardian ad litem in a proceeding under this chapter shall be given access to records, local social services agency files, and reports which form the basis of any recommendation made to the court. An attorney does not have access under this subdivision to the identity of a person who made a report under ~~section 626.556~~ chapter 260E. The court may issue protective orders to prohibit an attorney from sharing a specified record or portion of a record with a client other than a guardian ad litem.

Sec. 112. Minnesota Statutes 2019 Supplement, section 260B.198, subdivision 1, is amended to read:

Subdivision 1. **Court order, findings, remedies, treatment.** (a) If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

(1) counsel the child or the 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 child's 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, in a group foster care facility which is under the management and supervision of said commissioner;

(3) if the court determines that the child is a danger to self or others, subject to the supervision of the court, transfer legal custody of the child to one of the following:

(i) a child-placing agency;

(ii) the local social services agency;

(iii) a reputable individual of good moral character. No person may receive custody of two or more unrelated children unless licensed as a residential facility pursuant to sections 245A.01 to 245A.16;

(iv) a county home school, if the county maintains a home school or enters into an agreement with a county home school; or

(v) 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) transfer legal custody by commitment to the commissioner of corrections;

(5) if the child is found to have violated a state or local law or ordinance which has resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for such damage;

(6) require the child to pay a fine of up to $1,000. The court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

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(7) if the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided;

(8) if the court believes that it is in the best interests of the child and of public safety that the driver's license of the child be canceled until the child's 18th birthday, the court may recommend to the commissioner of public safety the cancellation of the child's license for any period up to the child's 18th birthday, and the commissioner is hereby authorized to cancel such license without a hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety that the child be authorized to apply for a new license, and the commissioner may so authorize;

(9) if the court believes that it is in the best interest of the child and of public safety that the child is enrolled in school, the court may require the child to remain enrolled in a public school until the child reaches the age of 18 or completes all requirements needed to graduate from high school. Any child enrolled in a public school under this clause is subject to the provisions of the Pupil Fair Dismissal Act in chapter 127;

(10) if the child is petitioned and found by the court to have committed a controlled substance offense under sections 152.021 to 152.027, the court shall determine whether the child unlawfully possessed or sold the controlled substance while driving a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination and order the commissioner to revoke the child's driver's license for the applicable time period specified in section 152.0271. If the child does not have a driver's license or if the child's driver's license is suspended or revoked at the time of the delinquency finding, the commissioner shall, upon the child's application for driver's license issuance or reinstatement, delay the issuance or reinstatement of the child's driver's license for the applicable time period specified in section 152.0271. Upon receipt of the court's order, the commissioner is authorized to take the licensing action without a hearing;

(11) if the child is petitioned and found by the court to have committed or attempted to commit an act in violation of section 609.342; 609.343; 609.344; 609.345; 609.3451; 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a delinquency petition based on one or more of those sections, the court shall order an independent professional assessment of the child's need for sex offender treatment. An assessor providing an assessment for the court must be experienced in the evaluation and treatment of juvenile sex offenders. If the assessment indicates that the child is in need of and amenable to sex offender treatment, the court shall include in its disposition order a requirement that the child undergo treatment. Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, or 260B.171, ~~or 626.556,~~ or chapter 260E, the assessor has access to the following private or confidential data on the child if access is relevant and necessary for the assessment:

(i) medical data under section 13.384;

(ii) corrections and detention data under section 13.85;

(iii) health records under sections 144.291 to 144.298;

(iv) juvenile court records under section 260B.171; and

(v) local welfare agency records under ~~section 626.556~~ chapter 260E.

Data disclosed under this clause may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law; or

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(12) if the child is found delinquent due to the commission of an offense that would be a felony if committed by an adult, the court shall make a specific finding on the record regarding the juvenile's mental health and chemical dependency treatment needs.

(b) Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered and shall also set forth in writing the following information:

(1) why the best interests of the child are served by the disposition ordered; and

(2) what alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case. Clause (1) does not apply to a disposition under subdivision 1a.

Sec. 113. Minnesota Statutes 2018, section 260C.007, subdivision 3, is amended to read:

Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child and parent or guardian, or, when reunification is not required, the child alone, that is developed according to the requirements of section 245.4871, subdivision 19 or 21; 245.492, subdivision 16; 256B.092; 260C.212, subdivision 1; or ~~626.556, subdivision 10~~ 260E.26.

Sec. 114. Minnesota Statutes 2018, section 260C.007, subdivision 5, is amended to read:

Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim that constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322, 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or that is physical or sexual abuse as defined in section ~~626.556, subdivision 2~~ 260E.03, or an act committed in another state that involves a minor victim and would constitute a violation of one of these sections if committed in this state.

Sec. 115. Minnesota Statutes 2018, section 260C.007, subdivision 6, is amended to read:

Subd. 6. **Child in need of protection or services.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse as defined in section ~~626.556, subdivision 2~~ 260E.03, subdivision 18 or 20, (ii) resides with or has resided with a victim of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5 or 13, or (iv) is a victim of emotional maltreatment as defined in subdivision 15;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from an infant with a disability 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 advanced practice registered nurse's reasonable medical judgment, will be most likely to be effective in

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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 advanced practice registered nurse's reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) 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

(iii) 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;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, including a child who entered foster care under a voluntary placement agreement between the parent and the responsible social services agency under section 260C.227;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) is a sexually exploited youth;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is a habitual truant;

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense; or

(16) has a parent whose parental rights to one or more other children were involuntarily terminated or whose custodial rights to another child have been involuntarily transferred to a relative and there is a case plan prepared by the responsible social services agency documenting a compelling reason why filing the termination of parental rights petition under section 260C.503, subdivision 2, is not in the best interests of the child.

Sec. 116. Minnesota Statutes 2018, section 260C.007, subdivision 13, is amended to read:

Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

(1) any physical injury to a minor family or household member inflicted by an adult family or household member other than by accidental means;

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(2) subjection of a minor family or household member by an adult family or household member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342, 609.343, 609.344, 609.345, or 617.246; or

(3) physical or sexual abuse as defined in section ~~626.556, subdivision 2~~ 260E.03, subdivision 18 or 20.

