

H. F. No. **2610**

2.1 coding for new law as Minnesota Statutes, chapter 626B; repealing Minnesota
2.2 Statutes 2016, section 626.556.

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

2.4 **ARTICLE 1**

2.5 **RECODIFICATION**

2.6 Section 1. **[626B.01] POLICY.**

2.7 (a) The legislature hereby declares that the public policy of this state is to protect children
2.8 whose health or welfare may be jeopardized through maltreatment. While it is recognized
2.9 that most parents want to keep their children safe, sometimes circumstances or conditions
2.10 interfere with their ability to do so. When this occurs, the health and safety of the children
2.11 must be of paramount concern. Intervention and prevention efforts must address immediate
2.12 concerns for child safety and the ongoing risk of maltreatment and should engage the
2.13 protective capacities of families. In furtherance of this public policy, it is the intent of the
2.14 legislature under this section to:

2.15 (1) protect children and promote child safety;

2.16 (2) strengthen the family;

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

2.19 (4) provide, when necessary, a safe temporary or permanent home environment for
2.20 maltreated children.

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

2.22 (1) require the reporting of maltreatment of children in the home, school, and community
2.23 settings;

2.24 (2) provide for the voluntary reporting of maltreatment of children;

2.25 (3) require an investigation when the report alleges sexual abuse or substantial child
2.26 endangerment;

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

2.29 (5) provide protective, family support, and family preservation services when needed
2.30 in appropriate cases.

3.1 Sec. 2. **[626B.02] DEFINITIONS.**

3.2 Subdivision 1. **Scope.** As used in this chapter, the following terms have the meanings
3.3 given them unless the specific content indicates otherwise.

3.4 Subd. 2. **Accidental.** "Accidental" means a sudden, not reasonably foreseeable, and
3.5 unexpected occurrence or event which:

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

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

3.10 Subd. 3. **Child fatality.** "Child fatality" means the death of a child from maltreatment.

3.11 Subd. 4. **Commissioner.** "Commissioner" means the commissioner of human services.

3.12 Subd. 5. **Facility.** "Facility" means:

3.13 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
3.14 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
3.15 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245D;

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

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

3.20 Subd. 6. **Family assessment.** "Family assessment" means a comprehensive assessment
3.21 of child safety, risk of subsequent child maltreatment, and family strengths and needs that
3.22 is applied to a child maltreatment report that does not allege sexual abuse or substantial
3.23 child endangerment. Family assessment does not include a determination as to whether
3.24 child maltreatment occurred but does determine the need for services to address the safety
3.25 of family members and the risk of subsequent maltreatment.

3.26 Subd. 7. **Findings and information.** "Findings and information" means a written
3.27 summary described in section 626B.14, subdivision 5, paragraph (b), of actions taken or
3.28 services rendered by a local social services agency following receipt of a report.

3.29 Subd. 8. **Immediately.** "Immediately" means as soon as possible but in no event longer
3.30 than 24 hours.

4.1 Subd. 9. **Interested person acting on behalf of the child.** "Interested person acting on
4.2 behalf of the child" means a parent or legal guardian; stepparent; grandparent; guardian ad
4.3 litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has
4.4 been determined to be the offender who committed the maltreatment.

4.5 Subd. 10. **Investigation.** "Investigation" means fact gathering related to the current
4.6 safety of a child and the risk of subsequent maltreatment that determines whether child
4.7 maltreatment occurred and whether child protective services are needed. An investigation
4.8 must be used when reports involve sexual abuse or substantial child endangerment, and for
4.9 reports of maltreatment in facilities required to be licensed under chapter 245A or 245D;
4.10 under sections 144.50 to 144.58 and 241.021; in a school as defined in section 120A.05,
4.11 subdivisions 9, 11, and 13, and chapter 124E; or in a nonlicensed personal care provider
4.12 association as defined in section 256B.0625, subdivision 19a.

4.13 Subd. 11. **Maltreatment.** "Maltreatment" means any of the following acts or omissions:

4.14 (1) physical abuse as defined in section 626B.02, subdivision 16;

4.15 (2) neglect as defined in section 626B.02, subdivision 14;

4.16 (3) sexual abuse as defined in section 626B.02, subdivision 18;

4.17 (4) mental injury as defined in section 626B.02, subdivision 12; or

4.18 (5) maltreatment of a child in a facility as defined in section 626B.02, subdivision 5.

4.19 Subd. 12. **Mental injury.** "Mental injury" means an injury to the psychological capacity
4.20 or emotional stability of a child as evidenced by an observable or substantial impairment
4.21 in the child's ability to function within a normal range of performance and behavior with
4.22 due regard to the child's culture.

4.23 Subd. 13. **Near fatality.** "Near fatality" means a case in which a physician determines
4.24 that a child is in serious or critical condition as the result of sickness or injury caused by
4.25 child maltreatment.

4.26 Subd. 14. **Neglect.** (a) "Neglect" means the commission or omission of any of the acts
4.27 specified under clauses (1) to (8), other than by accidental means:

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

4.31 (2) failure to protect a child from conditions or actions that seriously endanger the child's
4.32 physical or mental health when reasonably able to do so, including a growth delay, which

5.1 may be referred to as a failure to thrive, that has been diagnosed by a physician and is due
5.2 to parental neglect;

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

5.7 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
5.8 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
5.9 child with sympathomimetic medications, consistent with section 125A.091, subdivision
5.10 5;

5.11 (5) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision
5.12 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in
5.13 the child at birth, results of a toxicology test performed on the mother at delivery or the
5.14 child at birth, medical effects or developmental delays during the child's first year of life
5.15 that medically indicate prenatal exposure to a controlled substance, or the presence of a
5.16 fetal alcohol spectrum disorder;

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

5.18 (7) chronic and severe use of alcohol or a controlled substance by a parent or person
5.19 responsible for the care of the child that adversely affects the child's basic needs and safety;
5.20 or

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

5.25 (b) Nothing in this section shall be construed to mean that a child is neglected solely
5.26 because the child's parent, guardian, or other person responsible for the child's care in good
5.27 faith selects and depends upon spiritual means or prayer for treatment or care of disease or
5.28 remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker,
5.29 or a person mandated to report pursuant to section 626B.03, subdivision 1, has a duty to
5.30 report if a lack of medical care may cause serious danger to the child's health. This section
5.31 does not impose upon persons, not otherwise legally responsible for providing a child with
5.32 necessary food, clothing, shelter, education, or medical care, a duty to provide that care.

6.1 Subd. 15. **Person responsible for the child's care.** "Person responsible for the child's
6.2 care" means (1) an individual functioning within the family unit and having responsibilities
6.3 for the care of the child such as a parent, guardian, or other person having similar care
6.4 responsibilities, or (2) an individual functioning outside the family unit and having
6.5 responsibilities for the care of the child such as a teacher, school administrator, other school
6.6 employees or agents, or other lawful custodian of a child having either full-time or short-term
6.7 care responsibilities including, but not limited to, day care, babysitting whether paid or
6.8 unpaid, counseling, teaching, and coaching.

6.9 Subd. 16. **Physical abuse.** (a) "Physical abuse" means any physical injury, mental injury,
6.10 or threatened injury, inflicted by a person responsible for the child's care on a child other
6.11 than by accidental means, or any physical or mental injury that cannot reasonably be
6.12 explained by the child's history of injuries, or any aversive or deprivation procedures, or
6.13 regulated interventions, that have not been authorized under section 125A.0942 or 245.825.

6.14 (b) Abuse does not include reasonable and moderate physical discipline of a child
6.15 administered by a parent or legal guardian which does not result in an injury. Abuse does
6.16 not include the use of reasonable force by a teacher, principal, or school employee as allowed
6.17 by section 121A.582.

6.18 (c) For the purpose of this subdivision, actions which are not reasonable and moderate
6.19 include, but are not limited to, any of the following:

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

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

6.22 (3) shaking a child under age three;

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

6.25 (5) unreasonable interference with a child's breathing;

6.26 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;

6.27 (7) striking a child under age one on the face or head;

6.28 (8) striking a child who is at least age one but under age four on the face or head, which
6.29 results in an injury;

6.30 (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
6.31 substances which were not prescribed for the child by a practitioner, in order to control or
6.32 punish the child; or other substances that substantially affect the child's behavior, motor

coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;

(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. 17. **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 neglect or abuse, if known.

Subd. 18. **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, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of 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), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act involving a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Effective May 29, 2017, 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 which 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. 19. **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 as defined in section 260C.007, subdivision 14;

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

(3) neglect as defined in subdivision 14, 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;

(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 which mandates that the county attorney file a termination of parental rights petition under section 260C.503, subdivision 2.

Subd. 20. **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 15, who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, 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 responsible social services agency receives birth match data under section 626B.14, subdivision 6, from the Department of Human Services.

Sec. 3. **[626B.03] REPORTERS.**

Subdivision 1. **Mandatory reporters.** (a) A person who knows or has reason to believe a child is being maltreated, as defined in section 626B.02, 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 neglected or subjected to physical or sexual abuse.

Subd. 3. **Retaliation prohibited.** (a) An employer of any person required to make reports under subdivision 1 shall not retaliate against the person for reporting in good faith maltreatment pursuant to this section, 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 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 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 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;

(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. 4. **[626B.04] REPORTS.**

Subdivision 1. **Reports by mandated reporters.** (a) A person mandated to report child maltreatment occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245D; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19.

(b) A person mandated to report under section 626B.03, 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.

(c) When a person required to report under the provisions of subdivision 3 knows or has reason to believe a child has died as a result of maltreatment, the person shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department, or county sheriff. The medical examiner or coroner shall notify the local welfare agency or 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. If the child was receiving services or treatment for mental illness, developmentally disabled, 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.

11.1 Subd. 2. **Report requirements.** (a) An oral report shall be made immediately by
11.2 telephone or otherwise. An oral report made by a person required under section 626B.03,
11.3 subdivision 1, to report shall be followed within 72 hours, exclusive of weekends and
11.4 holidays, by a report in writing to the appropriate police department, the county sheriff, the
11.5 agency responsible for assessing or investigating the report, or the local welfare agency.

11.6 (b) Any report shall be of sufficient content to identify the child, any person believed
11.7 to be responsible for the maltreatment of the child if the person is known, the nature and
11.8 extent of the maltreatment and the name and address of the reporter. The local welfare
11.9 agency or agency responsible for assessing or investigating the report shall accept a report
11.10 made under section 626B.03 notwithstanding refusal by a reporter to provide the reporter's
11.11 name or address as long as the report is otherwise sufficient under this paragraph.

11.12 Subd. 3. **Failure to report.** (a) A person mandated by this section to report who knows
11.13 or has reason to believe that a child is maltreated, as defined in section 626B.02, or has been
11.14 maltreated within the preceding three years, and fails to report is guilty of a misdemeanor.

11.15 (b) A person mandated by this section to report who knows or has reason to believe that
11.16 two or more children not related to the offender have been maltreated, as defined in section
11.17 626B.02, by the same offender within the preceding ten years, and fails to report is guilty
11.18 of a gross misdemeanor.

11.19 (c) A parent, guardian, or caretaker who knows or reasonably should know that the
11.20 child's health is in serious danger and who fails to report as required by section 626B.02,
11.21 subdivision 14, is guilty of a gross misdemeanor if the child suffers substantial or great
11.22 bodily harm because of the lack of medical care. If the child dies because of the lack of
11.23 medical care, the person is guilty of a felony and may be sentenced to imprisonment for not
11.24 more than two years or to payment of a fine of not more than \$4,000, or both. The provision
11.25 in section 609.378, subdivision 1, paragraph (a), clause (1), providing that a parent, guardian,
11.26 or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment
11.27 or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report
11.28 under this subdivision.

11.29 Subd. 4. **False reports.** Any person who knowingly or recklessly makes a false report
11.30 under the provisions of this chapter shall be liable in a civil suit for any actual damages
11.31 suffered by the person or persons so reported and for any punitive damages set by the court
11.32 or jury, plus costs and reasonable attorney fees.

11.33 Subd. 5. **Notification requirements.** Notification requirements under section 626B.05
11.34 apply to all reports received under this section.

Sec. 5. **[626B.05] ACTIONS UPON RECEIPT OF 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. When the alleged maltreatment occurred on tribal land, the local welfare agency or agency responsible for child protection reports and the local police department or the county sheriff shall immediately notify the tribe's social services agency and tribal law enforcement orally and in writing when a report is received.

(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 abused or neglected minor.

Subd. 2. Local welfare agency or agency responsible. (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) If the report alleges neglect, physical abuse, or sexual abuse 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 626B.02, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged maltreatment if a violation of a criminal statute is alleged.

(d) Receipt by a local welfare agency of a report or notification of a report of a violation of section 609.25 or 609.26 shall not be construed to invoke the duties of this subdivision.

Subd. 3. Report to ombudsman. When a local 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, it shall, in addition to its other duties under this section, 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 defined as a client in section 245.91 that maltreatment occurred at a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

Subd. 4. Request for assistance. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to this section and sections 626B.07 and 626B.09. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of education.

Subd. 5. Penalties for failure to notify. (a) If a local welfare agency receives a report under section 626B.03, subdivision 1 or 2, 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 626B.03, subdivision 1 or 2, and fails to notify the local welfare agency as required by subdivision 2, 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. 6. [626B.06] AGENCY RESPONSIBLE FOR ASSESSMENT OR INVESTIGATION.

(a) The county local welfare agency is the agency responsible for assessing or investigating an allegation of maltreatment in child foster care, family child care, legally unlicensed child care, a juvenile correctional facility licensed under section 241.021 located in the local welfare agency's county, and a report involving a child served by an unlicensed personal care provider organization under section 256B.0659. A copy of findings related

14.1 to personal care provider organizations under section 256B.0659 must be forwarded to the
14.2 Department of Human Services provider enrollment.

14.3 (b) The Department of Human Services is the agency responsible for assessing or
14.4 investigating an allegation of maltreatment in a facility licensed under chapters 245A and
14.5 245D, except for child foster care and family child care.

14.6 (c) The Department of Health is the agency responsible for assessing or investigating
14.7 an allegation of child maltreatment in a facility licensed under sections 144.50 to 144.58
14.8 and 144A.43 to 144A.482.

14.9 (d) The Department of Education is the agency responsible for assessing or investigating
14.10 an allegation of child maltreatment in a school as defined in section 120A.05, subdivisions
14.11 9, 11, and 13; and chapter 124E.

14.12 (e) The local welfare agency is the agency responsible for investigating an allegation of
14.13 sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual
14.14 functioning within the family unit as a person responsible for the child's care, or a person
14.15 with a significant relationship to the child if that person resides in the child's household.
14.16 Effective May 29, 2017, the local welfare agency is also responsible for investigating when
14.17 a child is identified as a victim of sex trafficking.

14.18 (f) The local law enforcement agency is the agency responsible for investigating a report
14.19 of child maltreatment if a violation of a criminal statute is alleged. Law enforcement and
14.20 the responsible agency must coordinate their investigations or assessments as required under
14.21 sections 626B.07 and 626B.09, subdivision 4.

14.22 **Sec. 7. [626B.07] SCREENING.**

14.23 Subdivision 1. **Screening procedure.** (a) Upon receipt of a report, the local welfare
14.24 agency shall determine whether to conduct a family assessment or an investigation as
14.25 appropriate to prevent or provide a remedy for child maltreatment.

14.26 (b) The local welfare agency:

14.27 (1) shall conduct an investigation on reports involving sexual abuse or substantial child
14.28 endangerment;

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

15.1 (3) may conduct a family assessment for reports that do not allege sexual abuse or
15.2 substantial child endangerment. In determining that a family assessment is appropriate, the
15.3 local welfare agency may consider issues of child safety, parental cooperation, and the need
15.4 for an immediate response;

15.5 (4) may conduct a family assessment on a report that was initially screened and assigned
15.6 for an investigation. In determining that a complete investigation is not required, the local
15.7 welfare agency must document the reason for terminating the investigation and notify the
15.8 local law enforcement agency if the local law enforcement agency is conducting a joint
15.9 investigation; and

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

15.14 (c) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian,
15.15 or individual functioning within the family unit as a person responsible for the child's care,
15.16 or sexual abuse by a person with a significant relationship to the child when that person
15.17 resides in the child's household or by a sibling, the local welfare agency shall immediately
15.18 conduct a family assessment or investigation as identified in paragraph (b), clauses (1) to
15.19 (4). In conducting a family assessment or investigation, the local welfare agency shall gather
15.20 information on the existence of substance abuse and domestic violence and offer services
15.21 to prevent future child maltreatment, safeguarding and enhancing the welfare of the abused
15.22 or neglected minor, and supporting and preserving family life whenever possible.

15.23 (d) If the report alleges a violation of a criminal statute involving sexual abuse, physical
15.24 abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency
15.25 and local welfare agency shall coordinate the planning and execution of their respective
15.26 investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple
15.27 interviews. Each agency shall prepare a separate report of the results of the agency's
15.28 investigation or assessment. In cases of alleged child maltreatment resulting in death, the
15.29 local agency may rely on the fact-finding efforts of a law enforcement investigation to make
15.30 a determination of whether or not maltreatment occurred. When necessary, the local welfare
15.31 agency shall seek authority to remove the child from the custody of a parent, guardian, or
15.32 adult with whom the child is living. In performing any of these duties, the local welfare
15.33 agency shall maintain an appropriate record.

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

16.5 (f) Child protection staff, supervisors, and others involved in child protection screening
16.6 shall follow the guidance provided in the child maltreatment screening guidelines issued
16.7 by the commissioner and, when notified by the commissioner, shall immediately implement
16.8 updated procedures and protocols.