Sec. 117. Minnesota Statutes 2019 Supplement, section 260C.139, subdivision 3, is amended to read:

Subd. 3. **Status of child.** For purposes of proceedings under this chapter and adoption proceedings, a newborn left at a safe place, pursuant to subdivision 4 and section 145.902, is considered an abandoned child under section ~~626.556, subdivision 2, paragraph (o), clause (2)~~ 260E.03, subdivision 22, clause (2). The child is abandoned under sections 260C.007, subdivision 6, clause (1), and 260C.301, subdivision 1, paragraph (b), clause (1).

Sec. 118. Minnesota Statutes 2018, section 260C.150, subdivision 3, is amended to read:

Subd. 3. **Identifying parents of child; diligent efforts; data.** (a) The responsible social services agency shall make diligent efforts to identify and locate both parents of any child who is the subject of proceedings under this chapter. Diligent efforts include:

(1) asking the custodial or known parent to identify any nonresident parent of the child and provide information that can be used to verify the nonresident parent's identity including the dates and locations of marriages and divorces; dates and locations of any legal proceedings regarding paternity; date and place of the child's birth; nonresident parent's full legal name; nonresident parent's date of birth, or if the nonresident parent's date of birth is unknown, an approximate age; the nonresident parent's Social Security number; the nonresident parent's whereabouts including last known whereabouts; and the whereabouts of relatives of the nonresident parent. For purposes of this subdivision, "nonresident parent" means a parent who does not reside in the same household as the child or did not reside in the same household as the child at the time the child was removed when the child is in foster care;

(2) obtaining information that will identify and locate the nonresident parent from the county and state of Minnesota child support enforcement information system;

(3) requesting a search of the Minnesota Fathers' Adoption Registry 30 days after the child's birth; and

(4) using any other reasonable means to identify and locate the nonresident parent.

(b) The agency may disclose data which is otherwise private under section 13.46 ~~or 626.556~~ or chapter 260E in order to carry out its duties under this subdivision.

(c) Upon the filing of a petition alleging the child to be in need of protection or services, the responsible social services agency may contact a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth. The social service agency may consider a putative father for the day-to-day care of the child under section 260C.219 if the putative father cooperates with genetic testing and there is a positive test result under section 257.62, subdivision 5. Nothing in this paragraph:

(1) relieves a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth of the duty to cooperate with paternity establishment proceedings under section 260C.219;

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(2) gives a putative father who registered with the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth the right to notice under section 260C.151 unless the putative father is entitled to notice under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7); or

(3) establishes a right to assert an interest in the child in a termination of parental rights proceeding contrary to section 259.52, subdivision 6, unless the putative father is entitled to notice under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1) to (7).

Sec. 119. Minnesota Statutes 2018, section 260C.171, subdivision 3, is amended to read:

Subd. 3. **Attorney access to records.** An attorney representing a child, parent, or guardian ad litem in a proceeding under this chapter shall be given access to records, responsible social services agency files, and reports which form the basis of any recommendation made to the court. An attorney does not have access under this subdivision to the identity of a person who made a report under ~~section 626.556~~ chapter 260E. The court may issue protective orders to prohibit an attorney from sharing a specified record or portion of a record with a client other than a guardian ad litem.

Sec. 120. Minnesota Statutes 2018, section 260C.177, is amended to read:

260C.177 PARENTAL AND LAW ENFORCEMENT NOTIFICATION.

An emergency shelter and its agents, employees, and volunteers must comply with court orders, ~~section 626.556,~~ this chapter, chapter 260E, and all other applicable laws. In any event, unless other legal requirements require earlier or different notification or actions, an emergency shelter must attempt to notify a runaway's parent or legal guardian of the runaway's location and status within 72 hours. The notification must include a description of the runaway's physical and emotional condition and the circumstances surrounding the runaway's admission to the emergency shelter, unless there are compelling reasons not to provide the parent or legal guardian with this information. Compelling reasons may include circumstances in which the runaway is or has been exposed to domestic violence or a victim of abuse, neglect, or abandonment.

Sec. 121. Minnesota Statutes 2019 Supplement, section 260C.178, subdivision 1, is amended to read:

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a hearing within 72 hours of the time the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue in custody.

(b) Unless there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) If the court determines there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child into foster care as defined in section 260C.007, subdivision 18, under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the

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safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father. The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

(d) In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

(e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not required. In the case of an Indian child, the court shall determine whether active efforts, according to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

(1) that it has actually provided services or made efforts in an attempt to prevent the child's removal but that such services or efforts have not proven sufficient to permit the child to safely remain in the home; or

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. When reasonable efforts to prevent placement are required and there are services or other efforts that could be ordered which would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

If the court finds the social services agency's preventive or reunification efforts have not been reasonable but 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.

(f) The court may not order or continue the foster care placement of the child unless the court makes explicit, individualized findings that continued custody of the child by the parent or guardian would be contrary to the welfare of the child and that placement is in the best interest of the child.

(g) At the emergency removal hearing, or at any time during the course of the proceeding, and upon notice and request of the county attorney, the court shall determine whether a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been involuntarily terminated;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parents' custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e), clause (1); section 260C.515, subdivision 4; or a similar law of another jurisdiction;

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(5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~ 260E.03, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable.

(h) When a petition to terminate parental rights is required under section 260C.301, subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to proceed with a termination of parental rights petition, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section 260C.507, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

(i) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.503, subdivision 2, paragraph (c).

(j) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the responsible social services agency for the purpose of complying with sections 260C.151, 260C.212, 260C.215, and 260C.221.

(k) If a child ordered into foster care has siblings, whether full, half, or step, who are also ordered into foster care, the court shall inquire of the responsible social services agency of the efforts to place the children together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement for treatment or a child is placed with a previously noncustodial parent who is not a parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place the siblings together, as required under section 260.012. If any sibling is not placed with another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing contact among the siblings as required under section 260C.212, subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

(l) When the court has ordered the child into foster care or into the home of a noncustodial parent, the court may order a chemical dependency evaluation, mental health evaluation, medical examination, and parenting assessment for the parent as necessary to support the development of a plan for reunification required under subdivision 7 and section 260C.212, subdivision 1, or the child protective services plan under section ~~626.556, subdivision 10~~ 260E.26, and Minnesota Rules, part 9560.0228.

Sec. 122. Minnesota Statutes 2019 Supplement, section 260C.201, subdivision 6, is amended to read:

Subd. 6. **Case plan.** (a) For each disposition ordered where the child is placed away from a parent or guardian, the court shall order the responsible social services agency to prepare a written out-of-home placement plan according to the requirements of section 260C.212, subdivision 1. When a foster child is colocated with a parent in a licensed residential family-based substance use disorder treatment program under section 260C.190, the case plan must specify the recommendation for the colocation before the child is colocated with the parent.

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(b) In cases where the child is not placed out of the home or is ordered into the home of a noncustodial parent, the responsible social services agency shall prepare a plan for delivery of social services to the child and custodial parent under section ~~626.556, subdivision 10~~ 260E.26, or any other case plan required to meet the needs of the child. The plan shall be designed to safely maintain the child in the home or to reunite the child with the custodial parent.

(c) The court may approve the case plan as presented or modify it after hearing from the parties. Once the plan is approved, the court shall order all parties to comply with it. A copy of the approved case plan shall be attached to the court's order and incorporated into it by reference.

(d) A party has a right to request a court review of the reasonableness of the case plan upon a showing of a substantial change of circumstances.

Sec. 123. Minnesota Statutes 2018, section 260C.209, subdivision 2, is amended to read:

Subd. 2. **General procedures.** (a) When accessing information under subdivision 1, the agency shall require the individual being assessed to provide sufficient information to ensure an accurate assessment under this section, including:

(1) the individual's first, middle, and last name and all other names by which the individual has been known;

(2) home address, zip code, city, county, and state of residence for the past five years;

(3) sex;

(4) date of birth; and

(5) driver's license number or state identification number.

(b) When notified by the responsible social services agency that it is accessing information under subdivision 1, the Bureau of Criminal Apprehension, commissioners of health and human services, law enforcement, and county agencies must provide the responsible social services agency or county attorney with the following information on the individual being assessed: criminal history data, local law enforcement data about the household, reports about the maltreatment of adults substantiated under section 626.557, and reports of maltreatment of minors substantiated under ~~section 626.556~~ chapter 260E.

Sec. 124. Minnesota Statutes 2018, section 260C.212, subdivision 12, is amended to read:

Subd. 12. **Fair hearing review.** Any person whose claim for foster care payment pursuant to the placement of a child resulting from a child protection assessment under ~~section 626.556~~ chapter 260E is denied or not acted upon with reasonable promptness may appeal the decision under section 256.045, subdivision 3.

Sec. 125. Minnesota Statutes 2018, section 260C.221, is amended to read:

260C.221 RELATIVE SEARCH.

(a) The responsible social services agency shall exercise due diligence to identify and notify adult relatives prior to placement or within 30 days after the child's removal from the parent. The county agency shall consider placement with a relative under this section without delay and whenever the child must move from or be returned to foster care. The relative search required by this section shall be comprehensive in

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scope. After a finding that the agency has made reasonable efforts to conduct the relative search under this paragraph, the agency has the continuing responsibility to appropriately involve relatives, who have responded to the notice required under this paragraph, in planning for the child and to continue to consider relatives according to the requirements of section 260C.212, subdivision 2. At any time during the course of juvenile protection proceedings, the court may order the agency to reopen its search for relatives when it is in the child's best interest to do so.

(b) The relative search required by this section shall include both maternal and paternal adult relatives of the child; all adult grandparents; all legal parents, guardians, or custodians of the child's siblings; and any other adult relatives suggested by the child's parents, subject to the exceptions due to family violence in paragraph (c). The search shall also include getting information from the child in an age-appropriate manner about who the child considers to be family members and important friends with whom the child has resided or had significant contact. The relative search required under this section must fulfill the agency's duties under the Indian Child Welfare Act regarding active efforts to prevent the breakup of the Indian family under United States Code, title 25, section 1912(d), and to meet placement preferences under United States Code, title 25, section 1915. The relatives must be notified:

(1) of the need for a foster home for the child, the option to become a placement resource for the child, and the possibility of the need for a permanent placement for the child;

(2) of their responsibility to keep the responsible social services agency and the court informed of their current address in order to receive notice in the event that a permanent placement is sought for the child and to receive notice of the permanency progress review hearing under section 260C.204. A relative who fails to provide a current address to the responsible social services agency and the court forfeits the right to receive notice of the possibility of permanent placement and of the permanency progress review hearing under section 260C.204. A decision by a relative not to be identified as a potential permanent placement resource or participate in planning for the child at the beginning of the case shall not affect whether the relative is considered for placement of the child with that relative later;

(3) that the relative may participate in the care and planning for the child, including that the opportunity for such participation may be lost by failing to respond to the notice sent under this subdivision. "Participate in the care and planning" includes, but is not limited to, participation in case planning for the parent and child, identifying the strengths and needs of the parent and child, supervising visits, providing respite and vacation visits for the child, providing transportation to appointments, suggesting other relatives who might be able to help support the case plan, and to the extent possible, helping to maintain the child's familiar and regular activities and contact with friends and relatives;

(4) of the family foster care licensing requirements, including how to complete an application and how to request a variance from licensing standards that do not present a safety or health risk to the child in the home under section 245A.04 and supports that are available for relatives and children who reside in a family foster home; and

(5) of the relatives' right to ask to be notified of any court proceedings regarding the child, to attend the hearings, and of a relative's right or opportunity to be heard by the court as required under section 260C.152, subdivision 5.

(c) A responsible social services agency may disclose private data, as defined in ~~sections~~ section 13.02 and ~~626.556~~ chapter 260E, to relatives of the child for the purpose of locating and assessing a suitable placement and may use any reasonable means of identifying and locating relatives including the Internet or other electronic means of conducting a search. The agency shall disclose data that is necessary to facilitate

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possible placement with relatives and to ensure that the relative is informed of the needs of the child so the relative can participate in planning for the child and be supportive of services to the child and family. If the child's parent refuses to give the responsible social services agency information sufficient to identify the maternal and paternal relatives of the child, the agency shall ask the juvenile court to order the parent to provide the necessary information. If a parent makes an explicit request that a specific relative not be contacted or considered for placement due to safety reasons including past family or domestic violence, the agency shall bring the parent's request to the attention of the court to determine whether the parent's request is consistent with the best interests of the child and the agency shall not contact the specific relative when the juvenile court finds that contacting the specific relative would endanger the parent, guardian, child, sibling, or any family member.