16.9 (g) Any modification to the screening guidelines must be preapproved by the
16.10 commissioner and must not be less protective of children than is mandated by statute. The
16.11 county agency must consult with the county attorney before proposing modifications to the
16.12 commissioner. The guidelines may provide additional protection for children but must not
16.13 limit reports that are screened in or provide additional limits on consideration of reports
16.14 that were screened out in making a screening determination.

16.15 Subd. 2. **Timeline.** The local welfare agency shall determine if the report is to be screened
16.16 in or out as soon as possible but in no event longer than 24 hours after the report is received.
16.17 When determining whether a report will be screened in or out, the agency receiving the
16.18 report must consider, when relevant, all previous history, including reports that were screened
16.19 out. The agency may communicate with treating professionals and individuals specified
16.20 under section 626B.09, subdivision 4, paragraph (d), clause (3), item (iii).

16.21 Subd. 3. **Face-to-face contact.** After a report is screened in, the local welfare agency
16.22 shall conduct a face-to-face contact with the child reported to be maltreated and with the
16.23 child's primary caregiver sufficient to complete a safety assessment and ensure the immediate
16.24 safety of the child. The face-to-face contact with the child and primary caregiver shall occur
16.25 immediately if sexual abuse or substantial child endangerment is alleged and within five
16.26 calendar days for all other reports. If the alleged offender was not already interviewed as
16.27 the primary caregiver, the local welfare agency shall also conduct a face-to-face interview
16.28 with the alleged offender in the early stages of the assessment or investigation. At the initial
16.29 contact, the local child welfare agency or the agency responsible for assessing or investigating
16.30 the report must inform the alleged offender of the complaints or allegations made against
16.31 the individual in a manner consistent with laws protecting the rights of the person who made
16.32 the report. The interview with the alleged offender may be postponed if it would jeopardize
16.33 an active law enforcement investigation.

Subd. 4. **Post-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 section, the agency shall advise the reporter the report was screened out.

Sec. 8. **[626B.08] SCREENED-OUT REPORTS.**

Subdivision 1. **Records.** A report that is screened out must be maintained according to section 626B.14, subdivision 4, 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. 9. **[626B.09] CONDUCTING ASSESSMENT OR INVESTIGATION.**

Subdivision 1. **Immediate assessment or investigation for alleged maltreatment in a facility.** (a) The commissioner of human services, health, or education, whichever is responsible for assessing or investigating the report, shall immediately assess or investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in section 626B.02 is neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in that facility, or has been neglected or abused, or 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 was neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in a facility defined in section 626B.02, while in the care of that facility within the three years preceding the report.

(b) The commissioner of the agency responsible for assessing or 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. In conducting an investigation under this section, the commissioner has the powers and duties specified for a local welfare agency under this section. The commissioner of the agency responsible for assessing or 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.

18.1 Subd. 2. **Consultation regarding alleged medical neglect.** If the report alleges medical
18.2 neglect as defined in section 260C.007, subdivision 6, clause (5), the local welfare agency
18.3 shall, in addition to its other duties under this section, immediately consult with designated
18.4 hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration,
18.5 and medication are being provided; and shall immediately secure an independent medical
18.6 review of the infant's medical charts and records and, if necessary, seek a court order for
18.7 an independent medical examination of the infant. If the review or examination leads to a
18.8 conclusion of medical neglect, the agency shall intervene on behalf of the infant by initiating
18.9 legal proceedings under section 260C.141 and by filing an expedited motion to prevent the
18.10 withholding of medically indicated treatment.

18.11 Subd. 3. **Facility records.** The commissioner of human services, the ombudsman for
18.12 mental health and developmental disabilities, the local welfare agencies responsible for
18.13 investigating reports, the commissioner of education, and the local law enforcement agencies
18.14 have the right to enter a facility as defined in section 626B.02 and to inspect and copy the
18.15 facility's records, including medical records, as part of the investigation. Notwithstanding
18.16 the provisions of chapter 13, the commissioner of human services, the ombudsman for
18.17 mental health and developmental disabilities, the local welfare agencies responsible for
18.18 investigating reports, the commissioner of education, and the local law enforcement agencies
18.19 also have the right to inform the facility under investigation that an investigation is being
18.20 conducted, to disclose to the facility the names of the individuals under investigation for
18.21 abusing or neglecting a child, and to provide the facility with a copy of the report and the
18.22 investigative findings.

18.23 Subd. 4. **Collection of information.** (a) The local welfare agency responsible for
18.24 conducting a family assessment or investigation shall collect available and relevant
18.25 information to determine child safety, risk of subsequent child maltreatment, and family
18.26 strengths and needs and share not public information with an Indian's tribal social services
18.27 agency without violating any law of the state that may otherwise impose a duty of
18.28 confidentiality on the local welfare agency in order to implement the tribal state agreement.

18.29 (b) The local welfare agency or the agency responsible for investigating the report shall
18.30 collect available and relevant information to ascertain whether maltreatment occurred and
18.31 whether protective services are needed.

18.32 (c) Information collected includes, when relevant, information with regard to the person
18.33 reporting the alleged maltreatment, including the nature of the reporter's relationship to the
18.34 child and to the alleged offender, and the basis of the reporter's knowledge for the report;

19.1 the child allegedly being maltreated; the alleged offender; the child's caretaker; and other
19.2 collateral sources having relevant information related to the alleged maltreatment.

19.3 (d) Information relevant to the assessment or investigation must be asked for, and may
19.4 include:

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

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

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

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

19.25 (e) Nothing in this subdivision precludes the local welfare agency, the local law
19.26 enforcement agency, or the agency responsible for assessing or investigating the report from
19.27 collecting other relevant information necessary to conduct the assessment or investigation.
19.28 Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access
19.29 to medical data and records for purposes of paragraph (d), clause (3). Notwithstanding the
19.30 data's classification in the possession of any other agency, data acquired by the local welfare
19.31 agency or the agency responsible for assessing or investigating the report during the course
19.32 of the assessment or investigation are private data on individuals and must be maintained
19.33 according to section 626B.14. Data of the commissioner of education collected or maintained
19.34 during and for the purpose of an investigation of alleged maltreatment in a school are

20.1 governed by this section, notwithstanding the data's classification as educational, licensing,
20.2 or personnel data under chapter 13.

20.3 (f) In conducting an assessment or investigation involving a school facility as defined
20.4 in section 626B.02, subdivision 5, clause (2), the commissioner of education shall collect
20.5 investigative reports and data that are relevant to a report of maltreatment and are from local
20.6 law enforcement and the school facility.

20.7 Subd. 5. **Law enforcement fact finding.** The local agency may rely on the fact-finding
20.8 efforts of the law enforcement investigation conducted under this section to make a
20.9 determination whether or not threatened injury or other maltreatment has occurred under
20.10 section 626B.02, if an alleged offender has minor children or lives with minors.

20.11 Subd. 6. **Access to information.** (a) In conducting investigations under this subdivision
20.12 the commissioner or local welfare agency shall obtain access to information consistent with
20.13 subdivisions 4 and 5 and section 626B.07, subdivision 3. In conducting assessments or
20.14 investigations under this section, the commissioner of education shall obtain access to reports
20.15 and investigative data that are relevant to a report of maltreatment and are in the possession
20.16 of a school facility as defined in section 626B.02, subdivision 5, clause (2), notwithstanding
20.17 the classification of the data as educational or personnel data under chapter 13. This includes,
20.18 but is not limited to, school investigative reports, information concerning the conduct of
20.19 school personnel alleged to have committed maltreatment of students, information about
20.20 witnesses, and any protective or corrective action taken by the school facility regarding the
20.21 school personnel alleged to have committed maltreatment.

20.22 (b) The commissioner may request assistance from the local social services agency.

20.23 Subd. 7. **Conflict of interest.** (a) A potential conflict of interest related to assisting in
20.24 an assessment under this section resulting in a direct or shared financial interest with a child
20.25 abuse and neglect treatment provider or resulting from a personal or family relationship
20.26 with a party in the investigation must be considered by the local welfare agency in an effort
20.27 to prevent unethical relationships.

20.28 (b) A person who conducts an assessment under this section or section 626.5561 may
20.29 not have:

20.30 (1) any direct or shared financial interest or referral relationship resulting in a direct
20.31 shared financial gain with a child abuse and neglect treatment provider; or

20.32 (2) a personal or family relationship with a party in the investigation.

21.1 (c) If an independent assessor is not available, the person responsible for making the
21.2 determination under this section may use the services of an assessor with a financial interest,
21.3 referral, or personal or family relationship.

21.4 Subd. 8. **Cultural practices.** A person who conducts an assessment or investigation
21.5 under this section shall take into account accepted child-rearing practices of the culture in
21.6 which a child participates and accepted teacher discipline practices that are not injurious to
21.7 the child's health, welfare, and safety.

21.8 Subd. 9. **Assessment or investigation involving school facility.** In conducting an
21.9 assessment or investigation involving a school facility as defined in section 626B.02,
21.10 subdivision 5, clause (2), the commissioner of education shall collect available and relevant
21.11 information and use the procedures in sections 626B.07, subdivision 3, and 626B.10,
21.12 subdivisions 2 and 3, except that the requirement for face-to-face observation of the child
21.13 and face-to-face interview of the alleged offender is to occur in the initial stages of the
21.14 assessment or investigation provided that the commissioner may also base the assessment
21.15 or investigation on investigative reports and data received from the school facility and local
21.16 law enforcement, to the extent those investigations satisfy the requirements of sections
21.17 626B.07, subdivision 3, and 626B.10, subdivisions 2 and 3.

21.18 Subd. 10. **Notification requirements for school facility.** (a) Notwithstanding section
21.19 626B.04, subdivision 2, paragraph (a), the commissioner of education must inform the
21.20 parent, guardian, or legal custodian of the child who is the subject of a report of alleged
21.21 maltreatment in a school facility within ten days of receiving the report, either orally or in
21.22 writing, whether the commissioner is assessing or investigating the report of alleged
21.23 maltreatment.

21.24 (b) Regardless of whether a report is made under this subdivision, as soon as practicable
21.25 after a school receives information regarding an incident that may constitute maltreatment
21.26 of a child in a school facility, the school shall inform the parent, legal guardian, or custodian
21.27 of the child that an incident occurred that may constitute maltreatment of the child, when
21.28 the incident occurred, and the nature of the conduct that may constitute maltreatment.

21.29 Subd. 11. **Notification requirements for other types of facilities.** When a report is
21.30 received that alleges maltreatment of a child while in the care of a licensed or unlicensed
21.31 day care facility, residential facility, agency, hospital, sanitarium, or other facility or
21.32 institution required to be licensed according to sections 144.50 to 144.58; 241.021; or
21.33 245A.01 to 245A.16; or chapter 245D, or a school as defined in section 120A.05, subdivisions
21.34 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 assessing or 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 neglected, physically abused, sexually abused, or the victim of maltreatment of a child in the facility: the name of the facility; the fact that a report alleging maltreatment of a child in the facility has been received; the nature of the alleged maltreatment of a child in the facility; that the agency is conducting an assessment or 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.

Subd. 12. **Optional notification.** The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may also provide the information in paragraph (a) 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 assessing or 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. 10. **[626B.10] INTERVIEWS.**

Subdivision 1. **Preinterview notification.** Before any interview related to maltreatment in a facility, the commissioner of the agency responsible for assessing or 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 626B.09, subdivision 11. 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 626B.11, subdivision 7.

23.1 Subd. 2. **Authority to interview.** (a) The agency responsible for assessing or investigating
23.2 reports of child maltreatment has the authority to interview the child, the person or persons
23.3 responsible for the child's care, the alleged offender, and any other person with knowledge
23.4 of the maltreatment for the purpose of gathering the facts, assessing safety and risk to the
23.5 child, and formulating a plan.

23.6 (b) Authority of the local welfare agency responsible for assessing or investigating the
23.7 child maltreatment report, the agency responsible for assessing or investigating the report,
23.8 and of the local law enforcement agency responsible for investigating the alleged
23.9 maltreatment includes, but is not limited to, authority to interview, without parental consent,
23.10 the alleged victim and any other minors who currently reside with or who have resided with
23.11 the alleged offender.

23.12 Subd. 3. **Interview procedure.** (a) The interview may take place at school or at any
23.13 facility or other place where the alleged victim or other minors might be found or the child
23.14 may be transported to, and the interview may be conducted at a place appropriate for the
23.15 interview of a child designated by the local welfare agency or law enforcement agency.

23.16 (b) The interview may take place outside the presence of the alleged offender or parent,
23.17 legal custodian, guardian, or school official.

23.18 (c) For a family assessment, it is the preferred practice to request a parent or guardian's
23.19 permission to interview the child before conducting the child interview, unless doing so
23.20 would compromise the safety assessment.

23.21 (d) Except as provided in this subdivision, the parent, legal custodian, or guardian shall
23.22 be notified by the responsible local welfare or law enforcement agency no later than the
23.23 conclusion of the investigation or assessment that this interview has occurred.

23.24 (e) Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts,
23.25 the juvenile court may, after hearing on an ex parte motion by the local welfare agency,
23.26 order that, where reasonable cause exists, the agency withhold notification of this interview
23.27 from the parent, legal custodian, or guardian. If the interview took place or is to take place
23.28 on school property, the order shall specify that school officials may not disclose to the
23.29 parent, legal custodian, or guardian the contents of the notification of intent to interview
23.30 the child on school property, as provided under this subdivision, and any other related
23.31 information regarding the interview that may be a part of the child's school record. A copy
23.32 of the order shall be sent by the local welfare or law enforcement agency to the appropriate
23.33 school official.

24.1 (f) When interviewing a minor under this section, an individual does not include the
24.2 parent or guardian of the minor for purposes of section 13.04, subdivision 2, when the parent
24.3 or guardian is the alleged offender.

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

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

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

24.21 (1) audio recording of all interviews with witnesses and collateral sources; and

24.22 (2) in a case of alleged sexual abuse, audio-video recording of each interview with the
24.23 alleged victim and a child witness.

24.24 **Subd. 4. Interviews on school property.** (a) When the local welfare, local law
24.25 enforcement agency, or the agency responsible for assessing or investigating a report of
24.26 maltreatment determines that an interview should take place on school property, written
24.27 notification of intent to interview the child on school property must be received by school
24.28 officials before the interview. The notification shall include the name of the child to be
24.29 interviewed, the purpose of the interview, and a reference to the statutory authority to conduct
24.30 an interview on school property. For an interview conducted by the local welfare agency,
24.31 the notification shall be signed by the chair of the local social services agency or the chair's
24.32 designee. The notification shall be private data on individuals subject to the provisions of
24.33 this subdivision. School officials may not disclose to the parent, legal custodian, or guardian
24.34 the contents of the notification or any other related information regarding the interview until

notified in writing by the local welfare or 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 or 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 or 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 or 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. 11. [626B.11] CONCLUSION OF ASSESSMENT OR INVESTIGATION.

Subdivision 1. Local welfare agency. (a) 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.

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

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

(d) 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.

(e) This subdivision does not mean that maltreatment occurred 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. However, if lack 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.

Subd. 2. **Commissioner of education.** If the commissioner of education conducts an assessment or 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 626B.02, subdivision 11, the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

Subd. 3. **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 6. 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 neglects, physically abuses, or sexually abuses 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. 4. **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.

27.1 (b) A nonmaltreatment mistake occurs when:

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

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

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

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

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

27.14 (c) This subdivision only applies to child care centers licensed under Minnesota Rules,
27.15 chapter 9503.

27.16 Subd. 5. **Child protective services.** For the purposes of this section, a determination
27.17 that child protective services are needed means that the local welfare agency documented
27.18 conditions during the assessment or investigation sufficient to cause a child protection
27.19 worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant
27.20 risk of maltreatment if protective intervention is not provided and that the individual or
27.21 individuals responsible for the child's care have not taken or are not likely to take action to
27.22 protect the child from maltreatment or risk of maltreatment.

27.23 Subd. 6. **Mitigating factors in investigating facilities.** (a) When determining whether
27.24 the facility or individual is the responsible party, or whether both the facility and the
27.25 individual are responsible for determined maltreatment in a facility, the investigating agency
27.26 shall consider at least the following mitigating factors:

27.27 (1) whether the actions of the facility or the individual caregivers were according to,
27.28 and followed the terms of, an erroneous physician order, prescription, individual care plan,
27.29 or directive; however, this is not a mitigating factor when the facility or caregiver was
27.30 responsible for the issuance of the erroneous order, prescription, individual care plan, or
27.31 directive or knew or should have known of the errors and took no reasonable measures to
27.32 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 actions under sections 245A.06 or 245A.07 apply.

Subd. 7. **Notification when assessment or investigation is completed.** (a) This subdivision applies to a report under section 626B.09, subdivision 11. When the commissioner of the agency responsible for assessing or 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 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.

(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. 8. **Notification following assessment or investigation.** (a) 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 child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed.

(b) 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, the person determined to be maltreating the child, and, if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. 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. The notice must also include a certification that the information collection procedures under sections 626B.07, subdivision 3, and 626B.09, subdivisions 3 and 4, 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. In addition, the notice shall include the length of time that the records will be kept under section 626B.14,

subdivision 4. 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. The notice must also state that a finding of maltreatment may result in denial of a license 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, 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.

(c) This subdivision applies only to local agency assessments and investigations.

Subd. 9. **Final notifications.** 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.

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

Subd. 11. **Local welfare agency actions following determination that services are needed.** (a) 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.

(b) 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

31.1 (3) the family is not cooperating with an investigation or assessment.