(d) At a regularly scheduled hearing not later than three months after the child's placement in foster care and as required in section 260C.202, the agency shall report to the court:

(1) its efforts to identify maternal and paternal relatives of the child and to engage the relatives in providing support for the child and family, and document that the relatives have been provided the notice required under paragraph (a); and

(2) its decision regarding placing the child with a relative as required under section 260C.212, subdivision 2, and to ask relatives to visit or maintain contact with the child in order to support family connections for the child, when placement with a relative is not possible or appropriate.

(e) Notwithstanding chapter 13, the agency shall disclose data about particular relatives identified, searched for, and contacted for the purposes of the court's review of the agency's due diligence.

(f) When the court is satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in paragraph (a), the court may find that reasonable efforts have been made to conduct a relative search to identify and provide notice to adult relatives as required under section 260.012, paragraph (e), clause (3). If the court is not satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in paragraph (a), the court may order the agency to continue its search and notice efforts and to report back to the court.

(g) When the placing agency determines that permanent placement proceedings are necessary because there is a likelihood that the child will not return to a parent's care, the agency must send the notice provided in paragraph (h), may ask the court to modify the duty of the agency to send the notice required in paragraph (h), or may ask the court to completely relieve the agency of the requirements of paragraph (h). The relative notification requirements of paragraph (h) do not apply when the child is placed with an appropriate relative or a foster home that has committed to adopting the child or taking permanent legal and physical custody of the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, permanency, and welfare of the child.

(h) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph (f), when the agency determines that it is necessary to prepare for permanent placement determination proceedings, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to the relatives, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of

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the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement.

Sec. 126. Minnesota Statutes 2018, section 260C.503, subdivision 2, is amended to read:

Subd. 2. **Termination of parental rights.** (a) The responsible social services agency must ask the county attorney to immediately file a termination of parental rights petition when:

(1) the child has been subjected to egregious harm as defined in section 260C.007, subdivision 14;

(2) the child is determined to be the sibling of a child who was subjected to egregious harm;

(3) the child is an abandoned infant as defined in section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the child's parent has lost parental rights to another child through an order involuntarily terminating the parent's rights;

(5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~ 260E.03, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) another child of the parent is the subject of an order involuntarily transferring permanent legal and physical custody of the child to a relative under this chapter or a similar law of another jurisdiction;

The county attorney shall file a termination of parental rights petition unless the conditions of paragraph (d) are met.

(b) When the termination of parental rights petition is filed under this subdivision, the responsible social services agency shall identify, recruit, and approve an adoptive family for the child. If a termination of parental rights petition has been filed by another party, the responsible social services agency shall be joined as a party to the petition.

(c) If criminal charges have been filed against a parent arising out of the conduct alleged to constitute egregious harm, the county attorney shall determine which matter should proceed to trial first, consistent with the best interests of the child and subject to the defendant's right to a speedy trial.

(d) The requirement of paragraph (a) does not apply if the responsible social services agency and the county attorney determine and file with the court:

(1) a petition for transfer of permanent legal and physical custody to a relative under sections 260C.505 and 260C.515, subdivision 3, including a determination that adoption is not in the child's best interests and that transfer of permanent legal and physical custody is in the child's best interests; or

(2) a petition under section 260C.141 alleging the child, and where appropriate, the child's siblings, to be in need of protection or services accompanied by a case plan prepared by the responsible social services agency documenting a compelling reason why filing a termination of parental rights petition would not be in the best interests of the child.

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Sec. 127. Minnesota Statutes 2018, section 260D.01, is amended to read:

260D.01 CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.

(a) Sections 260D.01 to 260D.10, may be cited as the "child in voluntary foster care for treatment" provisions of the Juvenile Court Act.

(b) The juvenile court has original and exclusive jurisdiction over a child in voluntary foster care for treatment upon the filing of a report or petition required under this chapter. All obligations of the agency to a child and family in foster care contained in chapter 260C not inconsistent with this chapter are also obligations of the agency with regard to a child in foster care for treatment under this chapter.

(c) This chapter shall be construed consistently with the mission of the children's mental health service system as set out in section 245.487, subdivision 3, and the duties of an agency under sections 256B.092 and 260C.157 and Minnesota Rules, parts 9525.0004 to 9525.0016, to meet the needs of a child with a developmental disability or related condition. This chapter:

(1) establishes voluntary foster care through a voluntary foster care agreement as the means for an agency and a parent to provide needed treatment when the child must be in foster care to receive necessary treatment for an emotional disturbance or developmental disability or related condition;

(2) establishes court review requirements for a child in voluntary foster care for treatment due to emotional disturbance or developmental disability or a related condition;

(3) establishes the ongoing responsibility of the parent as legal custodian to visit the child, to plan together with the agency for the child's treatment needs, to be available and accessible to the agency to make treatment decisions, and to obtain necessary medical, dental, and other care for the child; and

(4) applies to voluntary foster care when the child's parent and the agency agree that the child's treatment needs require foster care either:

(i) due to a level of care determination by the agency's screening team informed by the diagnostic and functional assessment under section 245.4885; or

(ii) due to a determination regarding the level of services needed by the responsible social services' screening team under section 256B.092, and Minnesota Rules, parts 9525.0004 to 9525.0016.

(d) This chapter does not apply when there is a current determination under ~~section 626.556~~ chapter 260E that the child requires child protective services or when the child is in foster care for any reason other than treatment for the child's emotional disturbance or developmental disability or related condition. When there is a determination under ~~section 626.556~~ chapter 260E that the child requires child protective services based on an assessment that there are safety and risk issues for the child that have not been mitigated through the parent's engagement in services or otherwise, or when the child is in foster care for any reason other than the child's emotional disturbance or developmental disability or related condition, the provisions of chapter 260C apply.

(e) The paramount consideration in all proceedings concerning a child in voluntary foster care for treatment is the safety, health, and the best interests of the child. The purpose of this chapter is:

(1) to ensure a child with a disability is provided the services necessary to treat or ameliorate the symptoms of the child's disability;

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(2) to preserve and strengthen the child's family ties whenever possible and in the child's best interests, approving the child's placement away from the child's parents only when the child's need for care or treatment requires it and the child cannot be maintained in the home of the parent; and

(3) to ensure the child's parent retains legal custody of the child and associated decision-making authority unless the child's parent willfully fails or is unable to make decisions that meet the child's safety, health, and best interests. The court may not find that the parent willfully fails or is unable to make decisions that meet the child's needs solely because the parent disagrees with the agency's choice of foster care facility, unless the agency files a petition under chapter 260C, and establishes by clear and convincing evidence that the child is in need of protection or services.

(f) The legal parent-child relationship shall be supported under this chapter by maintaining the parent's legal authority and responsibility for ongoing planning for the child and by the agency's assisting the parent, where necessary, to exercise the parent's ongoing right and obligation to visit or to have reasonable contact with the child. Ongoing planning means:

(1) actively participating in the planning and provision of educational services, medical, and dental care for the child;

(2) actively planning and participating with the agency and the foster care facility for the child's treatment needs; and

(3) planning to meet the child's need for safety, stability, and permanency, and the child's need to stay connected to the child's family and community.

(g) The provisions of section 260.012 to ensure placement prevention, family reunification, and all active and reasonable effort requirements of that section apply. This chapter shall be construed consistently with the requirements of the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et al., and the provisions of the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

Sec. 128. Minnesota Statutes 2018, section 260D.02, subdivision 3, is amended to read:

Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child and parent, or when reunification is not required, the child alone, that is developed according to the requirements of sections 245.4871, subdivision 19 or 21; 245.492, subdivision 16; 256B.092; and 260C.212, subdivision 1; ~~626.556, subdivision 10;~~ and Minnesota Rules, parts 9525.0004 to 9525.0016.

Sec. 129. Minnesota Statutes 2018, section 260D.02, subdivision 5, is amended to read:

Subd. 5. **Child in voluntary foster care for treatment.** "Child in voluntary foster care for treatment" means a child who is emotionally disturbed or developmentally disabled or has a related condition and is in foster care under a voluntary foster care agreement between the child's parent and the agency due to concurrence between the agency and the parent when it is determined that foster care is medically necessary:

(1) due to a determination by the agency's screening team based on its review of the diagnostic and functional assessment under section 245.4885; or

(2) due to a determination by the agency's screening team under section 256B.092 and Minnesota Rules, parts 9525.0004 to 9525.0016.

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A child is not in voluntary foster care for treatment under this chapter when there is a current determination under ~~section 626.556~~ chapter 260E that the child requires child protective services or when the child is in foster care for any reason other than the child's emotional or developmental disability or related condition.

Sec. 130. Minnesota Statutes 2019 Supplement, section 299C.093, is amended to read:

299C.093 DATABASE OF REGISTERED PREDATORY OFFENDERS.

The superintendent of the Bureau of Criminal Apprehension shall maintain a computerized data system relating to individuals required to register as predatory offenders under section 243.166. To the degree feasible, the system must include the data required to be provided under section 243.166, subdivisions 4, 4a, and 4b, and indicate the time period that the person is required to register. The superintendent shall maintain this data in a manner that ensures that it is readily available to law enforcement agencies. This data is private data on individuals under section 13.02, subdivision 12, but may be used for law enforcement and corrections purposes. Law enforcement or a corrections agent may disclose the status of an individual as a predatory offender to a child protection worker with a local welfare agency for purposes of doing a family assessment under ~~section 626.556~~ chapter 260E. A corrections agent may also disclose the status of an individual as a predatory offender to comply with section 244.057. The commissioner of human services has access to the data for state-operated services, as defined in section 246.014, for the purposes described in section 246.13, subdivision 2, paragraph (b), and for purposes of conducting background studies under chapter 245C.

Sec. 131. Minnesota Statutes 2018, section 388.051, subdivision 2, is amended to read:

Subd. 2. **Special provisions.** (a) In Anoka, Carver, Dakota, Hennepin, Scott, and Washington Counties, only the county attorney shall prosecute gross misdemeanor violations of sections 289A.63, subdivisions 1, 2, 4, and 6; 297B.10; 609.255, subdivision 3; 609.377; 609.378; 609.41; and 617.247.

(b) In Ramsey County, only the county attorney shall prosecute gross misdemeanor violations of sections 609.255, subdivision 3; 609.377; and 609.378.

(c) The county attorney shall prosecute failure to report physical or sexual child abuse or neglect as provided under section ~~626.556, subdivision 6,~~ 260E.08, paragraphs (a), (b), and (c), violations of fifth-degree criminal sexual conduct under section 609.3451, and environmental law violations under sections 115.071, 299F.098, and 609.671.

(d) Except in Hennepin and Ramsey Counties, only the county attorney shall prosecute gross misdemeanor violations of section 152.025.

Sec. 132. Minnesota Statutes 2018, section 518.165, subdivision 2, is amended to read:

Subd. 2. **Required appointment of guardian ad litem.** In all proceedings for child custody or for marriage dissolution or legal separation in which custody or parenting time with a minor child is an issue, if the court has reason to believe that the minor child is a victim of domestic child abuse or neglect, as those terms are defined in ~~sections~~ section 260C.007 and ~~626.556~~ chapter 260E, respectively, the court shall appoint a guardian ad litem. The guardian ad litem shall represent the interests of the child and advise the court with respect to custody and parenting time. If the child is represented by a guardian ad litem in any other pending proceeding, the court may appoint that guardian to represent the child in the custody or parenting time proceeding. No guardian ad litem need be appointed if the alleged domestic child abuse or neglect is before the court on a juvenile dependency and neglect petition. Nothing in this subdivision requires

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the court to appoint a guardian ad litem in any proceeding for child custody, marriage dissolution, or legal separation in which an allegation of domestic child abuse or neglect has not been made.

Sec. 133. Minnesota Statutes 2018, section 518.165, subdivision 5, is amended to read:

Subd. 5. **Procedure, criminal history, and maltreatment records background study.** (a) When the court requests a background study under subdivision 4, paragraph (a), the request shall be submitted to the Department of Human Services through the department's electronic online background study system.

(b) When the court requests a search of the National Criminal Records Repository, the court must provide a set of classifiable fingerprints of the subject of the study on a fingerprint card provided by the commissioner of human services.