31.2 Subd. 12. **Child under age three.** A child under age three who is involved in a
31.3 substantiated case of maltreatment shall be referred for screening under the Individuals with
31.4 Disabilities Education Act, part C. The child's parent must be informed that the evaluation
31.5 and acceptance of services are voluntary. The commissioner shall monitor referral rates by
31.6 county and annually report the information to the legislature beginning March 15, 2014.
31.7 Refusal to have a child screened is not a basis for a child in need of protection or services
31.8 petition under chapter 260C.

31.9 Subd. 13. **Evidence.** No evidence relating to the neglect or abuse of a child or to any
31.10 prior incident of neglect or abuse involving any of the same persons accused of neglect or
31.11 abuse shall be excluded in any proceeding arising out of the alleged maltreatment on the
31.12 grounds of privilege set forth in section 595.02, subdivision 1, paragraph (a), (d), or (g).

31.13 Sec. 12. **[626B.12] APPEALS.**

31.14 Subdivision 1. **Following family assessment.** Administrative reconsideration is not
31.15 applicable in a family assessment since no determination concerning maltreatment is made.

31.16 Subd. 2. **Request for reconsideration.** (a) For an investigation, except as provided
31.17 under subdivision 5, an individual or facility that the commissioner of human services, a
31.18 local social service agency, or the commissioner of education determines has maltreated a
31.19 child, an interested person acting on behalf of the child, regardless of the determination,
31.20 who contests the investigating agency's final determination regarding maltreatment, may
31.21 request the investigating agency to reconsider its final determination regarding maltreatment.
31.22 The request for reconsideration must be submitted in writing to the investigating agency
31.23 within 15 calendar days after receipt of notice of the final determination regarding
31.24 maltreatment or, if the request is made by an interested person who is not entitled to notice,
31.25 within 15 days after receipt of the notice by the parent or guardian of the child. If mailed,
31.26 the request for reconsideration must be postmarked and sent to the investigating agency
31.27 within 15 calendar days of the individual's or facility's receipt of the final determination. If
31.28 the request for reconsideration is made by personal service, it must be received by the
31.29 investigating agency within 15 calendar days after the individual's or facility's receipt of
31.30 the final determination.

31.31 (b) An individual who was determined to have maltreated a child under this section and
31.32 who was disqualified on the basis of serious or recurring maltreatment under sections
31.33 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and
31.34 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 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. Fair hearing request. (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 that section. 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 assure 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 final determination. If, as a result of a reconsideration or review, the investigating agency changes the final 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 reconsideration. If reconsideration of the

33.1 maltreatment determination is denied and the individual remains disqualified following a
33.2 reconsideration decision, the individual may request a fair hearing under section 256.045.
33.3 If an individual requests a fair hearing on the maltreatment determination and the
33.4 disqualification, the scope of the fair hearing shall include both the maltreatment
33.5 determination and the disqualification.

33.6 Subd. 6. **Contested case hearing.** If a maltreatment determination or a disqualification
33.7 based on serious or recurring maltreatment is the basis for a denial of a license under section
33.8 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to
33.9 a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to
33.10 1400.8612. As provided for under section 245A.08, subdivision 2a, the scope of the contested
33.11 case hearing shall include the maltreatment determination, disqualification, and licensing
33.12 sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment
33.13 determination and disqualification shall not be conducted under section 256.045. Except
33.14 for family child care and child foster care, reconsideration of a maltreatment determination
33.15 as provided under this subdivision, and reconsideration of a disqualification as provided
33.16 under section 245C.22, shall also not be conducted when:

33.17 (1) a denial of a license under section 245A.05 or a licensing sanction under section
33.18 245A.07, is based on a determination that the license holder is responsible for maltreatment
33.19 or the disqualification of a license holder based on serious or recurring maltreatment;

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

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

33.24 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
33.25 determination or disqualification, but does not appeal the denial of a license or a licensing
33.26 sanction, reconsideration of the maltreatment determination shall be conducted under sections
33.27 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the
33.28 disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall
33.29 also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and
33.30 626.557, subdivision 9d.

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

34.1 Sec. 13. **[626B.13] IMMUNITY.**

34.2 (a) The following persons are immune from any civil or criminal liability that otherwise
34.3 might result from the person's actions, if the person is acting in good faith:

34.4 (1) a person making a voluntary or mandated report under section 626B.03 or under
34.5 section 626.5561 or assisting in an assessment under this section or under section 626.5561;

34.6 (2) a person with responsibility for performing duties under this section or supervisor
34.7 employed by a local welfare agency, the commissioner of an agency responsible for operating
34.8 or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital,
34.9 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
34.10 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in section 120A.05,
34.11 subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal care provider
34.12 organization as defined in section 256B.0625, subdivision 19a, complying with sections
34.13 626B.09, subdivisions 11 and 12, and 626B.11, subdivision 7; and

34.14 (3) a public or private school, facility as defined in section 626B.02, or the employee of
34.15 any public or private school or facility who permits access by a local welfare agency, the
34.16 Department of Education, or a local law enforcement agency and assists in an investigation
34.17 or assessment pursuant to section 626B.05, 626B.06, 626B.07, or 626.5561.

34.18 (b) A person who is a supervisor or person with responsibility for performing duties
34.19 under this section employed by a local welfare agency, the commissioner of human services,
34.20 or the commissioner of education complying with section 626B.05, 626B.06, 626B.07,
34.21 626B.14, or 626.5561 or any related rule or provision of law is immune from any civil or
34.22 criminal liability that might otherwise result from the person's actions, if the person is (1)
34.23 acting in good faith and exercising due care, or (2) acting in good faith and following the
34.24 information collection procedures established under section 626B.05, subdivision 4, or
34.25 626B.09, subdivisions 3 and 4.

34.26 (c) This subdivision does not provide immunity to any person for failure to make a
34.27 required report or for committing neglect, physical abuse, or sexual abuse of a child.

34.28 (d) If a person who makes a voluntary or mandatory report under section 626B.03 prevails
34.29 in a civil action from which the person has been granted immunity under this section, the
34.30 court may award the person attorney fees and costs.

34.31 Sec. 14. **[626B.14] DATA PRACTICES.**

34.32 Subdivision 1. **Classification and release of data.** (a) A written copy of a report
34.33 maintained by personnel of agencies, other than welfare or law enforcement agencies, which

35.1 are subject to chapter 13 shall be confidential. An individual subject of the report may obtain
35.2 access to the original report as provided by subdivision 11.

35.3 (b) All reports and records created, collected, or maintained under this chapter by a local
35.4 social service agency or law enforcement agency may be disclosed to a local social service
35.5 or other child welfare agency of another state when the agency certifies that:

35.6 (1) the reports and records are necessary to conduct an investigation of actions that would
35.7 qualify as sexual abuse, physical abuse, or neglect under this section; and

35.8 (2) the reports and records will be used only for purposes of a child protection assessment
35.9 or investigation and will not be further disclosed to any other person or agency.

35.10 (c) The local social service agency or law enforcement agency in this state shall keep a
35.11 record of all records or reports disclosed pursuant to this subdivision and of any agency to
35.12 which the records or reports are disclosed. If in any case records or reports are disclosed
35.13 before a determination is made under section 626B.11, or a disposition of any criminal
35.14 proceedings is reached, the local social service agency or law enforcement agency in this
35.15 state shall forward the determination or disposition to any agency that has received any
35.16 report or record under this subdivision.

35.17 (d) The responsible authority or its designee of a local welfare agency may release private
35.18 or confidential data on an active case involving assessment or investigation of actions that
35.19 are defined as sexual abuse, physical abuse, or neglect under this section to a court services
35.20 agency if:

35.21 (1) the court services agency has an active case involving a common client who is the
35.22 subject of the data; and

35.23 (2) the data are necessary for the court services agency to effectively process the court
35.24 services' case, including investigating or performing other duties relating to the case required
35.25 by law.

35.26 (e) The data disclosed under paragraph (d) may be used only for purposes of the active
35.27 court services case described in paragraph (d), clause (1), and may not be further disclosed
35.28 to any other person or agency, except as authorized by law.

35.29 (f) Records maintained under subdivision 4, paragraph (b), may be shared with another
35.30 local welfare agency that requests the information because it is conducting an assessment
35.31 or investigation under this section of the subject of the records.

35.32 (g) Except as provided in paragraphs (h) and (i), subdivision 1, paragraphs (b) and (c),
35.33 and section 626B.09, subdivisions 7 and 11, all records concerning individuals maintained

by a local welfare agency or agency responsible for assessing or investigating the report under this section, including any written reports filed under section 626B.04, shall be private data on individuals, except insofar as copies of reports are required by section 626B.05, subdivision 1 or 2, to be sent to the local police department or the county sheriff. 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 626B.05, subdivision 1 or 2, to be sent to the local police department or the county sheriff. 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 county medical examiners or county coroners. Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data other than the reports. The local social services 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 which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incident of neglect or abuse involving any of the same persons. The records shall be collected and maintained according to chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of maltreatment. 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 subdivision. 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 in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure.

(h) Upon request of the legislative auditor, data on individuals maintained under this section 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.

(i) 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

37.1 data on individuals. When this data become inactive in the law enforcement agency, the
37.2 data are private data on individuals.

37.3 (j) Section 13.03, subdivision 4, applies to data received by the commissioner of education
37.4 from a licensing entity.

37.5 Subd. 2. **Data disclosed to reporter.** (a) A local social services or child protection
37.6 agency, or the agency responsible for assessing or investigating the report of maltreatment,
37.7 shall provide relevant private data on individuals obtained under this chapter to a mandated
37.8 reporter who made the report and who has an ongoing responsibility for the health, education,
37.9 or welfare of a child affected by the data, unless the agency determines that providing the
37.10 data would not be in the best interests of the child. The agency may provide the data to other
37.11 mandated reporters with ongoing responsibility for the health, education, or welfare of the
37.12 child. Mandated reporters with ongoing responsibility for the health, education, or welfare
37.13 of a child affected by the data include the child's teachers or other appropriate school
37.14 personnel, foster parents, health care providers, respite care workers, therapists, social
37.15 workers, child care providers, residential care staff, crisis nursery staff, probation officers,
37.16 and court services personnel. Under this chapter, a mandated reporter need not have made
37.17 the report to be considered a person with ongoing responsibility for the health, education,
37.18 or welfare of a child affected by the data. Data provided under this chapter must be limited
37.19 to data pertinent to the individual's responsibility for caring for the child.

37.20 (b) A reporter who receives private data on individuals under this subdivision must treat
37.21 the data according to that classification, regardless of whether the reporter is an employee
37.22 of a government entity. The remedies and penalties under sections 13.08 and 13.09 apply
37.23 if a reporter releases data in violation of this chapter or other law.

37.24 Subd. 3. **Data provided to the commissioner of education.** The commissioner of
37.25 education must be provided with all requested data that are relevant to a report of
37.26 maltreatment and are in possession of a school facility as defined in section 626B.02,
37.27 subdivision 5, clause (2), when the data are requested pursuant to an assessment or
37.28 investigation of a maltreatment report of a student in a school. If the commissioner of
37.29 education makes a determination of maltreatment involving an individual performing work
37.30 within a school facility who is licensed by a board or other agency, the commissioner shall
37.31 provide necessary and relevant information to the licensing entity to enable the entity to
37.32 fulfill its statutory duties. Notwithstanding section 13.03, subdivision 4, data received by a
37.33 licensing entity under this paragraph are governed by section 13.41 or other applicable law
37.34 governing data of the receiving entity, except that this section applies to the classification
37.35 of and access to data on the reporter of the maltreatment.

38.1 Subd. 4. **Data retention.** (a) Notwithstanding sections 138.163 and 138.17, a record
38.2 maintained or a record derived from a report of abuse by a local welfare agency, agency
38.3 responsible for assessing or investigating the report, court services agency, or school under
38.4 this chapter shall be destroyed as provided in paragraphs (b) to (e) by the responsible
38.5 authority.

38.6 (b) For a report alleging child maltreatment that was not accepted for assessment or
38.7 investigation, a family assessment case, and a case where an investigation results in no
38.8 determination of maltreatment or the need for child protective services, the record must be
38.9 maintained for a period of five years after the date the report was not accepted for assessment
38.10 or investigation or of the final entry in the case record. A record of a report that was not
38.11 accepted must contain sufficient information to identify the subjects of the report, the nature
38.12 of the alleged maltreatment, and the reasons as to why the report was not accepted. Records
38.13 under this paragraph may not be used for employment, background checks, or purposes
38.14 other than to assist in future screening decisions and risk and safety assessments.

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

38.18 (d) All records regarding a report of maltreatment, including any notification of intent
38.19 to interview which was received by a school under section 626B.10, subdivision 3, shall be
38.20 destroyed by the school when ordered to do so by the agency conducting the assessment or
38.21 investigation. The agency shall order the destruction of the notification when other records
38.22 relating to the report under investigation or assessment are destroyed under this subdivision.

38.23 (e) Private or confidential data released to a court services agency under subdivision 1,
38.24 paragraphs (d) and (e), must be destroyed by the court services agency when ordered to do
38.25 so by the local welfare agency that released the data. The local welfare agency or agency
38.26 responsible for assessing or investigating the report shall order destruction of the data when
38.27 other records relating to the assessment or investigation are destroyed under this subdivision.

38.28 Subd. 5. **Disclosure to the public.** (a) Notwithstanding any other provision of law and
38.29 subject to this subdivision, a public agency shall disclose to the public, upon request, the
38.30 findings and information related to a child fatality or near fatality if:

38.31 (1) a person is criminally charged with having caused the child fatality or near fatality;

38.32 (2) a county attorney certifies that a person would have been charged with having caused
38.33 the child fatality or near fatality but for that person's death; or

39.1 (3) a child protection investigation resulted in a determination of child maltreatment.

39.2 (b) Findings and information disclosed under this subdivision consist of a written
39.3 summary that includes any of the following information the agency is able to provide:

39.4 (1) the cause and circumstances regarding the child fatality or near fatality;

39.5 (2) the age and gender of the child;

39.6 (3) information on any previous reports of child maltreatment that are pertinent to the
39.7 maltreatment that led to the child fatality or near fatality;

39.8 (4) information on any previous investigations that are pertinent to the maltreatment that
39.9 led to the child fatality or near fatality;

39.10 (5) the result of any investigations described in clause (4);

39.11 (6) actions of and services provided by the local social services agency on behalf of a
39.12 child that are pertinent to the child maltreatment that led to the child fatality or near fatality;
39.13 and

39.14 (7) the result of any review of the state child mortality review panel, a local child mortality
39.15 review panel, a local community child protection team, or any public agency.

39.16 (c) Nothing in this subdivision authorizes access to the private data in the custody of a
39.17 local social services agency, or the disclosure to the public of the records or content of any
39.18 psychiatric, psychological, or therapeutic evaluation, or the disclosure of information that
39.19 would reveal the identities of persons who provided information related to maltreatment of
39.20 the child.

39.21 (d) A person whose request is denied may apply to the appropriate court for an order
39.22 compelling disclosure of all or part of the findings and information of the public agency.
39.23 The application must set forth, with reasonable particularity, factors supporting the
39.24 application. The court has jurisdiction to issue these orders. Actions under this chapter must
39.25 be set down for immediate hearing, and subsequent proceedings in those actions must be
39.26 given priority by the appellate courts.

39.27 (e) A public agency or its employees acting in good faith in disclosing or declining to
39.28 disclose information under this chapter are immune from criminal or civil liability that might
39.29 otherwise be incurred or imposed for that action.

39.30 Subd. 6. **Birth match data.** Upon receiving data under section 144.225, subdivision 2b,
39.31 contained in a birth record or recognition of parentage identifying a child who is subject to
39.32 threatened injury under section 626B.02, subdivision 20, the Department of Human Services

shall send the data to the responsible social services agency. The data is known as "birth match" data. Unless the responsible social services 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 this section. The agency may use either a family assessment or investigation to determine whether the child is safe. All of the provisions of this chapter apply. If the child 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.

Sec. 15. **[626B.15] AUDIT.**

Subdivision 1. **Audit required.** The commissioner shall regularly audit for accuracy the data reported by counties on maltreatment of minors.

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. 16. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall make necessary cross-reference changes and remove statutory cross-references in Minnesota Statutes and Minnesota Rules to conform with the recodification and repealer in this act. The revisor may make technical and other necessary changes to sentence structure to preserve the meaning of the text. The revisor may alter the statutory coding in this act to incorporate statutory changes made by other law in the 2017 regular legislative session. If a provision repealed in this act is also amended in the 2017

41.1 regular legislative session by other law, the revisor shall merge the amendment into the
41.2 recodification, notwithstanding Minnesota Statutes, section 645.30.