(c) The commissioner of human services shall provide the court with criminal history data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department of Public Safety, other criminal history data held by the commissioner of human services, and data regarding substantiated maltreatment of a minor under ~~section 626.556~~ chapter 260E, and substantiated maltreatment of a vulnerable adult under section 626.557, within 15 working days of receipt of a request. If the subject of the study has been determined by the Department of Human Services or the Department of Health to be the perpetrator of substantiated maltreatment of a minor or vulnerable adult in a licensed facility, the response must include a copy of the public portion of the investigation memorandum under section ~~626.556, subdivision 10f~~ 260E.30, or the public portion of the investigation memorandum under section 626.557, subdivision 12b. When the background study shows that the subject has been determined by a county adult protection or child protection agency to have been responsible for maltreatment, the court shall be informed of the county, the date of the finding, and the nature of the maltreatment that was substantiated. The commissioner shall provide the court with information from the National Criminal Records Repository within three working days of the commissioner's receipt of the data. When the commissioner finds no criminal history or substantiated maltreatment on a background study subject, the commissioner shall make these results available to the court electronically through the secure online background study system.

(d) Notwithstanding section ~~626.556, subdivision 10f,~~ 260E.30 or 626.557, subdivision 12b, if the commissioner or county lead agency or lead investigative agency has information that a person on whom a background study was previously done under this section has been determined to be a perpetrator of maltreatment of a minor or vulnerable adult, the commissioner or the county may provide this information to the court that requested the background study.

Sec. 134. Minnesota Statutes 2018, section 524.5-118, subdivision 2, is amended to read:

Subd. 2. **Procedure; criminal history and maltreatment records background check.** (a) The court shall request the commissioner of human services to complete a background study under section 245C.32. The request must be accompanied by the applicable fee and the signed consent of the subject of the study authorizing the release of the data obtained to the court. If the court is requesting a search of the National Criminal Records Repository, the request must be accompanied by a set of classifiable fingerprints of the subject of the study. The fingerprints must be recorded on a fingerprint card provided by the commissioner of human services.

(b) The commissioner of human services shall provide the court with criminal history data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department of Public Safety, other criminal history data held by the commissioner of human services, and data regarding substantiated maltreatment of vulnerable adults under section 626.557 and substantiated maltreatment of minors under ~~section 626.556~~

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chapter 260E within 15 working days of receipt of a request. If the subject of the study has been the perpetrator of substantiated maltreatment of a vulnerable adult or minor, the response must include a copy of the public portion of the investigation memorandum under section 626.557, subdivision 12b, or the public portion of the investigation memorandum under section ~~626.556, subdivision 10f~~ 260E.30. If the court did not request a search of the National Criminal Records Repository and information from the Bureau of Criminal Apprehension indicates that the subject is a multistate offender or that multistate offender status is undetermined, the response must include this information. The commissioner shall provide the court with information from the National Criminal Records Repository within three working days of the commissioner's receipt of the data.

(c) Notwithstanding section 260E.30 or 626.557, subdivision 12b, ~~or 626.556, subdivision 10f,~~ if the commissioner of human services or a county lead agency or lead investigative agency has information that a person on whom a background study was previously done under this section has been determined to be a perpetrator of maltreatment of a vulnerable adult or minor, the commissioner or the county may provide this information to the court that requested the background study. The commissioner may also provide the court with additional criminal history or substantiated maltreatment information that becomes available after the background study is done.

Sec. 135. Minnesota Statutes 2018, section 595.02, subdivision 1, is amended to read:

Subdivision 1. **Competency of witnesses.** Every person of sufficient understanding, including a party, may testify in any action or proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as provided in this subdivision:

(a) A husband cannot be examined for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterwards, without the consent of the other, be examined as to any communication made by one to the other during the marriage. This exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other or against a child of either or against a child under the care of either spouse, nor to a criminal action or proceeding in which one is charged with homicide or an attempt to commit homicide and the date of the marriage of the defendant is subsequent to the date of the offense, nor to an action or proceeding for nonsupport, neglect, dependency, or termination of parental rights.

(b) An attorney cannot, without the consent of the attorney's client, be examined as to any communication made by the client to the attorney or the attorney's advice given thereon in the course of professional duty; nor can any employee of the attorney be examined as to the communication or advice, without the client's consent.

(c) A member of the clergy or other minister of any religion shall not, without the consent of the party making the confession, be allowed to disclose a confession made to the member of the clergy or other minister in a professional character, in the course of discipline enjoined by the rules or practice of the religious body to which the member of the clergy or other minister belongs; nor shall a member of the clergy or other minister of any religion be examined as to any communication made to the member of the clergy or other minister by any person seeking religious or spiritual advice, aid, or comfort or advice given thereon in the course of the member of the clergy's or other minister's professional character, without the consent of the person.

(d) A licensed physician or surgeon, dentist, or chiropractor shall not, without the consent of the patient, be allowed to disclose any information or any opinion based thereon which the professional acquired in attending the patient in a professional capacity, and which was necessary to enable the professional to act

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in that capacity; after the decease of the patient, in an action to recover insurance benefits, where the insurance has been in existence two years or more, the beneficiaries shall be deemed to be the personal representatives of the deceased person for the purpose of waiving this privilege, and no oral or written waiver of the privilege shall have any binding force or effect except when made upon the trial or examination where the evidence is offered or received.

(e) A public officer shall not be allowed to disclose communications made to the officer in official confidence when the public interest would suffer by the disclosure.

(f) Persons of unsound mind and persons intoxicated at the time of their production for examination are not competent witnesses if they lack capacity to remember or to relate truthfully facts respecting which they are examined.

(g) A registered nurse, psychologist, consulting psychologist, or licensed social worker engaged in a psychological or social assessment or treatment of an individual at the individual's request shall not, without the consent of the professional's client, be allowed to disclose any information or opinion based thereon which the professional has acquired in attending the client in a professional capacity, and which was necessary to enable the professional to act in that capacity. Nothing in this clause exempts licensed social workers from compliance with the provisions of ~~sections 626.556 and~~ section 626.557 and chapter 260E.

(h) An interpreter for a person disabled in communication shall not, without the consent of the person, be allowed to disclose any communication if the communication would, if the interpreter were not present, be privileged. For purposes of this section, a "person disabled in communication" means a person who, because of a hearing, speech or other communication disorder, or because of the inability to speak or comprehend the English language, is unable to understand the proceedings in which the person is required to participate. The presence of an interpreter as an aid to communication does not destroy an otherwise existing privilege.

(i) Licensed chemical dependency counselors shall not disclose information or an opinion based on the information which they acquire from persons consulting them in their professional capacities, and which was necessary to enable them to act in that capacity, except that they may do so:

(1) when informed consent has been obtained in writing, except in those circumstances in which not to do so would violate the law or would result in clear and imminent danger to the client or others;

(2) when the communications reveal the contemplation or ongoing commission of a crime; or

(3) when the consulting person waives the privilege by bringing suit or filing charges against the licensed professional whom that person consulted.

(j) A parent or the parent's minor child may not be examined as to any communication made in confidence by the minor to the minor's parent. A communication is confidential if made out of the presence of persons not members of the child's immediate family living in the same household. This exception may be waived by express consent to disclosure by a parent entitled to claim the privilege or by the child who made the communication or by failure of the child or parent to object when the contents of a communication are demanded. This exception does not apply to a civil action or proceeding by one spouse against the other or by a parent or child against the other, nor to a proceeding to commit either the child or parent to whom the communication was made or to place the person or property or either under the control of another because of an alleged mental or physical condition, nor to a criminal action or proceeding in which the parent is charged with a crime committed against the person or property of the communicating child, the parent's spouse, or a child of either the parent or the parent's spouse, or in which a child is charged with a crime or

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act of delinquency committed against the person or property of a parent or a child of a parent, nor to an action or proceeding for termination of parental rights, nor any other action or proceeding on a petition alleging child abuse, child neglect, abandonment or nonsupport by a parent.

(k) Sexual assault counselors may not be allowed to disclose any opinion or information received from or about the victim without the consent of the victim. However, a counselor may be compelled to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause exists. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of ~~sections 626.556 and~~ section 626.557 and chapter 260E.

"Sexual assault counselor" for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or assistance to victims of sexual assault.

(l) A domestic abuse advocate may not be compelled to disclose any opinion or information received from or about the victim without the consent of the victim unless ordered by the court. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the relationship between the victim and domestic abuse advocate, and the services if disclosure occurs. Nothing in this paragraph exempts domestic abuse advocates from compliance with the provisions of ~~sections 626.556 and~~ section 626.557 and chapter 260E.

For the purposes of this section, "domestic abuse advocate" means an employee or supervised volunteer from a community-based battered women's shelter and domestic abuse program eligible to receive grants under section 611A.32; that provides information, advocacy, crisis intervention, emergency shelter, or support to victims of domestic abuse and who is not employed by or under the direct supervision of a law enforcement agency, a prosecutor's office, or by a city, county, or state agency.

(m) A person cannot be examined as to any communication or document, including work notes, made or used in the course of or because of mediation pursuant to an agreement to mediate or a collaborative law process pursuant to an agreement to participate in collaborative law. This does not apply to the parties in the dispute in an application to a court by a party to have a mediated settlement agreement or a stipulated agreement resulting from the collaborative law process set aside or reformed. A communication or document otherwise not privileged does not become privileged because of this paragraph. This paragraph is not intended to limit the privilege accorded to communication during mediation or collaborative law by the common law.

(n) A child under ten years of age is a competent witness unless the court finds that the child lacks the capacity to remember or to relate truthfully facts respecting which the child is examined. A child describing any act or event may use language appropriate for a child of that age.

(o) A communication assistant for a telecommunications relay system for persons who have communication disabilities shall not, without the consent of the person making the communication, be allowed to disclose communications made to the communication assistant for the purpose of relaying.

Sec. 136. Minnesota Statutes 2018, section 595.02, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** (a) The exception provided by paragraphs (d) and (g) of subdivision 1 shall not apply to any testimony, records, or other evidence relating to the abuse or neglect of a minor in any proceeding under chapter 260 or any proceeding under section 245A.08, to revoke a day care or foster care license,

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arising out of the neglect or physical or sexual abuse of a minor, as defined in section ~~626.556, subdivision 2~~ 260E.03.

(b) The exception provided by paragraphs (d) and (g) of subdivision 1 shall not apply to criminal proceedings arising out of the neglect or physical or sexual abuse of a minor, as defined in section ~~626.556, subdivision 2~~ 260E.03, if the court finds that:

(1) there is a reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution; and

(2) there is no other practicable way of obtaining the information or evidence. This clause shall not be construed to prohibit disclosure of the patient record when it supports the otherwise uncorroborated statements of any material fact by a minor alleged to have been abused or neglected by the patient; and

(3) the actual or potential injury to the patient-health professional relationship in the treatment program affected, and the actual or potential harm to the ability of the program to attract and retain patients, is outweighed by the public interest in authorizing the disclosure sought.

No records may be disclosed under this paragraph other than the records of the specific patient suspected of the neglect or abuse of a minor. Disclosure and dissemination of any information from a patient record shall be limited under the terms of the order to assure that no information will be disclosed unnecessarily and that dissemination will be no wider than necessary for purposes of the investigation or prosecution.

Sec. 137. Minnesota Statutes 2018, section 609.26, subdivision 7, is amended to read:

Subd. 7. **Reporting of deprivation of parental rights.** Any violation of this section shall be reported pursuant to section ~~626.556, subdivision 3a~~ 260E.11, subdivision 2.

Sec. 138. Minnesota Statutes 2018, section 609.3457, subdivision 2, is amended to read:

Subd. 2. **Access to data.** Notwithstanding sections 13.384, 13.85, 144.291 to 144.298, 260B.171, or 260C.171, or ~~626.556~~ chapter 260E, the assessor has access to the following private or confidential data on the person if access is relevant and necessary for the assessment:

(1) medical data under section 13.384;

(2) corrections and detention data under section 13.85;

(3) health records under sections 144.291 to 144.298;

(4) juvenile court records under sections 260B.171 and 260C.171; and

(5) local welfare agency records under ~~section 626.556~~ chapter 260E.

Data disclosed under this section may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

Sec. 139. Minnesota Statutes 2018, section 609.379, subdivision 2, is amended to read:

Subd. 2. **Applicability.** This section applies to sections 260B.425, 260C.425, 609.255, 609.376, and 609.378~~, and 626.556~~ and chapter 260E.