41.3 Sec. 17. **REPEALER.**

41.4 Minnesota Statutes 2016, section 626.556, is repealed.

41.5 **ARTICLE 2**

41.6 **CONFORMING CHANGES**

41.7 Section 1. Minnesota Statutes 2016, section 13.32, subdivision 3, is amended to read:

41.8 Subd. 3. **Private data; when disclosure is permitted.** Except as provided in subdivision
41.9 5, educational data is private data on individuals and shall not be disclosed except as follows:

41.10 (a) pursuant to section 13.05;

41.11 (b) pursuant to a valid court order;

41.12 (c) pursuant to a statute specifically authorizing access to the private data;

41.13 (d) to disclose information in health, including mental health, and safety emergencies
41.14 pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code
41.15 of Federal Regulations, title 34, section 99.36;

41.16 (e) pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1),
41.17 (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3), (b)(6), (b)(7), and (i), and Code of Federal Regulations,
41.18 title 34, sections 99.31, 99.32, 99.33, 99.34, 99.35, and 99.39;

41.19 (f) to appropriate health authorities to the extent necessary to administer immunization
41.20 programs and for bona fide epidemiologic investigations which the commissioner of health
41.21 determines are necessary to prevent disease or disability to individuals in the public
41.22 educational agency or institution in which the investigation is being conducted;

41.23 (g) when disclosure is required for institutions that participate in a program under title
41.24 IV of the Higher Education Act, United States Code, title 20, section 1092;

41.25 (h) to the appropriate school district officials to the extent necessary under subdivision
41.26 6, annually to indicate the extent and content of remedial instruction, including the results
41.27 of assessment testing and academic performance at a postsecondary institution during the
41.28 previous academic year by a student who graduated from a Minnesota school district within
41.29 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 626B. 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

43.1 States Code, title 20, section 1232g(b)(6)(A) and (B) and Code of Federal Regulations, title
43.2 34, sections 99.31 (a)(13) and (14);

43.3 (p) when the disclosure is information provided to the institution under United States
43.4 Code, title 42, section 14071, concerning registered sex offenders to the extent authorized
43.5 under United States Code, title 20, section 1232g(b)(7); or

43.6 (q) when the disclosure is to a parent of a student at an institution of postsecondary
43.7 education regarding the student's violation of any federal, state, or local law or of any rule
43.8 or policy of the institution, governing the use or possession of alcohol or of a controlled
43.9 substance, to the extent authorized under United States Code, title 20, section 1232g(i), and
43.10 Code of Federal Regulations, title 34, section 99.31 (a)(15), and provided the institution
43.11 has an information release form signed by the student authorizing disclosure to a parent.
43.12 The institution must notify parents and students about the purpose and availability of the
43.13 information release forms. At a minimum, the institution must distribute the information
43.14 release forms at parent and student orientation meetings.

43.15 Sec. 2. Minnesota Statutes 2016, section 13.3805, subdivision 3, is amended to read:

43.16 Subd. 3. **Office of Health Facility Complaints; investigative data.** Except for
43.17 investigative data under ~~section 626.556~~ chapter 626B, all investigative data maintained by
43.18 the Department of Health's Office of Health Facility Complaints are subject to provisions
43.19 of and classified pursuant to section 626.557, subdivision 12b, paragraphs (b) to (d).
43.20 Notwithstanding sections ~~626.556, subdivision 11, and 626.557, subdivision 12b, paragraph~~
43.21 ~~(b), 626B.14, subdivisions 1, paragraphs (g) and (h), and 3,~~ data identifying an individual
43.22 substantiated as the perpetrator are public data. For purposes of this subdivision, an individual
43.23 is substantiated as the perpetrator if the commissioner of health determines that the individual
43.24 is the perpetrator and the determination of the commissioner is upheld after the individual
43.25 either exercises applicable administrative appeal rights or fails to exercise these rights within
43.26 the time allowed by law.

43.27 Sec. 3. Minnesota Statutes 2016, section 13.43, subdivision 14, is amended to read:

43.28 Subd. 14. **Maltreatment data.** (a) When a report of alleged maltreatment of a student
43.29 in a school facility, as defined in section ~~626.556, subdivision 2, paragraph (c)~~ 626B.02,
43.30 subdivision 5, is made to the commissioner of education under ~~section 626.556~~ chapter
43.31 626B, data that are relevant to a report of maltreatment and are collected by the school
43.32 facility about the person alleged to have committed maltreatment must be provided to the
43.33 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 626B.

(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~~ 626B.09, subdivision 10.

Sec. 4. Minnesota Statutes 2016, 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; or

(4) to provide notices required or permitted by statute.

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~~ chapter 626B or section 626.557, 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 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 2016, 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) 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~~ chapter 626B or section 626.557, the

identity of the applicant, license holder, or controlling 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.

(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~~ chapter 626B or section 626.557 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

47.1 on family day care program and family foster care program applicants and licensees and
47.2 their family members who provide services under the license.

47.3 (d) The following are private data on individuals: the identity of persons who have made
47.4 reports concerning licensees or applicants that appear in inactive investigative data, and the
47.5 records of clients or employees of the licensee or applicant for licensure whose records are
47.6 received by the licensing agency for purposes of review or in anticipation of a contested
47.7 matter. The names of reporters of complaints or alleged violations of licensing standards
47.8 under chapters 245A, 245B, 245C, and 245D, and applicable rules and alleged maltreatment
47.9 under ~~sections 626.556~~ chapter 626B and section 626.557, are confidential data and may
47.10 be disclosed only as provided in section ~~626.556, subdivision 11, or 626.557, subdivision~~
47.11 12b, or 626B.14, subdivisions 1, paragraphs (g) and (h), and 3.

47.12 (e) Data classified as private, confidential, nonpublic, or protected nonpublic under this
47.13 subdivision become public data if submitted to a court or administrative law judge as part
47.14 of a disciplinary proceeding in which there is a public hearing concerning a license which
47.15 has been suspended, immediately suspended, revoked, or denied.

47.16 (f) Data generated in the course of licensing investigations that relate to an alleged
47.17 violation of law are investigative data under subdivision 3.

47.18 (g) Data that are not public data collected, maintained, used, or disseminated under this
47.19 subdivision that relate to or are derived from a report as defined in section ~~626.556,~~
47.20 ~~subdivision 2, or 626.5572, subdivision 18, or 626B.02,~~ are subject to the destruction
47.21 provisions of sections ~~626.556, subdivision 11e, and 626.557, subdivision 12b, and 626B.14,~~
47.22 subdivision 4.

47.23 (h) Upon request, not public data collected, maintained, used, or disseminated under
47.24 this subdivision that relate to or are derived from a report of substantiated maltreatment as
47.25 defined in section ~~626.556~~ chapter 626B or section 626.557 may be exchanged with the
47.26 Department of Health for purposes of completing background studies pursuant to section
47.27 144.057 and with the Department of Corrections for purposes of completing background
47.28 studies pursuant to section 241.021.

47.29 (i) Data on individuals collected according to licensing activities under chapters 245A
47.30 and 245C, data on individuals collected by the commissioner of human services according
47.31 to investigations under chapters 245A, 245B, 245C, and 245D, and ~~sections 626.556 and~~
47.32 626B, and section 626.557 may be shared with the Department of Human Rights, the
47.33 Department of Health, the Department of Corrections, the ombudsman for mental health
47.34 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 10~~ 626B.11, subdivision 8, 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~~ 626B.02, 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.

Sec. 6. Minnesota Statutes 2016, 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 626B are private data on individuals. Active or inactive investigative data that identify a reporter of child abuse or neglect under ~~section 626.556~~ chapter 626B are confidential data on individuals, unless the subject of the report compels disclosure under section ~~626.556, subdivision 11~~ 626B.14, subdivisions 1, paragraphs (g) and (h), and 3.

Sec. 7. Minnesota Statutes 2016, 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

49.1 a person responsible for the child's care, as defined in section ~~626.556, subdivision 2~~ 626B.02,
49.2 are private data.

49.3 Sec. 8. Minnesota Statutes 2016, section 13.82, subdivision 17, is amended to read:

49.4 Subd. 17. **Protection of identities.** A law enforcement agency or a law enforcement
49.5 dispatching agency working under direction of a law enforcement agency shall withhold
49.6 public access to data on individuals to protect the identity of individuals in the following
49.7 circumstances:

49.8 (a) when access to the data would reveal the identity of an undercover law enforcement
49.9 officer, as provided in section 13.43, subdivision 5;

49.10 (b) when access to the data would reveal the identity of a victim or alleged victim of
49.11 criminal sexual conduct or sex trafficking under section 609.322, 609.341 to 609.3451, or
49.12 617.246, subdivision 2;

49.13 (c) when access to the data would reveal the identity of a paid or unpaid informant being
49.14 used by the agency if the agency reasonably determines that revealing the identity of the
49.15 informant would threaten the personal safety of the informant;

49.16 (d) when access to the data would reveal the identity of a victim of or witness to a crime
49.17 if the victim or witness specifically requests not to be identified publicly, unless the agency
49.18 reasonably determines that revealing the identity of the victim or witness would not threaten
49.19 the personal safety or property of the individual;

49.20 (e) when access to the data would reveal the identity of a deceased person whose body
49.21 was unlawfully removed from a cemetery in which it was interred;

49.22 (f) when access to the data would reveal the identity of a person who placed a call to a
49.23 911 system or the identity or telephone number of a service subscriber whose phone is used
49.24 to place a call to the 911 system and: (1) the agency determines that revealing the identity
49.25 may threaten the personal safety or property of any person; or (2) the object of the call is
49.26 to receive help in a mental health emergency. For the purposes of this paragraph, a voice
49.27 recording of a call placed to the 911 system is deemed to reveal the identity of the caller;

49.28 (g) when access to the data would reveal the identity of a juvenile witness and the agency
49.29 reasonably determines that the subject matter of the investigation justifies protecting the
49.30 identity of the witness; or

49.31 (h) when access to the data would reveal the identity of a mandated reporter under section
49.32 609.456, ~~626.556~~, or 626.557, or chapter 626B.

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 2016, 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,~~ 626B.02 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 2016, 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 626B 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.

51.1 Sec. 11. Minnesota Statutes 2016, section 13.871, subdivision 6, is amended to read:

51.2 Subd. 6. **Training; investigation; apprehension; reports.** (a) **Reports of gunshot**
51.3 **wounds.** Disclosure of the name of a person making a report under section 626.52,
51.4 subdivision 2, is governed by section 626.53.

51.5 (b) **Child abuse report records.** Data contained in child abuse report records are
51.6 classified under ~~section 626.556~~ chapter 626B.

51.7 (c) **Interstate data exchange.** Disclosure of child abuse reports to agencies of another
51.8 state is classified under section ~~626.556, subdivision 10g~~ 626B.14, subdivision 1, paragraphs
51.9 (b) and (c).

51.10 (d) **Release to family court services.** Release of child abuse data to a court services
51.11 agency is authorized under section ~~626.556, subdivision 10h~~ 626B.14, subdivision 1,
51.12 paragraphs (d) and (e).

51.13 (e) **Release of data to mandated reporters.** Release of child abuse data to mandated
51.14 reporters who have an ongoing responsibility for the health, education, or welfare of a child
51.15 affected by the data is authorized under section ~~626.556, subdivision 10j~~ 626B.14, subdivision
51.16 2.

51.17 (f) **Release of child abuse assessment or investigative records to other counties.**
51.18 Release of child abuse investigative records to local welfare agencies is authorized under
51.19 section ~~626.556, subdivision 10k~~ 626B.14, subdivision 1, paragraph (f).

51.20 (g) **Classifying and sharing records and reports of child abuse.** The classification of
51.21 child abuse data and the sharing of records and reports of child abuse by and between local
51.22 welfare agencies and law enforcement agencies are governed under section ~~626.556,~~
51.23 ~~subdivision 11~~ 626B.14, subdivisions 1, paragraphs (g) and (h), and 3.

51.24 (h) **Disclosure of information not required in certain cases.** Disclosure of certain data
51.25 obtained from interviewing a minor is governed by section ~~626.556, subdivision 11a~~ 626B.11,
51.26 subdivision 3, paragraph (f).

51.27 (i) **Data received from law enforcement.** Classifying child abuse data received by
51.28 certain agencies from law enforcement agencies is governed under section ~~626.556,~~
51.29 ~~subdivision 11b~~ 626B.14, subdivision 1, paragraph (i).

51.30 (j) **Disclosure in child fatality cases.** Disclosure of information relating to a child fatality
51.31 is governed under section ~~626.556, subdivision 11d~~ 626B.14, subdivision 5.

(k) **Reports of prenatal exposure to controlled substances.** Data on persons making reports under section 626.5561 are classified under section 626.5561, 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.

(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 2016, 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.

(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 626B.

Sec. 13. Minnesota Statutes 2016, section 122A.20, subdivision 2, is amended to read:

Subd. 2. **Mandatory reporting.** A school board must report to the Board of Teaching, 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 122A.41, subdivisions 6, clauses (1), (2), and (3), and 7; or ~~626.556~~ chapter 626B, 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~~ chapter 626B. 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 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 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.

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.

54.1 Sec. 14. Minnesota Statutes 2016, section 122A.40, subdivision 13, is amended to read:

54.2 Subd. 13. **Immediate discharge.** (a) Except as otherwise provided in paragraph (b), a
54.3 board may discharge a continuing-contract teacher, effective immediately, upon any of the
54.4 following grounds:

54.5 (1) immoral conduct, insubordination, or conviction of a felony;

54.6 (2) conduct unbecoming a teacher which requires the immediate removal of the teacher
54.7 from classroom or other duties;

54.8 (3) failure without justifiable cause to teach without first securing the written release of
54.9 the school board;

54.10 (4) gross inefficiency which the teacher has failed to correct after reasonable written
54.11 notice;

54.12 (5) willful neglect of duty; or

54.13 (6) continuing physical or mental disability subsequent to a 12 months leave of absence
54.14 and inability to qualify for reinstatement in accordance with subdivision 12.

54.15 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair
54.16 discriminatory practice described in section 363A.13.

54.17 Prior to discharging a teacher under this paragraph, the board must notify the teacher in
54.18 writing and state its ground for the proposed discharge in reasonable detail. Within ten days
54.19 after receipt of this notification the teacher may make a written request for a hearing before
54.20 the board and it shall be granted before final action is taken. The board may suspend a
54.21 teacher with pay pending the conclusion of the hearing and determination of the issues
54.22 raised in the hearing after charges have been filed which constitute ground for discharge.
54.23 If a teacher has been charged with a felony and the underlying conduct that is the subject
54.24 of the felony charge is a ground for a proposed immediate discharge, the suspension pending
54.25 the conclusion of the hearing and determination of the issues may be without pay. If a
54.26 hearing under this paragraph is held, the board must reimburse the teacher for any salary
54.27 or compensation withheld if the final decision of the board or the arbitrator does not result
54.28 in a penalty to or suspension, termination, or discharge of the teacher.

54.29 (b) A board must discharge a continuing-contract teacher, effective immediately, upon
54.30 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
54.31 license has been revoked due to a conviction for child abuse, as defined in section 609.185;
54.32 sex trafficking in the first degree under section 609.322, subdivision 1; sex trafficking in
54.33 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 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 1~~ 626B.14, subdivisions 1, paragraphs (g) and (h), and 3, 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 Board of Teaching and the licensing division at the department with the necessary and relevant information to enable the Board of Teaching 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 Board of Teaching 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 Board of Teaching 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. 15. Minnesota Statutes 2016, 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.

(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 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 1~~ 626B.14, subdivisions 1, paragraphs (g) and (h), and 3, 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 Board of Teaching and the licensing division at the department with the necessary and relevant information to enable the Board of Teaching 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 Board of Teaching 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 Board of Teaching 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 2016, 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 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 626B;

(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,

58.1 neck, chest, lungs, sternum, diaphragm, back, or abdomen, or results in straddling a child's
58.2 torso; and
58.3 (10) prone restraint.

58.4 Sec. 17. Minnesota Statutes 2016, section 135A.15, subdivision 10, is amended to read:

58.5 Subd. 10. **Applicability of other laws.** This section does not exempt mandatory reporters
58.6 from the requirements of section ~~626.556~~ or 626.557 or chapter 626B governing the reporting
58.7 of maltreatment of minors or vulnerable adults. Nothing in this section limits the authority
58.8 of an institution to comply with other applicable state or federal laws related to investigations
58.9 or reports of sexual harassment, sexual violence, or sexual assault.

58.10 Sec. 18. Minnesota Statutes 2016, section 144.225, subdivision 2b, is amended to read:

58.11 Subd. 2b. **Commissioner of health; duties.** Notwithstanding the designation of certain
58.12 of this data as confidential under subdivision 2 or private under subdivision 2a, the
58.13 commissioner shall give the commissioner of human services access to birth record data
58.14 and data contained in recognitions of parentage prepared according to section 257.75
58.15 necessary to enable the commissioner of human services to identify a child who is subject
58.16 to threatened injury, as defined in section ~~626.556, subdivision 2, paragraph (p)~~ 626B.02,
58.17 subdivision 20, by a person responsible for the child's care, as defined in section ~~626.556,~~
58.18 ~~subdivision 2, paragraph (j)~~ 626B.02, subdivision 15, clause (1). The commissioner shall
58.19 be given access to all data included on official birth records.

58.20 Sec. 19. Minnesota Statutes 2016, section 144.343, subdivision 4, is amended to read:

58.21 Subd. 4. **Limitations.** No notice shall be required under this section if:

58.22 (a) The attending physician certifies in the pregnant woman's medical record that the
58.23 abortion is necessary to prevent the woman's death and there is insufficient time to provide
58.24 the required notice; or

58.25 (b) The abortion is authorized in writing by the person or persons who are entitled to
58.26 notice; or

58.27 (c) The pregnant minor woman declares that she is a victim of sexual abuse, neglect, or
58.28 physical abuse as defined in ~~section 626.556~~ chapter 626B. Notice of that declaration shall
58.29 be made to the proper authorities as provided in section ~~626.556, subdivision 3~~ 626B.03,
58.30 subdivisions 1 and 2.

59.1 Sec. 20. Minnesota Statutes 2016, section 144.7065, subdivision 10, is amended to read:

59.2 Subd. 10. **Relation to other law; data classification.** (a) Adverse health events described
59.3 in subdivisions 2 to 6 do not constitute "maltreatment," "neglect," or "a physical injury that
59.4 is not reasonably explained" under section ~~626.556~~ or 626.557 or chapter 626B and are
59.5 excluded from the reporting requirements of ~~sections 626.556 and~~ section 626.557 and
59.6 chapter 626B, provided the facility makes a determination within 24 hours of the discovery
59.7 of the event that this section is applicable and the facility files the reports required under
59.8 this section in a timely fashion.

59.9 (b) A facility that has determined that an event described in subdivisions 2 to 6 has
59.10 occurred must inform persons who are mandated reporters under section ~~626.556, subdivision~~
59.11 ~~3, or~~ 626.5572, subdivision 16, or 626B.03, of that determination. A mandated reporter
59.12 otherwise required to report under section ~~626.556, subdivision 3, or~~ 626.557, subdivision
59.13 3, paragraph (e), or 626B.03, is relieved of the duty to report an event that the facility
59.14 determines under paragraph (a) to be reportable under subdivisions 2 to 6.

59.15 (c) The protections and immunities applicable to voluntary reports under ~~sections 626.556~~
59.16 ~~and section 626.557 and chapter 626B~~ are not affected by this section.

59.17 (d) Notwithstanding section ~~626.556~~, 626.557, chapter 626B, or any other provision of
59.18 Minnesota statute or rule to the contrary, a lead agency under section ~~626.556, subdivision~~
59.19 ~~3e~~ 626B.06, a lead investigative agency under section 626.5572, subdivision 13, the
59.20 commissioner of health, or the director of the Office of Health Facility Complaints is not
59.21 required to conduct an investigation of or obtain or create investigative data or reports
59.22 regarding an event described in subdivisions 2 to 6. If the facility satisfies the requirements
59.23 described in paragraph (a), the review or investigation shall be conducted and data or reports
59.24 shall be obtained or created only under sections 144.706 to 144.7069, except as permitted
59.25 or required under sections 144.50 to 144.564, or as necessary to carry out the state's
59.26 certification responsibility under the provisions of sections 1864 and 1867 of the Social
59.27 Security Act. If a licensed health care provider reports an event to the facility required to
59.28 be reported under subdivisions 2 to 6 in a timely manner, the provider's licensing board is
59.29 not required to conduct an investigation of or obtain or create investigative data or reports
59.30 regarding the individual reporting of the events described in subdivisions 2 to 6.

59.31 (e) Data contained in the following records are nonpublic and, to the extent they contain
59.32 data on individuals, confidential data on individuals, as defined in section 13.02:

59.33 (1) reports provided to the commissioner under sections 147.155, 147A.155, 148.267,
59.34 151.301, and 153.255;

60.1 (2) event reports, findings of root cause analyses, and corrective action plans filed by a
60.2 facility under this section; and

60.3 (3) records created or obtained by the commissioner in reviewing or investigating the
60.4 reports, findings, and plans described in clause (2).

60.5 For purposes of the nonpublic data classification contained in this paragraph, the reporting
60.6 facility shall be deemed the subject of the data.

60.7 Sec. 21. Minnesota Statutes 2016, section 144.7068, is amended to read:

60.8 **144.7068 REPORTS FROM LICENSING BOARDS.**

60.9 (a) Effective upon full implementation of the adverse health care events reporting system,
60.10 the records maintained under sections 147.155, 147A.155, 148.267, 151.301, and 153.255,
60.11 shall be reported to the commissioner on the schedule established in those sections.

60.12 (b) The commissioner shall forward these reports to the facility named in the report.

60.13 (c) The facility shall determine whether the event has been previously reported under
60.14 section 144.7065. The facility shall notify the commissioner whether the event has been
60.15 reported previously. If the event has not been previously reported, the facility shall make a
60.16 determination whether the event was reportable under section 144.7065. If the facility
60.17 determines the event was reportable, the date of discovery of the event for the purposes of
60.18 section 144.7065, subdivision 10, paragraph (d), shall be as follows:

60.19 (1) if the commissioner determines that the facility knew or reasonably should have
60.20 known about the occurrence of the event, the date the event occurred shall be the date of
60.21 discovery. The facility shall be considered out of compliance with the reporting act, and
60.22 the event shall be subject to ~~sections 626.556 and~~ section 626.557 and chapter 626B; or

60.23 (2) if the commissioner determines that the facility did not know about the occurrence
60.24 of the event, the date the facility receives the report from the commissioner shall serve as
60.25 the date of discovery.

60.26 If the facility determines that the event was not reportable under section 144.7065, the
60.27 facility shall notify the commissioner of that determination.

60.28 Sec. 22. Minnesota Statutes 2016, section 144A.472, subdivision 1, is amended to read:

60.29 Subdivision 1. **License applications.** Each application for a home care provider license
60.30 must include information sufficient to show that the applicant meets the requirements of
60.31 licensure, including:

- 61.1 (1) the applicant's name, e-mail address, physical address, and mailing address, including
61.2 the name of the county in which the applicant resides and has a principal place of business;
- 61.3 (2) the initial license fee in the amount specified in subdivision 7;
- 61.4 (3) the e-mail address, physical address, mailing address, and telephone number of the
61.5 principal administrative office;
- 61.6 (4) the e-mail address, physical address, mailing address, and telephone number of each
61.7 branch office, if any;
- 61.8 (5) the names, e-mail and mailing addresses, and telephone numbers of all owners and
61.9 managerial officials;
- 61.10 (6) documentation of compliance with the background study requirements of section
61.11 144A.476 for all persons involved in the management, operation, or control of the home
61.12 care provider;
- 61.13 (7) documentation of a background study as required by section 144.057 for any
61.14 individual seeking employment, paid or volunteer, with the home care provider;
- 61.15 (8) evidence of workers' compensation coverage as required by sections 176.181 and
61.16 176.182;
- 61.17 (9) documentation of liability coverage, if the provider has it;
- 61.18 (10) identification of the license level the provider is seeking;
- 61.19 (11) documentation that identifies the managerial official who is in charge of day-to-day
61.20 operations and attestation that the person has reviewed and understands the home care
61.21 provider regulations;
- 61.22 (12) documentation that the applicant has designated one or more owners, managerial
61.23 officials, or employees as an agent or agents, which shall not affect the legal responsibility
61.24 of any other owner or managerial official under this chapter;
- 61.25 (13) the signature of the officer or managing agent on behalf of an entity, corporation,
61.26 association, or unit of government;
- 61.27 (14) verification that the applicant has the following policies and procedures in place so
61.28 that if a license is issued, the applicant will implement the policies and procedures and keep
61.29 them current:
- 61.30 (i) requirements in ~~sections 626.556~~ chapter 626B, reporting of maltreatment of minors,
61.31 and section 626.557, reporting of maltreatment of vulnerable adults;

- 62.1 (ii) conducting and handling background studies on employees;
- 62.2 (iii) orientation, training, and competency evaluations of home care staff, and a process
62.3 for evaluating staff performance;
- 62.4 (iv) handling complaints from clients, family members, or client representatives regarding
62.5 staff or services provided by staff;
- 62.6 (v) conducting initial evaluation of clients' needs and the providers' ability to provide
62.7 those services;
- 62.8 (vi) conducting initial and ongoing client evaluations and assessments and how changes
62.9 in a client's condition are identified, managed, and communicated to staff and other health
62.10 care providers as appropriate;
- 62.11 (vii) orientation to and implementation of the home care client bill of rights;
- 62.12 (viii) infection control practices;
- 62.13 (ix) reminders for medications, treatments, or exercises, if provided; and
- 62.14 (x) conducting appropriate screenings, or documentation of prior screenings, to show
62.15 that staff are free of tuberculosis, consistent with current United States Centers for Disease
62.16 Control and Prevention standards; and
- 62.17 (15) other information required by the department.

62.18 Sec. 23. Minnesota Statutes 2016, section 144A.479, subdivision 6, is amended to read:

62.19 Subd. 6. **Reporting maltreatment of vulnerable adults and minors.** (a) All home care
62.20 providers must comply with requirements for the reporting of maltreatment of minors in
62.21 ~~section 626.556~~ chapter 626B and the requirements for the reporting of maltreatment of
62.22 vulnerable adults in section 626.557. Each home care provider must establish and implement
62.23 a written procedure to ensure that all cases of suspected maltreatment are reported.

62.24 (b) Each home care provider must develop and implement an individual abuse prevention
62.25 plan for each vulnerable minor or adult for whom home care services are provided by a
62.26 home care provider. The plan shall contain an individualized review or assessment of the
62.27 person's susceptibility to abuse by another individual, including other vulnerable adults or
62.28 minors; the person's risk of abusing other vulnerable adults or minors; and statements of
62.29 the specific measures to be taken to minimize the risk of abuse to that person and other
62.30 vulnerable adults or minors. For purposes of the abuse prevention plan, the term abuse
62.31 includes self-abuse.

63.1 Sec. 24. Minnesota Statutes 2016, section 144A.4796, subdivision 2, is amended to read:

63.2 Subd. 2. **Content.** The orientation must contain the following topics:

63.3 (1) an overview of sections 144A.43 to 144A.4798;

63.4 (2) introduction and review of all the provider's policies and procedures related to the
63.5 provision of home care services;

63.6 (3) handling of emergencies and use of emergency services;

63.7 (4) compliance with and reporting of the maltreatment of minors or vulnerable adults
63.8 under ~~sections 626.556 and~~ section 626.557 and chapter 626B;

63.9 (5) home care bill of rights under section 144A.44;

63.10 (6) handling of clients' complaints, reporting of complaints, and where to report
63.11 complaints including information on the Office of Health Facility Complaints and the
63.12 Common Entry Point;

63.13 (7) consumer advocacy services of the Office of Ombudsman for Long-Term Care,
63.14 Office of Ombudsman for Mental Health and Developmental Disabilities, Managed Care
63.15 Ombudsman at the Department of Human Services, county managed care advocates, or
63.16 other relevant advocacy services; and

63.17 (8) review of the types of home care services the employee will be providing and the
63.18 provider's scope of licensure.

63.19 Sec. 25. Minnesota Statutes 2016, section 144A.4796, subdivision 6, is amended to read:

63.20 Subd. 6. **Required annual training.** All staff that perform direct home care services
63.21 must complete at least eight hours of annual training for each 12 months of employment.
63.22 The training may be obtained from the home care provider or another source and must
63.23 include topics relevant to the provision of home care services. The annual training must
63.24 include:

63.25 (1) training on reporting of maltreatment of minors under ~~section 626.556~~ chapter 626B
63.26 and maltreatment of vulnerable adults under section 626.557, whichever is applicable to
63.27 the services provided;

63.28 (2) review of the home care bill of rights in section 144A.44;

63.29 (3) review of infection control techniques used in the home and implementation of
63.30 infection control standards including a review of hand-washing techniques; the need for
63.31 and use of protective gloves, gowns, and masks; appropriate disposal of contaminated

64.1 materials and equipment, such as dressings, needles, syringes, and razor blades; disinfecting
64.2 reusable equipment; disinfecting environmental surfaces; and reporting of communicable
64.3 diseases; and

64.4 (4) review of the provider's policies and procedures relating to the provision of home
64.5 care services and how to implement those policies and procedures.

64.6 Sec. 26. Minnesota Statutes 2016, section 145.902, subdivision 3, is amended to read:

64.7 Subd. 3. **Immunity.** (a) A safe place with responsibility for performing duties under
64.8 this section, and any employee, doctor, ambulance personnel, or other medical professional
64.9 working at the safe place, are immune from any criminal liability that otherwise might result
64.10 from their actions, if they are acting in good faith in receiving a newborn, and are immune
64.11 from any civil liability that otherwise might result from merely receiving a newborn.

64.12 (b) A safe place performing duties under this section, or an employee, doctor, ambulance
64.13 personnel, or other medical professional working at the safe place who is a mandated reporter
64.14 under ~~section 626.556~~ chapter 626B, is immune from any criminal or civil liability that
64.15 otherwise might result from the failure to make a report under that section if the person is
64.16 acting in good faith in complying with this section.

64.17 Sec. 27. Minnesota Statutes 2016, section 145.952, is amended to read:

64.18 **145.952 DEFINITIONS.**

64.19 Subdivision 1. **Scope.** The definitions in this section apply to sections 145.951 to 145.957.

64.20 Subd. 2. **Abuse.** "Abuse" means physical abuse, sexual abuse, neglect, mental injury,
64.21 and threatened injury, as those terms are defined in section ~~626.556~~, subdivision 2 626B.02.

64.22 Subd. 3. **CHILD program or program.** "CHILD program" or "program" means the
64.23 children helped in long-term development program that the commissioner shall plan to be
64.24 implemented under sections 145.951 to 145.957.

64.25 Subd. 4. **Commissioner.** "Commissioner" means the commissioner of health or the
64.26 commissioner's designee.

64.27 Subd. 5. **Local organization.** "Local organization" means an organization that contracts
64.28 with the commissioner under section 145.953, subdivision 1, to administer the CHILD
64.29 program on a local level.

65.1 Sec. 28. Minnesota Statutes 2016, section 146A.025, is amended to read:

65.2 **146A.025 MALTREATMENT OF MINORS.**

65.3 Nothing in this chapter shall restrict the ability of a local welfare agency, local law
65.4 enforcement agency, the commissioner of human services, or the state to take action regarding
65.5 the maltreatment of minors under section 609.378 or ~~626.556~~ chapter 626B. A parent who
65.6 obtains complementary and alternative health care for the parent's minor child is not relieved
65.7 of the duty to seek necessary medical care consistent with the requirements of ~~sections~~
65.8 section 609.378 and ~~626.556~~ chapter 626B. A complementary or alternative health care
65.9 practitioner who is providing services to a child who is not receiving necessary medical
65.10 care must make a report under ~~section 626.556~~ chapter 626B. A complementary or alternative
65.11 health care provider is a mandated reporter under section ~~626.556, subdivision 3~~ 626B.03.

65.12 Sec. 29. Minnesota Statutes 2016, section 148B.593, is amended to read:

65.13 **148B.593 DISCLOSURE OF INFORMATION.**

65.14 (a) A person licensed under sections 148B.50 to 148B.593 may not disclose without
65.15 written consent of the client any communication made by the client to the licensee in the
65.16 course of the practice of professional counseling, nor may any employee of the licensee
65.17 reveal the information without the consent of the employer or client except as provided
65.18 under section ~~626.556 or 626.557~~ or chapter 626B.

65.19 (b) For purposes of sections 148B.50 to 148B.593, the confidential relations and
65.20 communications between the licensee and a client are placed upon the same basis as those
65.21 that exist between a licensed psychologist and client. Nothing in sections 148B.50 to
65.22 148B.593 may be construed to require any communications to be disclosed except by court
65.23 order.

65.24 Sec. 30. Minnesota Statutes 2016, section 148E.240, subdivision 7, is amended to read:

65.25 Subd. 7. **Reporting maltreatment of minors.** An applicant or licensee must comply
65.26 with the reporting of maltreatment of minors established by ~~section 626.556~~ chapter 626B.

65.27 Sec. 31. Minnesota Statutes 2016, section 148F.13, subdivision 12, is amended to read:

65.28 Subd. 12. **Abuse or neglect of minors or vulnerable adults.** An applicant or licensee
65.29 must comply with the reporting of maltreatment of minors established in ~~section 626.556~~
65.30 chapter 626B and the reporting of maltreatment of vulnerable adults established in section
65.31 626.557.

66.1 Sec. 32. Minnesota Statutes 2016, section 148F.205, subdivision 1, is amended to read:

66.2 Subdivision 1. **Mandatory reporting requirements.** A provider is required to file a
66.3 complaint when the provider knows or has reason to believe that another provider:

66.4 (1) is unable to practice with reasonable skill and safety as a result of a physical or mental
66.5 illness or condition, including, but not limited to, substance abuse or dependence, except
66.6 that this mandated reporting requirement is deemed fulfilled by a report made to the Health
66.7 Professionals Services Program (HPSP) as provided by section 214.33, subdivision 1;

66.8 (2) is engaging in or has engaged in sexual behavior with a client or former client in
66.9 violation of section 148F.165, subdivision 6 or 7;

66.10 (3) has failed to report abuse or neglect of children or vulnerable adults in violation of
66.11 section ~~626.556~~ or 626.557 or chapter 626B; or

66.12 (4) has employed fraud or deception in obtaining or renewing an alcohol and drug
66.13 counseling license.

66.14 Sec. 33. Minnesota Statutes 2016, section 153B.70, is amended to read:

66.15 **153B.70 GROUNDS FOR DISCIPLINARY ACTION.**

66.16 (a) The board may refuse to issue or renew a license, revoke or suspend a license, or
66.17 place on probation or reprimand a licensee for one or any combination of the following:

66.18 (1) making a material misstatement in furnishing information to the board;

66.19 (2) violating or intentionally disregarding the requirements of this chapter;

66.20 (3) conviction of a crime, including a finding or verdict of guilt, an admission of guilt,
66.21 or a no-contest plea, in this state or elsewhere, reasonably related to the practice of the
66.22 profession. Conviction, as used in this clause, includes a conviction of an offense which, if
66.23 committed in this state, would be deemed a felony, gross misdemeanor, or misdemeanor,
66.24 without regard to its designation elsewhere, or a criminal proceeding where a finding or
66.25 verdict of guilty is made or returned but the adjudication of guilt is either withheld or not
66.26 entered;

66.27 (4) making a misrepresentation in order to obtain or renew a license;

66.28 (5) displaying a pattern of practice or other behavior that demonstrates incapacity or
66.29 incompetence to practice;

66.30 (6) aiding or assisting another person in violating the provisions of this chapter;

67.1 (7) failing to provide information within 60 days in response to a written request from
67.2 the board, including documentation of completion of continuing education requirements;

67.3 (8) engaging in dishonorable, unethical, or unprofessional conduct;

67.4 (9) engaging in conduct of a character likely to deceive, defraud, or harm the public;

67.5 (10) inability to practice due to habitual intoxication, addiction to drugs, or mental or
67.6 physical illness;

67.7 (11) being disciplined by another state or territory of the United States, the federal
67.8 government, a national certification organization, or foreign nation, if at least one of the
67.9 grounds for the discipline is the same or substantially equivalent to one of the grounds in
67.10 this section;

67.11 (12) directly or indirectly giving to or receiving from a person, firm, corporation,
67.12 partnership, or association a fee, commission, rebate, or other form of compensation for
67.13 professional services not actually or personally rendered;

67.14 (13) incurring a finding by the board that the licensee, after the licensee has been placed
67.15 on probationary status, has violated the conditions of the probation;

67.16 (14) abandoning a patient or client;

67.17 (15) willfully making or filing false records or reports in the course of the licensee's
67.18 practice including, but not limited to, false records or reports filed with state or federal
67.19 agencies;

67.20 (16) willfully failing to report child maltreatment as required under the Maltreatment of
67.21 Minors Act, ~~section 626.556~~ chapter 626B; or

67.22 (17) soliciting professional services using false or misleading advertising.