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Sec. 140. Minnesota Statutes 2018, section 609.507, is amended to read:

609.507 FALSELY REPORTING CHILD ABUSE.

A person is guilty of a misdemeanor who:

(1) informs another person that a person has committed sexual abuse, physical abuse, or neglect of a child, as defined in section ~~626.556, subdivision 2~~ 260E.03;

(2) knows that the allegation is false or is without reason to believe that the alleged abuser committed the abuse or neglect; and

(3) has the intent that the information influence a child custody hearing.

Sec. 141. Minnesota Statutes 2018, section 609.7495, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them.

(a) "Facility" means any of the following:

(1) a hospital or other health institution licensed under sections 144.50 to 144.56;

(2) a medical facility as defined in section 144.561;

(3) an agency, clinic, or office operated under the direction of or under contract with the commissioner of health or a community health board, as defined in section 145A.02;

(4) a facility providing counseling regarding options for medical services or recovery from an addiction;

(5) a facility providing emergency shelter services for battered women, as defined in section 611A.31, subdivision 3, or a facility providing transitional housing for battered women and their children;

(6) a facility as defined in section ~~626.556, subdivision 2, paragraph (c)~~ 260E.03, subdivision 6;

(7) a facility as defined in section 626.5572, subdivision 6, where the services described in that paragraph are provided;

(8) a place to or from which ambulance service, as defined in section 144E.001, is provided or sought to be provided; and

(9) a hospice provider licensed under section 144A.753.

(b) "Aggrieved party" means a person whose access to or egress from a facility is obstructed in violation of subdivision 2, or the facility.

Sec. 142. Minnesota Statutes 2018, section 611A.203, subdivision 4, is amended to read:

Subd. 4. **Duties; access to data.** (a) The domestic fatality review team shall collect, review, and analyze death certificates and death data, including investigative reports, medical and counseling records, victim service records, employment records, child abuse reports, or other information concerning domestic violence deaths, survivor interviews and surveys, and other information deemed by the team as necessary and appropriate concerning the causes and manner of domestic violence deaths.

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(b) The review team has access to the following not public data, as defined in section 13.02, subdivision 8a, relating to a case being reviewed by the team: inactive law enforcement investigative data under section 13.82; autopsy records and coroner or medical examiner investigative data under section 13.83; hospital, public health, or other medical records of the victim under section 13.384; records under section 13.46, created by social service agencies that provided services to the victim, the alleged perpetrator, or another victim who experienced or was threatened with domestic abuse by the perpetrator; and child maltreatment records under ~~section 626.556~~ chapter 260E, relating to the victim or a family or household member of the victim. Access to medical records under this paragraph also includes records governed by sections 144.291 to 144.298. The review team has access to corrections and detention data as provided in section 13.85.

(c) As part of any review, the domestic fatality review team may compel the production of other records by applying to the district court for a subpoena, which will be effective throughout the state according to the Rules of Civil Procedure.

Sec. 143. Minnesota Statutes 2018, section 611A.90, subdivision 1, is amended to read:

Subdivision 1. **Definition.** For purposes of this section, "physical abuse" and "sexual abuse" have the meanings given in section ~~626.556, subdivision 2~~ 260E.03, except that abuse is not limited to acts by a person responsible for the child's care or in a significant relationship with the child or position of authority.

Sec. 144. Minnesota Statutes 2018, section 626.557, subdivision 9d, is amended to read:

Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under paragraph (e), any individual or facility which a lead investigative agency determines has maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf of the vulnerable adult, regardless of the lead investigative agency's determination, who contests the lead investigative agency's final disposition of an allegation of maltreatment, may request the lead investigative agency to reconsider its final disposition. The request for reconsideration must be submitted in writing to the lead investigative agency within 15 calendar days after receipt of notice of final disposition or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the request for reconsideration must be postmarked and sent to the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. If the request for reconsideration is made by personal service, it must be received by the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. An individual who was determined to have maltreated a vulnerable adult under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted in writing within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the lead investigative agency within 30 calendar days of the individual's receipt of the notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the lead investigative agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the lead investigative agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute. The vulnerable adult, or an interested person acting

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on behalf of the vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel under section 256.021 if the lead investigative agency denies the request or fails to act upon the request, or if the vulnerable adult or interested person contests a reconsidered disposition. The lead investigative agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the lead investigative agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered disposition. The request must specifically identify the aspects of the lead investigative agency determination with which the person is dissatisfied.

(c) If, as a result of a reconsideration or review, the lead investigative agency changes the final disposition, it shall notify the parties specified in subdivision 9c, paragraph (f).

(d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable adult" means a person designated in writing by the vulnerable adult to act on behalf of the vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy or health care agent appointed under chapter 145B or 145C, or an individual who is related to the vulnerable adult, as defined in section 245A.02, subdivision 13.

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

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

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

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

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

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections ~~626.556, subdivision 10i,~~ 260E.33 and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In

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such cases, a fair hearing shall also be conducted as provided under sections 245C.27, ~~626.556, subdivision 10i~~ 260E.33, and 626.557, subdivision 9d.

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

(g) Until August 1, 2002, an individual or facility that was determined by the commissioner of human services or the commissioner of health to be responsible for neglect under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001, that believes that the finding of neglect does not meet an amended definition of neglect may request a reconsideration of the determination of neglect. The commissioner of human services or the commissioner of health shall mail a notice to the last known address of individuals who are eligible to seek this reconsideration. The request for reconsideration must state how the established findings no longer meet the elements of the definition of neglect. The commissioner shall review the request for reconsideration and make a determination within 15 calendar days. The commissioner's decision on this reconsideration is the final agency action.

(1) For purposes of compliance with the data destruction schedule under subdivision 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, the date of the original finding of a substantiated maltreatment must be used to calculate the destruction date.

(2) For purposes of any background studies under chapter 245C, when a determination of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, any prior disqualification of the individual under chapter 245C that was based on this determination of maltreatment shall be rescinded, and for future background studies under chapter 245C the commissioner must not use the previous determination of substantiated maltreatment as a basis for disqualification or as a basis for referring the individual's maltreatment history to a health-related licensing board under section 245C.31.

Sec. 145. **REVISOR INSTRUCTION.**

The revisor of statutes shall correct any cross-references made necessary as a result of this act and shall make any grammatical changes necessary to preserve the meaning of the text.

Presented to the governor June 16, 2020

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