67.23 (b) A license to practice is automatically suspended if (1) a guardian of a licensee is
67.24 appointed by order of a court pursuant to sections 524.5-101 to 524.5-502, for reasons other
67.25 than the minority of the licensee, or (2) the licensee is committed by order of a court pursuant
67.26 to chapter 253B. The license remains suspended until the licensee is restored to capacity
67.27 by a court and, upon petition by the licensee, the suspension is terminated by the board after
67.28 a hearing. The licensee may be reinstated to practice, either with or without restrictions, by
67.29 demonstrating clear and convincing evidence of rehabilitation. The regulated person is not
67.30 required to prove rehabilitation if the subsequent court decision overturns previous court
67.31 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 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. 34. Minnesota Statutes 2016, 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 626B, 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. 35. Minnesota Statutes 2016, 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 626B. 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~~ or chapter 626B, 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 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. 36. Minnesota Statutes 2016, section 243.166, subdivision 7, is amended to read:

Subd. 7. Use of data. (a) Except as otherwise provided in subdivision 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 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 626B.

(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

(2) purposes of completing background studies under chapter 245C.

71.1 Sec. 37. Minnesota Statutes 2016, section 245.8261, subdivision 9, is amended to read:

71.2 Subd. 9. **Conditions on use of restrictive procedures.** Restrictive procedures must not:

71.3 (1) be implemented with a child in a manner that constitutes sexual abuse, neglect, or
71.4 physical abuse under ~~section 626.556~~ chapter 626B, the reporting of maltreatment of minors;

71.5 (2) restrict a child's normal access to a nutritious diet, drinking water, adequate ventilation,
71.6 necessary medical care, ordinary hygiene facilities, or necessary clothing or to any protection
71.7 required by state licensing standards and federal regulations governing the program;

71.8 (3) be used as punishment or for the convenience of staff; or

71.9 (4) deny the child visitation or contact with legal counsel and next of kin.

71.10 Sec. 38. Minnesota Statutes 2016, section 245A.04, subdivision 5, is amended to read:

71.11 Subd. 5. **Commissioner's right of access.** (a) When the commissioner is exercising the
71.12 powers conferred by this chapter, chapter 626B, and sections 245.69, ~~626.556~~, and 626.557,
71.13 the commissioner must be given access to:

71.14 (1) the physical plant and grounds where the program is provided;

71.15 (2) documents and records, including records maintained in electronic format;

71.16 (3) persons served by the program; and

71.17 (4) staff and personnel records of current and former staff whenever the program is in
71.18 operation and the information is relevant to inspections or investigations conducted by the
71.19 commissioner. Upon request, the license holder must provide the commissioner verification
71.20 of documentation of staff work experience, training, or educational requirements.

71.21 The commissioner must be given access without prior notice and as often as the
71.22 commissioner considers necessary if the commissioner is investigating alleged maltreatment,
71.23 conducting a licensing inspection, or investigating an alleged violation of applicable laws
71.24 or rules. In conducting inspections, the commissioner may request and shall receive assistance
71.25 from other state, county, and municipal governmental agencies and departments. The
71.26 applicant or license holder shall allow the commissioner to photocopy, photograph, and
71.27 make audio and video tape recordings during the inspection of the program at the
71.28 commissioner's expense. The commissioner shall obtain a court order or the consent of the
71.29 subject of the records or the parents or legal guardian of the subject before photocopying
71.30 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. 39. Minnesota Statutes 2016, section 245A.06, subdivision 8, is amended to read:

Subd. 8. **Requirement to post correction order.** For licensed family child care providers and child care centers, upon receipt of any correction order or order of conditional license issued by the commissioner under this section, and notwithstanding a pending request for reconsideration of the correction order or order of conditional license by the license holder, the license holder shall post the correction order or 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 correction order or order of conditional license is accompanied by a maltreatment investigation memorandum prepared under section ~~626.556~~ or 626.557 or chapter 626B, the investigation memoranda must be posted with the correction order or order of conditional license.

Sec. 40. Minnesota Statutes 2016, 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;

(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 a disqualification which has not been set aside under section 245C.22;

(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; or

(4) after July 1, 2012, and upon request by the commissioner, a license holder fails to submit the information required of an applicant under section 245A.04, subdivision 1, paragraph (f) or (g).

A license holder who has had a license 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

73.1 the license holder. The notice must state the reasons the license was suspended, revoked,
73.2 or a fine was ordered.

73.3 (b) If the license was suspended or revoked, the notice must inform the license holder
73.4 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
73.5 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
73.6 a license. The appeal of an order suspending or revoking a license must be made in writing
73.7 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
73.8 the commissioner within ten calendar days after the license holder receives notice that the
73.9 license has been suspended or revoked. If a request is made by personal service, it must be
73.10 received by the commissioner within ten calendar days after the license holder received the
73.11 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a
73.12 timely appeal of an order suspending or revoking a license, the license holder may continue
73.13 to operate the program as provided in section 245A.04, subdivision 7, paragraphs (g) and
73.14 (h), until the commissioner issues a final order on the suspension or revocation.

73.15 (c)(1) If the license holder was ordered to pay a fine, the notice must inform the license
73.16 holder of the responsibility for payment of fines and the right to a contested case hearing
73.17 under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an
73.18 order to pay a fine must be made in writing by certified mail or personal service. If mailed,
73.19 the appeal must be postmarked and sent to the commissioner within ten calendar days after
73.20 the license holder receives notice that the fine has been ordered. If a request is made by
73.21 personal service, it must be received by the commissioner within ten calendar days after
73.22 the license holder received the order.

73.23 (2) The license holder shall pay the fines assessed on or before the payment date specified.
73.24 If the license holder fails to fully comply with the order, the commissioner may issue a
73.25 second fine or suspend the license until the license holder complies. If the license holder
73.26 receives state funds, the state, county, or municipal agencies or departments responsible for
73.27 administering the funds shall withhold payments and recover any payments made while the
73.28 license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine
73.29 until the commissioner issues a final order.

73.30 (3) A license holder shall promptly notify the commissioner of human services, in writing,
73.31 when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the
73.32 commissioner determines that a violation has not been corrected as indicated by the order
73.33 to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify
73.34 the license holder by certified mail or personal service that a second fine has been assessed.
73.35 The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under ~~section 626.556~~ chapter 626B 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), or 626.557, subdivision 9c, paragraph (c), or 626B.11, subdivision 6;~~ 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 the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those subject to a \$1,000 or \$200 fine above. 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 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. 41. Minnesota Statutes 2016, 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 626B, the investigation memoranda must be posted with the order of license suspension, temporary immediate suspension, fine, or revocation.

Sec. 42. Minnesota Statutes 2016, 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 626B, 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, and~~ 626.557, subdivision 9d, and 626B.12.

(b) Except for family child care and child foster care, reconsideration of a maltreatment determination under sections ~~626.556, subdivision 10i, and~~ 626.557, subdivision 9d, and 626B.12, 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, and~~ 626.557, subdivision 9d, and 626B.12. 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, and~~ 626.557, subdivision 9d, and 626B.12, 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, and~~ 626.557, subdivision 9d, and 626B.12.

(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, or~~ 626.557, subdivision 9d, or 626B.12, 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

77.1 (3) the individual has a hearing right under section 245C.27.

77.2 (g) When a denial of a license under section 245A.05 or a licensing sanction under
77.3 section 245A.07 is based on a disqualification for which reconsideration was requested and
77.4 was not set aside under section 245C.22, and the individual otherwise has no hearing right
77.5 under section 245C.27, the scope of the administrative law judge's review shall include the
77.6 denial or sanction and a determination whether the disqualification should be set aside,
77.7 unless section 245C.24 prohibits the set-aside of the disqualification. In determining whether
77.8 the disqualification should be set aside, the administrative law judge shall consider the
77.9 factors under section 245C.22, subdivision 4, to determine whether the individual poses a
77.10 risk of harm to any person receiving services from the license holder.

77.11 (h) Notwithstanding section 245C.30, subdivision 5, when a licensing sanction under
77.12 section 245A.07 is based on the termination of a variance under section 245C.30, subdivision
77.13 4, the scope of the administrative law judge's review shall include the sanction and a
77.14 determination whether the disqualification should be set aside, unless section 245C.24
77.15 prohibits the set-aside of the disqualification. In determining whether the disqualification
77.16 should be set aside, the administrative law judge shall consider the factors under section
77.17 245C.22, subdivision 4, to determine whether the individual poses a risk of harm to any
77.18 person receiving services from the license holder.

77.19 Sec. 43. Minnesota Statutes 2016, section 245A.085, is amended to read:

77.20 **245A.085 CONSOLIDATION OF HEARINGS; RECONSIDERATION.**

77.21 Hearings authorized under this chapter, ~~chapter~~ and chapters 245C, and 626B, and
77.22 sections 256.045, 256B.04, ~~626.556,~~ and 626.557, shall be consolidated if feasible and in
77.23 accordance with other applicable statutes and rules. Reconsideration under sections 245C.28;
77.24 ~~626.556, subdivision 10i;~~ and 626.557, subdivision 9d; and 626B.12, shall also be
77.25 consolidated if feasible.

77.26 Sec. 44. Minnesota Statutes 2016, section 245A.11, subdivision 7b, is amended to read:

77.27 Subd. 7b. **Adult foster care data privacy and security.** (a) An adult foster care or
77.28 community residential setting license holder who creates, collects, records, maintains, stores,
77.29 or discloses any individually identifiable recipient data, whether in an electronic or any
77.30 other format, must comply with the privacy and security provisions of applicable privacy
77.31 laws and regulations, including:

78.1 (1) the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA),
78.2 Public Law 104-1; and the HIPAA Privacy Rule, Code of Federal Regulations, title 45, part
78.3 160, and subparts A and E of part 164; and

78.4 (2) the Minnesota Government Data Practices Act as codified in chapter 13.

78.5 (b) For purposes of licensure, the license holder shall be monitored for compliance with
78.6 the following data privacy and security provisions:

78.7 (1) the license holder must control access to data on residents served by the program
78.8 according to the definitions of public and private data on individuals under section 13.02;
78.9 classification of the data on individuals as private under section 13.46, subdivision 2; and
78.10 control over the collection, storage, use, access, protection, and contracting related to data
78.11 according to section 13.05, in which the license holder is assigned the duties of a government
78.12 entity;

78.13 (2) the license holder must provide each resident served by the program with a notice
78.14 that meets the requirements under section 13.04, in which the license holder is assigned the
78.15 duties of the government entity, and that meets the requirements of Code of Federal
78.16 Regulations, title 45, part 164.52. The notice shall describe the purpose for collection of
78.17 the data, and to whom and why it may be disclosed pursuant to law. The notice must inform
78.18 the individual that the license holder uses electronic monitoring and, if applicable, that
78.19 recording technology is used;

78.20 (3) the license holder must not install monitoring cameras in bathrooms;

78.21 (4) electronic monitoring cameras must not be concealed from the residents served by
78.22 the program; and

78.23 (5) electronic video and audio recordings of residents served by the program shall be
78.24 stored by the license holder for five days unless: (i) a resident served by the program or
78.25 legal representative requests that the recording be held longer based on a specific report of
78.26 alleged maltreatment; or (ii) the recording captures an incident or event of alleged
78.27 maltreatment under section ~~626.556~~ or 626.557 or chapter 626B or a crime under chapter
78.28 609. When requested by a resident served by the program or when a recording captures an
78.29 incident or event of alleged maltreatment or a crime, the license holder must maintain the
78.30 recording in a secured area for no longer than 30 days to give the investigating agency an
78.31 opportunity to make a copy of the recording. The investigating agency will maintain the
78.32 electronic video or audio recordings as required in section 626.557, subdivision 12b.

79.1 (c) The commissioner shall develop, and make available to license holders and county
79.2 licensing workers, a checklist of the data privacy provisions to be monitored for purposes
79.3 of licensure.

79.4 Sec. 45. Minnesota Statutes 2016, section 245A.145, subdivision 1, is amended to read:

79.5 Subdivision 1. **Policies and procedures.** (a) All licensed child care providers must
79.6 develop policies and procedures for reporting suspected child maltreatment that fulfill the
79.7 requirements in ~~section 626.556~~ chapter 626B and must develop policies and procedures
79.8 for reporting complaints about the operation of a child care program. The policies and
79.9 procedures must include the telephone numbers of the local county child protection agency
79.10 for reporting suspected maltreatment; the county licensing agency for family and group
79.11 family child care providers; and the state licensing agency for child care centers.

79.12 (b) The policies and procedures required in paragraph (a) must:

79.13 (1) be provided to the parents of all children at the time of enrollment in the child care
79.14 program; and

79.15 (2) be made available upon request.

79.16 Sec. 46. Minnesota Statutes 2016, section 245A.40, subdivision 1, is amended to read:

79.17 Subdivision 1. **Orientation.** The child care center license holder must ensure that every
79.18 staff person and volunteer is given orientation training and successfully completes the
79.19 training before starting assigned duties. The orientation training in this subdivision applies
79.20 to volunteers who will have direct contact with or access to children and who are not under
79.21 the direct supervision of a staff person. Completion of the orientation must be documented
79.22 in the individual's personnel record. The orientation training must include information about:

79.23 (1) the center's philosophy, child care program, and procedures for maintaining health
79.24 and safety and handling emergencies and accidents;

79.25 (2) specific job responsibilities;

79.26 (3) the behavior guidance standards in Minnesota Rules, part 9503.0055; and

79.27 (4) the reporting responsibilities in ~~section 626.556~~, chapter 626B and Minnesota Rules,
79.28 part 9503.0130.

80.1 Sec. 47. Minnesota Statutes 2016, section 245A.66, subdivision 3, is amended to read:

80.2 Subd. 3. **Orientation to risk reduction plan and annual review of plan.** (a) The license
80.3 holder shall ensure that all mandated reporters, as defined in section ~~626.556~~, subdivision
80.4 ~~3~~ 626B.03, who are under the control of the license holder, receive an orientation to the risk
80.5 reduction plan prior to first providing unsupervised direct contact services, as defined in
80.6 section 245C.02, subdivision 11, to children, not to exceed 14 days from the first supervised
80.7 direct contact, and annually thereafter. The license holder must document the orientation
80.8 to the risk reduction plan in the mandated reporter's personnel records.

80.9 (b) The license holder must review the risk reduction plan annually and document the
80.10 annual review. When conducting the review, the license holder must consider incidents that
80.11 have occurred in the center since the last review, including:

80.12 (1) the assessment factors in the plan;

80.13 (2) the internal reviews conducted under this section, if any;

80.14 (3) substantiated maltreatment findings, if any; and

80.15 (4) incidents that caused injury or harm to a child, if any, that occurred since the last
80.16 review.

80.17 Following any change to the risk reduction plan, the license holder must inform mandated
80.18 reporters, under the control of the license holder, of the changes in the risk reduction plan,
80.19 and document that the mandated reporters were informed of the changes.

80.20 Sec. 48. Minnesota Statutes 2016, section 245C.05, subdivision 6, is amended to read:

80.21 Subd. 6. **Applicant, license holder, other entities, and agencies.** (a) The applicant,
80.22 license holder, other entities as provided in this chapter, Bureau of Criminal Apprehension,
80.23 law enforcement agencies, commissioner of health, and county agencies shall help with the
80.24 study by giving the commissioner criminal conviction data and reports about the maltreatment
80.25 of adults substantiated under section 626.557 and the maltreatment of minors substantiated
80.26 under ~~section 626.556~~ chapter 626B.

80.27 (b) If a background study is initiated by an applicant, license holder, or other entities as
80.28 provided in this chapter, and the applicant, license holder, or other entity receives information
80.29 about the possible criminal or maltreatment history of an individual who is the subject of
80.30 the background study, the applicant, license holder, or other entity must immediately provide
80.31 the information to the commissioner.

81.1 (c) The program or county or other agency must provide written notice to the individual
81.2 who is the subject of the background study of the requirements under this subdivision.

81.3 Sec. 49. Minnesota Statutes 2016, section 245C.15, subdivision 4, is amended to read:

81.4 Subd. 4. **Seven-year disqualification.** (a) An individual is disqualified under section
81.5 245C.14 if: (1) less than seven years has passed since the discharge of the sentence imposed,
81.6 if any, for the offense; and (2) the individual has committed a misdemeanor-level violation
81.7 of any of the following offenses: sections 256.98 (wrongfully obtaining assistance); 268.182
81.8 (false representation; concealment of facts); 393.07, subdivision 10, paragraph (c) (federal
81.9 Food Stamp Program fraud); 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide
81.10 or injury); 609.221 (assault in the first degree); 609.222 (assault in the second degree);
81.11 609.223 (assault in the third degree); 609.2231 (assault in the fourth degree); 609.224 (assault
81.12 in the fifth degree); 609.2242 (domestic assault); 609.2335 (financial exploitation of a
81.13 vulnerable adult); 609.234 (failure to report maltreatment of a vulnerable adult); 609.2672
81.14 (assault of an unborn child in the third degree); 609.27 (coercion); violation of an order for
81.15 protection under 609.3232 (protective order authorized; procedures; penalties); 609.466
81.16 (medical assistance fraud); 609.52 (theft); 609.525 (bringing stolen goods into Minnesota);
81.17 609.527 (identity theft); 609.53 (receiving stolen property); 609.535 (issuance of dishonored
81.18 checks); 609.611 (insurance fraud); 609.66 (dangerous weapons); 609.665 (spring guns);
81.19 609.746 (interference with privacy); 609.79 (obscene or harassing telephone calls); 609.795
81.20 (letter, telegram, or package; opening; harassment); 609.82 (fraud in obtaining credit);
81.21 609.821 (financial transaction card fraud); 617.23 (indecent exposure), not involving a
81.22 minor; 617.293 (harmful materials; dissemination and display to minors prohibited); or
81.23 Minnesota Statutes 2012, section 609.21; or violation of an order for protection under section
81.24 518B.01 (Domestic Abuse Act).

81.25 (b) An individual is disqualified under section 245C.14 if less than seven years has
81.26 passed since a determination or disposition of the individual's:

81.27 (1) failure to make required reports under section ~~626.556, subdivision 3, or~~ 626.557,
81.28 subdivision 3, or 626B.03, for incidents in which: (i) the final disposition under section
81.29 ~~626.556 or 626.557~~ or chapter 626B was substantiated maltreatment, and (ii) the maltreatment
81.30 was recurring or serious; or

81.31 (2) substantiated serious or recurring maltreatment of a minor under ~~section 626.556~~
81.32 chapter 626B, a vulnerable adult under section 626.557, or serious or recurring maltreatment
81.33 in any other state, the elements of which are substantially similar to the elements of
81.34 maltreatment under section ~~626.556 or 626.557~~ or chapter 626B for which: (i) there is a

82.1 preponderance of evidence that the maltreatment occurred, and (ii) the subject was
82.2 responsible for the maltreatment.

82.3 (c) An individual is disqualified under section 245C.14 if less than seven years has
82.4 passed since the individual's aiding and abetting, attempt, or conspiracy to commit any of
82.5 the offenses listed in paragraphs (a) and (b), as each of these offenses is defined in Minnesota
82.6 Statutes.

82.7 (d) An individual is disqualified under section 245C.14 if less than seven years has
82.8 passed since the discharge of the sentence imposed for an offense in any other state or
82.9 country, the elements of which are substantially similar to the elements of any of the offenses
82.10 listed in paragraphs (a) and (b).

82.11 (e) When a disqualification is based on a judicial determination other than a conviction,
82.12 the disqualification period begins from the date of the court order. When a disqualification
82.13 is based on an admission, the disqualification period begins from the date of an admission
82.14 in court. When a disqualification is based on an Alford Plea, the disqualification period
82.15 begins from the date the Alford Plea is entered in court. When a disqualification is based
82.16 on a preponderance of evidence of a disqualifying act, the disqualification date begins from
82.17 the date of the dismissal, the date of discharge of the sentence imposed for a conviction for
82.18 a disqualifying crime of similar elements, or the date of the incident, whichever occurs last.

82.19 (f) An individual is disqualified under section 245C.14 if less than seven years has passed
82.20 since the individual was disqualified under section 256.98, subdivision 8.

82.21 Sec. 50. Minnesota Statutes 2016, section 245C.16, subdivision 1, is amended to read:

82.22 Subdivision 1. **Determining immediate risk of harm.** (a) If the commissioner determines
82.23 that the individual studied has a disqualifying characteristic, the commissioner shall review
82.24 the information immediately available and make a determination as to the subject's immediate
82.25 risk of harm to persons served by the program where the individual studied will have direct
82.26 contact with, or access to, people receiving services.

82.27 (b) The commissioner shall consider all relevant information available, including the
82.28 following factors in determining the immediate risk of harm:

82.29 (1) the recency of the disqualifying characteristic;

82.30 (2) the recency of discharge from probation for the crimes;

82.31 (3) the number of disqualifying characteristics;

82.32 (4) the intrusiveness or violence of the disqualifying characteristic;

- 83.1 (5) the vulnerability of the victim involved in the disqualifying characteristic;
- 83.2 (6) the similarity of the victim to the persons served by the program where the individual
83.3 studied will have direct contact;
- 83.4 (7) whether the individual has a disqualification from a previous background study that
83.5 has not been set aside; and
- 83.6 (8) if the individual has a disqualification which may not be set aside because it is a
83.7 permanent bar under section 245C.24, subdivision 1, the commissioner may order the
83.8 immediate removal of the individual from any position allowing direct contact with, or
83.9 access to, persons receiving services from the program.
- 83.10 (c) This section does not apply when the subject of a background study is regulated by
83.11 a health-related licensing board as defined in chapter 214, and the subject is determined to
83.12 be responsible for substantiated maltreatment under section ~~626.556~~ or 626.557 or chapter
83.13 626B.
- 83.14 (d) This section does not apply to a background study related to an initial application
83.15 for a child foster care license.
- 83.16 (e) Except for paragraph (f), this section does not apply to a background study that is
83.17 also subject to the requirements under section 256B.0659, subdivisions 11 and 13, for a
83.18 personal care assistant or a qualified professional as defined in section 256B.0659,
83.19 subdivision 1.
- 83.20 (f) If the commissioner has reason to believe, based on arrest information or an active
83.21 maltreatment investigation, that an individual poses an imminent risk of harm to persons
83.22 receiving services, the commissioner may order that the person be continuously supervised
83.23 or immediately removed pending the conclusion of the maltreatment investigation or criminal
83.24 proceedings.
- 83.25 Sec. 51. Minnesota Statutes 2016, section 245C.17, subdivision 3, is amended to read:
- 83.26 Subd. 3. **Disqualification notification.** (a) The commissioner shall notify an applicant,
83.27 license holder, or other entity as provided in this chapter who is not the subject of the study:
- 83.28 (1) that the commissioner has found information that disqualifies the individual studied
83.29 from being in a position allowing direct contact with, or access to, people served by the
83.30 program; and
- 83.31 (2) the commissioner's determination of the individual's risk of harm under section
83.32 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:

(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

85.1 (ii) ensure that the disqualified individual requests reconsideration within 15 days of
85.2 receipt of the notice of disqualification.

85.3 (e) The commissioner shall not notify the applicant, license holder, or other entity as
85.4 provided in this chapter of the information contained in the subject's background study
85.5 unless:

85.6 (1) the basis for the disqualification is failure to cooperate with the background study
85.7 or substantiated maltreatment under section ~~626.556~~ or 626.557 or chapter 626B;

85.8 (2) the Data Practices Act under chapter 13 provides for release of the information; or

85.9 (3) the individual studied authorizes the release of the information.

85.10 Sec. 52. Minnesota Statutes 2016, section 245C.21, subdivision 2, is amended to read:

85.11 Subd. 2. **Time frame for requesting reconsideration.** (a) When the commissioner
85.12 sends an individual a notice of disqualification based on a finding under section 245C.16,
85.13 subdivision 2, paragraph (a), clause (1) or (2), the disqualified individual must submit the
85.14 request for a reconsideration within 30 calendar days of the individual's receipt of the notice
85.15 of disqualification. If mailed, the request for reconsideration must be postmarked and sent
85.16 to the commissioner within 30 calendar days of the individual's receipt of the notice of
85.17 disqualification. If a request for reconsideration is made by personal service, it must be
85.18 received by the commissioner within 30 calendar days after the individual's receipt of the
85.19 notice of disqualification. Upon showing that the information under subdivision 3 cannot
85.20 be obtained within 30 days, the disqualified individual may request additional time, not to
85.21 exceed 30 days, to obtain the information.

85.22 (b) When the commissioner sends an individual a notice of disqualification based on a
85.23 finding under section 245C.16, subdivision 2, paragraph (a), clause (3), the disqualified
85.24 individual must submit the request for reconsideration within 15 calendar days of the
85.25 individual's receipt of the notice of disqualification. If mailed, the request for reconsideration
85.26 must be postmarked and sent to the commissioner within 15 calendar days of the individual's
85.27 receipt of the notice of disqualification. If a request for reconsideration is made by personal
85.28 service, it must be received by the commissioner within 15 calendar days after the individual's
85.29 receipt of the notice of disqualification.

85.30 (c) An individual who was determined to have maltreated a child under section ~~626.556~~
85.31 chapter 626B or a vulnerable adult under section 626.557, and who is disqualified on the
85.32 basis of serious or recurring maltreatment, may request a reconsideration of both the
85.33 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, and 626.557, subdivision 9d, 626B.12,~~ 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, and 626.557, subdivision 9d, and 626B.12.~~ 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, and 626.557, subdivision 9d, and 626B.12,~~ 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, and 626.557, subdivision 9d, and 626B.12.~~

Sec. 53. Minnesota Statutes 2016, 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:

87.1 (1) the individual committed an act that constitutes maltreatment of a child under section
87.2 ~~626.556, subdivision 10e~~ 626B.11, and the maltreatment resulted in substantial bodily harm
87.3 as defined in section 609.02, subdivision 7a, or substantial mental or emotional harm as
87.4 supported by competent psychological or psychiatric evidence; or

87.5 (2) the individual was determined under section 626.557 to be the perpetrator of a
87.6 substantiated incident of maltreatment of a vulnerable adult that resulted in substantial
87.7 bodily harm as defined in section 609.02, subdivision 7a, or substantial mental or emotional
87.8 harm as supported by competent psychological or psychiatric evidence.

87.9 Sec. 54. Minnesota Statutes 2016, section 245C.25, is amended to read:

87.10 **245C.25 CONSOLIDATED RECONSIDERATION OF MALTREATMENT**
87.11 **DETERMINATION AND DISQUALIFICATION.**

87.12 (a) If an individual is disqualified on the basis of a determination of maltreatment under
87.13 section ~~626.556 or~~ 626.557 or chapter 626B, which was serious or recurring, and the
87.14 individual requests reconsideration of the maltreatment determination under section ~~626.556,~~
87.15 ~~subdivision 10i, or~~ 626.557, subdivision 9d, or 626B.12, and also requests reconsideration
87.16 of the disqualification under section 245C.21, the commissioner shall consolidate the
87.17 reconsideration of the maltreatment determination and the disqualification into a single
87.18 reconsideration.

87.19 (b) For maltreatment and disqualification determinations made by county agencies, the
87.20 county agency shall conduct the consolidated reconsideration. If the county agency has
87.21 disqualified an individual on multiple bases, one of which is a county maltreatment
87.22 determination for which the individual has a right to request reconsideration, the county
87.23 shall conduct the reconsideration of all disqualifications.

87.24 (c) If the county has previously conducted a consolidated reconsideration under paragraph
87.25 (b) of a maltreatment determination and a disqualification based on serious or recurring
87.26 maltreatment, and the county subsequently disqualifies the individual based on that
87.27 determination, the county shall conduct the reconsideration of the subsequent disqualification.
87.28 The scope of the subsequent disqualification shall be limited to whether the individual poses
87.29 a risk of harm in accordance with section 245C.22, subdivision 4. If the commissioner
87.30 subsequently disqualifies the individual in connection with a child foster care license based
87.31 on the county's previous maltreatment determination, the commissioner shall conduct the
87.32 reconsideration of the subsequent disqualification.

88.1 Sec. 55. Minnesota Statutes 2016, section 245C.27, subdivision 1, is amended to read:

88.2 Subdivision 1. **Fair hearing following a reconsideration decision.** (a) An individual
88.3 who is disqualified on the basis of a preponderance of evidence that the individual committed
88.4 an act or acts that meet the definition of any of the crimes listed in section 245C.15; for a
88.5 determination under section ~~626.556~~ or 626.557 or chapter 626B of substantiated
88.6 maltreatment that was serious or recurring under section 245C.15; or for failure to make
88.7 required reports under section ~~626.556, subdivision 3~~; or 626.557, subdivision 3, or 626B.03,
88.8 pursuant to section 245C.15, subdivision 4, paragraph (b), clause (1), may request a fair
88.9 hearing under section 256.045, following a reconsideration decision issued under section
88.10 245C.23, unless the disqualification is deemed conclusive under section 245C.29.

88.11 (b) The fair hearing is the only administrative appeal of the final agency determination
88.12 for purposes of appeal by the disqualified individual. The disqualified individual does not
88.13 have the right to challenge the accuracy and completeness of data under section 13.04.

88.14 (c) Except as provided under paragraph (e), if the individual was disqualified based on
88.15 a conviction of, admission to, or Alford Plea to any crimes listed in section 245C.15,
88.16 subdivisions 1 to 4, or for a disqualification under section 256.98, subdivision 8, the
88.17 reconsideration decision under section 245C.22 is the final agency determination for purposes
88.18 of appeal by the disqualified individual and is not subject to a hearing under section 256.045.
88.19 If the individual was disqualified based on a judicial determination, that determination is
88.20 treated the same as a conviction for purposes of appeal.

88.21 (d) This subdivision does not apply to a public employee's appeal of a disqualification
88.22 under section 245C.28, subdivision 3.

88.23 (e) Notwithstanding paragraph (c), if the commissioner does not set aside a
88.24 disqualification of an individual who was disqualified based on both a preponderance of
88.25 evidence and a conviction or admission, the individual may request a fair hearing under
88.26 section 256.045, unless the disqualifications are deemed conclusive under section 245C.29.
88.27 The scope of the hearing conducted under section 256.045 with regard to the disqualification
88.28 based on a conviction or admission shall be limited solely to whether the individual poses
88.29 a risk of harm, according to section 256.045, subdivision 3b. In this case, the reconsideration
88.30 decision under section 245C.22 is not the final agency decision for purposes of appeal by
88.31 the disqualified individual.

89.1 Sec. 56. Minnesota Statutes 2016, section 245C.27, subdivision 2, is amended to read:

89.2 Subd. 2. **Consolidated fair hearing following a reconsideration decision.** (a) If an
89.3 individual who is disqualified on the bases of serious or recurring maltreatment requests a
89.4 fair hearing on the maltreatment determination under section ~~626.556, subdivision 10i, or~~
89.5 ~~626.557, subdivision 9d, or 626B.12,~~ and requests a fair hearing under this section on the
89.6 disqualification following a reconsideration decision under section 245C.23, the scope of
89.7 the fair hearing under section 256.045 shall include the maltreatment determination and the
89.8 disqualification.

89.9 (b) A fair hearing is the only administrative appeal of the final agency determination.
89.10 The disqualified individual does not have the right to challenge the accuracy and
89.11 completeness of data under section 13.04.

89.12 (c) This subdivision does not apply to a public employee's appeal of a disqualification
89.13 under section 245C.28, subdivision 3.

89.14 Sec. 57. Minnesota Statutes 2016, section 245C.28, subdivision 1, is amended to read:

89.15 Subdivision 1. **License holder.** (a) If a maltreatment determination or a disqualification
89.16 for which reconsideration was timely requested and which was not set aside is the basis for
89.17 a denial of a license under section 245A.05 or a licensing sanction under section 245A.07,
89.18 the license holder has the right to a contested case hearing under chapter 14 and Minnesota
89.19 Rules, parts 1400.8505 to 1400.8612. The license holder must submit the appeal under
89.20 section 245A.05 or 245A.07, subdivision 3.

89.21 (b) As provided under section 245A.08, subdivision 2a, if the denial of a license or
89.22 licensing sanction is based on a disqualification for which reconsideration was timely
89.23 requested and was not set aside, the scope of the consolidated contested case hearing must
89.24 include:

89.25 (1) the disqualification, to the extent the license holder otherwise has a hearing right on
89.26 the disqualification under this chapter; and

89.27 (2) the licensing sanction or denial of a license.

89.28 (c) As provided for under section 245A.08, subdivision 2a, if the denial of a license or
89.29 licensing sanction is based on a determination of maltreatment under section ~~626.556 or~~
89.30 ~~626.557 or chapter 626B,~~ or a disqualification for serious or recurring maltreatment which
89.31 was not set aside, the scope of the contested case hearing must include:

90.1 (1) the maltreatment determination, if the maltreatment is not conclusive under section
90.2 245C.29;

90.3 (2) the disqualification, if the disqualification is not conclusive under section 245C.29;
90.4 and

90.5 (3) the licensing sanction or denial of a license. In such cases, a fair hearing must not
90.6 be conducted under section 256.045. If the disqualification was based on a determination
90.7 of substantiated serious or recurring maltreatment under section ~~626.556~~ or 626.557 or
90.8 chapter 626B, the appeal must be submitted under sections 245A.07, subdivision 3, and
90.9 ~~626.556, subdivision 10i, or 626.557, subdivision 9d, or 626B.12.~~

90.10 (d) Except for family child care and child foster care, reconsideration of a maltreatment
90.11 determination under sections ~~626.556, subdivision 10i, and 626.557, subdivision 9d, and~~
90.12 626B.12, and reconsideration of a disqualification under section 245C.22, must not be
90.13 conducted when:

90.14 (1) a denial of a license under section 245A.05, or a licensing sanction under section
90.15 245A.07, is based on a determination that the license holder is responsible for maltreatment
90.16 or the disqualification of a license holder based on serious or recurring maltreatment;

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

90.19 (3) the license holder appeals the maltreatment determination, disqualification, and
90.20 denial of a license or licensing sanction. In such cases a fair hearing under section 256.045
90.21 must not be conducted under sections 245C.27, ~~626.556, subdivision 10i, and 626.557,~~
90.22 subdivision 9d, and 626B.12. Under section 245A.08, subdivision 2a, the scope of the
90.23 consolidated contested case hearing must include the maltreatment determination,
90.24 disqualification, and denial of a license or licensing sanction.

90.25 Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment
90.26 determination or disqualification, but does not appeal the denial of a license or a licensing
90.27 sanction, reconsideration of the maltreatment determination shall be conducted under sections
90.28 ~~626.556, subdivision 10i, and 626.557, subdivision 9d, and 626B.12,~~ and reconsideration
90.29 of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing
90.30 shall also be conducted as provided under sections 245C.27, ~~626.556, subdivision 10i, and~~
90.31 626.557, subdivision 9d, and 626B.12.

91.1 Sec. 58. Minnesota Statutes 2016, section 245C.29, subdivision 1, is amended to read:

91.2 Subdivision 1. **Conclusive maltreatment determination or disposition.** Unless
91.3 otherwise specified in statute, a maltreatment determination or disposition under section
91.4 ~~626.556~~ or 626.557 or chapter 626B is conclusive, if:

91.5 (1) the commissioner has issued a final order in an appeal of that determination or
91.6 disposition under section 245A.08, subdivision 5, or 256.045;

91.7 (2) the individual did not request reconsideration of the maltreatment determination or
91.8 disposition under section ~~626.556~~ or 626.557 or chapter 626B; or

91.9 (3) the individual did not request a hearing of the maltreatment determination or
91.10 disposition under section 256.045.

91.11 Sec. 59. Minnesota Statutes 2016, section 245C.31, subdivision 1, is amended to read:

91.12 Subdivision 1. **Board determines disciplinary or corrective action.** (a) When the
91.13 subject of a background study is regulated by a health-related licensing board as defined in
91.14 chapter 214, and the commissioner determines that the regulated individual is responsible
91.15 for substantiated maltreatment under section ~~626.556~~ or 626.557 or chapter 626B, instead
91.16 of the commissioner making a decision regarding disqualification, the board shall make a
91.17 determination whether to impose disciplinary or corrective action under chapter 214.

91.18 (b) This section does not apply to a background study of an individual regulated by a
91.19 health-related licensing board if the individual's study is related to child foster care, adult
91.20 foster care, or family child care licensure.

91.21 Sec. 60. Minnesota Statutes 2016, section 245C.32, subdivision 2, is amended to read:

91.22 Subd. 2. **Use.** (a) The commissioner may also use these systems and records to obtain
91.23 and provide criminal history data from the Bureau of Criminal Apprehension, criminal
91.24 history data held by the commissioner, and data about substantiated maltreatment under
91.25 section ~~626.556~~ or 626.557 or chapter 626B, for other purposes, provided that:

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

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

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

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

92.5 (d) The commissioner shall recover the cost of obtaining background study data required
92.6 under section 524.5-118 through a fee of \$50 per study for an individual who has not lived
92.7 outside Minnesota for the past ten years, and a fee of \$100 for an individual who has resided
92.8 outside of Minnesota for any period during the ten years preceding the background study.
92.9 The commissioner shall recover, from the individual, any additional fees charged by other
92.10 states' licensing agencies that are associated with these data requests. Fees under subdivision
92.11 3 also apply when criminal history data from the National Criminal Records Repository is
92.12 required.

92.13 Sec. 61. Minnesota Statutes 2016, section 245D.02, subdivision 11, is amended to read:

92.14 Subd. 11. **Incident.** "Incident" means an occurrence which involves a person and requires
92.15 the program to make a response that is not a part of the program's ordinary provision of
92.16 services to that person, and includes:

92.17 (1) serious injury of a person as determined by section 245.91, subdivision 6;

92.18 (2) a person's death;

92.19 (3) any medical emergency, unexpected serious illness, or significant unexpected change
92.20 in an illness or medical condition of a person that requires the program to call 911, physician
92.21 treatment, or hospitalization;

92.22 (4) any mental health crisis that requires the program to call 911, a mental health crisis
92.23 intervention team, or a similar mental health response team or service when available and
92.24 appropriate;

92.25 (5) an act or situation involving a person that requires the program to call 911, law
92.26 enforcement, or the fire department;

92.27 (6) a person's unauthorized or unexplained absence from a program;

92.28 (7) conduct by a person receiving services against another person receiving services
92.29 that:

92.30 (i) is so severe, pervasive, or objectively offensive that it substantially interferes with a
92.31 person's opportunities to participate in or receive service or support;

92.32 (ii) places the person in actual and reasonable fear of harm;

- 93.1 (iii) places the person in actual and reasonable fear of damage to property of the person;
93.2 or
- 93.3 (iv) substantially disrupts the orderly operation of the program;
- 93.4 (8) any sexual activity between persons receiving services involving force or coercion
93.5 as defined under section 609.341, subdivisions 3 and 14;
- 93.6 (9) any emergency use of manual restraint as identified in section 245D.061 or successor
93.7 provisions; or
- 93.8 (10) a report of alleged or suspected child or vulnerable adult maltreatment under section
93.9 ~~626.556 or 626.557~~ or chapter 626B.

93.10 Sec. 62. Minnesota Statutes 2016, section 245D.06, subdivision 1, is amended to read:

93.11 Subdivision 1. **Incident response and reporting.** (a) The license holder must respond
93.12 to incidents under section 245D.02, subdivision 11, that occur while providing services to
93.13 protect the health and safety of and minimize risk of harm to the person.

93.14 (b) The license holder must maintain information about and report incidents to the
93.15 person's legal representative or designated emergency contact and case manager within 24
93.16 hours of an incident occurring while services are being provided, within 24 hours of discovery
93.17 or receipt of information that an incident occurred, unless the license holder has reason to
93.18 know that the incident has already been reported, or as otherwise directed in a person's
93.19 coordinated service and support plan or coordinated service and support plan addendum.
93.20 An incident of suspected or alleged maltreatment must be reported as required under
93.21 paragraph (d), and an incident of serious injury or death must be reported as required under
93.22 paragraph (e).

93.23 (c) When the incident involves more than one person, the license holder must not disclose
93.24 personally identifiable information about any other person when making the report to each
93.25 person and case manager unless the license holder has the consent of the person.

93.26 (d) Within 24 hours of reporting maltreatment as required under section ~~626.556 or~~
93.27 ~~626.557~~ or chapter 626B, the license holder must inform the case manager of the report
93.28 unless there is reason to believe that the case manager is involved in the suspected
93.29 maltreatment. The license holder must disclose the nature of the activity or occurrence
93.30 reported and the agency that received the report.

93.31 (e) The license holder must report the death or serious injury of the person as required
93.32 in paragraph (b) and to the Department of Human Services Licensing Division, and the

94.1 Office of Ombudsman for Mental Health and Developmental Disabilities as required under
94.2 section 245.94, subdivision 2a, within 24 hours of the death or serious injury, or receipt of
94.3 information that the death or serious injury occurred, unless the license holder has reason
94.4 to know that the death or serious injury has already been reported.

94.5 (f) When a death or serious injury occurs in a facility certified as an intermediate care
94.6 facility for persons with developmental disabilities, the death or serious injury must be
94.7 reported to the Department of Health, Office of Health Facility Complaints, and the Office
94.8 of Ombudsman for Mental Health and Developmental Disabilities, as required under sections
94.9 245.91 and 245.94, subdivision 2a, unless the license holder has reason to know that the
94.10 death or serious injury has already been reported.

94.11 (g) The license holder must conduct an internal review of incident reports of deaths and
94.12 serious injuries that occurred while services were being provided and that were not reported
94.13 by the program as alleged or suspected maltreatment, for identification of incident patterns,
94.14 and implementation of corrective action as necessary to reduce occurrences. The review
94.15 must include an evaluation of whether related policies and procedures were followed,
94.16 whether the policies and procedures were adequate, whether there is a need for additional
94.17 staff training, whether the reported event is similar to past events with the persons or the
94.18 services involved, and whether there is a need for corrective action by the license holder to
94.19 protect the health and safety of persons receiving services. Based on the results of this
94.20 review, the license holder must develop, document, and implement a corrective action plan
94.21 designed to correct current lapses and prevent future lapses in performance by staff or the
94.22 license holder, if any.

94.23 (h) The license holder must verbally report the emergency use of manual restraint of a
94.24 person as required in paragraph (b) within 24 hours of the occurrence. The license holder
94.25 must ensure the written report and internal review of all incident reports of the emergency
94.26 use of manual restraints are completed according to the requirements in section 245D.061
94.27 or successor provisions.

94.28 Sec. 63. Minnesota Statutes 2016, section 245D.06, subdivision 6, is amended to read:

94.29 Subd. 6. **Restricted procedures.** (a) The following procedures are allowed when the
94.30 procedures are implemented in compliance with the standards governing their use as
94.31 identified in clauses (1) to (3). Allowed but restricted procedures include:

94.32 (1) permitted actions and procedures subject to the requirements in subdivision 7;

95.1 (2) procedures identified in a positive support transition plan subject to the requirements
95.2 in subdivision 8; or

95.3 (3) emergency use of manual restraint subject to the requirements in section 245D.061.

95.4 (b) A restricted procedure identified in paragraph (a) must not:

95.5 (1) be implemented with a child in a manner that constitutes sexual abuse, neglect,
95.6 physical abuse, or mental injury, as defined in section ~~626.556, subdivision 2~~ 626B.02;

95.7 (2) be implemented with an adult in a manner that constitutes abuse or neglect as defined
95.8 in section 626.5572, subdivision 2 or 17;

95.9 (3) be implemented in a manner that violates a person's rights identified in section
95.10 245D.04;

95.11 (4) restrict a person's normal access to a nutritious diet, drinking water, adequate
95.12 ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions,
95.13 necessary clothing, or any protection required by state licensing standards or federal
95.14 regulations governing the program;

95.15 (5) deny the person visitation or ordinary contact with legal counsel, a legal representative,
95.16 or next of kin;

95.17 (6) be used for the convenience of staff, as punishment, as a substitute for adequate
95.18 staffing, or as a consequence if the person refuses to participate in the treatment or services
95.19 provided by the program;

95.20 (7) use prone restraint. For purposes of this section, "prone restraint" means use of
95.21 manual restraint that places a person in a face-down position. Prone restraint does not include
95.22 brief physical holding of a person who, during an emergency use of manual restraint, rolls
95.23 into a prone position, if the person is restored to a standing, sitting, or side-lying position
95.24 as quickly as possible;

95.25 (8) apply back or chest pressure while a person is in a prone position as identified in
95.26 clause (7), supine position, or side-lying position; or

95.27 (9) be implemented in a manner that is contraindicated for any of the person's known
95.28 medical or psychological limitations.

95.29 Sec. 64. Minnesota Statutes 2016, section 245D.09, subdivision 4, is amended to read:

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

the license holder must provide and ensure completion of ten hours of orientation for direct support staff providing basic services and 30 hours of orientation for direct support staff providing intensive services 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 626B, 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

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

97.3 Sec. 65. Minnesota Statutes 2016, section 245D.32, subdivision 5, is amended to read:

97.4 Subd. 5. **Investigations of alleged or suspected maltreatment.** Nothing in this section
97.5 changes the commissioner's responsibilities to investigate alleged or suspected maltreatment
97.6 of a minor under ~~section 626.556~~ chapter 626B or a vulnerable adult under section 626.557.

97.7 Sec. 66. Minnesota Statutes 2016, section 245F.04, subdivision 1, is amended to read:

97.8 Subdivision 1. **General application and license requirements.** An applicant for licensure
97.9 as a clinically managed withdrawal management program or medically monitored withdrawal
97.10 management program must meet the following requirements, except where otherwise noted.
97.11 All programs must comply with federal requirements and the general requirements in
97.12 chapters 245A ~~and~~, 245C, and 626B, and sections ~~626.556~~, 626.557, and 626.5572. A
97.13 withdrawal management program must be located in a hospital licensed under sections
97.14 144.50 to 144.581, or must be a supervised living facility with a class B license from the
97.15 Department of Health under Minnesota Rules, parts 4665.0100 to 4665.9900.

97.16 Sec. 67. Minnesota Statutes 2016, section 245F.15, subdivision 3, is amended to read:

97.17 Subd. 3. **Program director qualifications.** A program director must:

97.18 (1) have at least one year of work experience in direct service to individuals with
97.19 substance use disorders or one year of work experience in the management or administration
97.20 of direct service to individuals with substance use disorders;

97.21 (2) have a baccalaureate degree or three years of work experience in administration or
97.22 personnel supervision in human services; and

97.23 (3) know and understand the requirements of this chapter and chapters 245A ~~and~~, 245C,
97.24 and 626B, and sections 253B.04, 253B.05, ~~626.556~~, 626.557, and 626.5572.

97.25 Sec. 68. Minnesota Statutes 2016, section 245F.15, subdivision 5, is amended to read:

97.26 Subd. 5. **Responsible staff person qualifications.** Each responsible staff person must
97.27 know and understand the requirements of this chapter, chapter 626B, and sections 245A.65,
97.28 253B.04, 253B.05, ~~626.556~~, 626.557, and 626.5572. In a clinically managed program, the
97.29 responsible staff person must be a licensed practical nurse employed by or under contract

98.1 with the license holder. In a medically monitored program, the responsible staff person must
98.2 be a registered nurse, program director, or physician.

98.3 Sec. 69. Minnesota Statutes 2016, section 245F.16, subdivision 1, is amended to read:

98.4 Subdivision 1. **Policy requirements.** A license holder must have written personnel
98.5 policies and must make them available to staff members at all times. The personnel policies
98.6 must:

98.7 (1) ensure that a staff member's retention, promotion, job assignment, or pay are not
98.8 affected by a good-faith communication between the staff member and the Department of
98.9 Human Services, Department of Health, Ombudsman for Mental Health and Developmental
98.10 Disabilities, law enforcement, or local agencies that investigate complaints regarding patient
98.11 rights, health, or safety;

98.12 (2) include a job description for each position that specifies job responsibilities, degree
98.13 of authority to execute job responsibilities, standards of job performance related to specified
98.14 job responsibilities, and qualifications;

98.15 (3) provide for written job performance evaluations for staff members of the license
98.16 holder at least annually;

98.17 (4) describe behavior that constitutes grounds for disciplinary action, suspension, or
98.18 dismissal, including policies that address substance use problems and meet the requirements
98.19 of section 245F.15, subdivisions 1 and 2. The policies and procedures must list behaviors
98.20 or incidents that are considered substance use problems. The list must include:

98.21 (i) receiving treatment for substance use disorder within the period specified for the
98.22 position in the staff qualification requirements;

98.23 (ii) substance use that has a negative impact on the staff member's job performance;

98.24 (iii) substance use that affects the credibility of treatment services with patients, referral
98.25 sources, or other members of the community; and

98.26 (iv) symptoms of intoxication or withdrawal on the job;

98.27 (5) include policies prohibiting personal involvement with patients and policies
98.28 prohibiting patient maltreatment as specified under ~~chapter~~ chapters 604 and 626B and
98.29 sections 245A.65, ~~626.556~~, 626.557, and 626.5572;

98.30 (6) include a chart or description of organizational structure indicating the lines of
98.31 authority and responsibilities;

99.1 (7) include a written plan for new staff member orientation that, at a minimum, includes
99.2 training related to the specific job functions for which the staff member was hired, program
99.3 policies and procedures, patient needs, and the areas identified in subdivision 2, paragraphs
99.4 (b) to (e); and

99.5 (8) include a policy on the confidentiality of patient information.

99.6 Sec. 70. Minnesota Statutes 2016, section 245F.16, subdivision 2, is amended to read:

99.7 Subd. 2. **Staff development.** (a) A license holder must ensure that each staff member
99.8 receives orientation training before providing direct patient care and at least 30 hours of
99.9 continuing education every two years. A written record must be kept to demonstrate
99.10 completion of training requirements.

99.11 (b) Within 72 hours of beginning employment, all staff having direct patient contact
99.12 must be provided orientation on the following:

99.13 (1) specific license holder and staff responsibilities for patient confidentiality;

99.14 (2) standards governing the use of protective procedures;

99.15 (3) patient ethical boundaries and patient rights, including the rights of patients admitted
99.16 under chapter 253B;

99.17 (4) infection control procedures;

99.18 (5) mandatory reporting under chapter 626B and sections 245A.65, ~~626.556~~, and 626.557,
99.19 including specific training covering the facility's policies concerning obtaining patient
99.20 releases of information;

99.21 (6) HIV minimum standards as required in section 245A.19;

99.22 (7) motivational counseling techniques and identifying stages of change; and

99.23 (8) eight hours of training on the program's protective procedures policy required in
99.24 section 245F.09, including:

99.25 (i) approved therapeutic holds;

99.26 (ii) protective procedures used to prevent patients from imminent danger of harming
99.27 self or others;

99.28 (iii) the emergency conditions under which the protective procedures may be used, if
99.29 any;

99.30 (iv) documentation standards for using protective procedures;

- 100.1 (v) how to monitor and respond to patient distress; and
- 100.2 (vi) person-centered planning and trauma-informed care.
- 100.3 (c) All staff having direct patient contact must be provided annual training on the
- 100.4 following:
- 100.5 (1) infection control procedures;
- 100.6 (2) mandatory reporting under chapter 626B and sections 245A.65, ~~626.556~~, and 626.557,
- 100.7 including specific training covering the facility's policies concerning obtaining patient
- 100.8 releases of information;
- 100.9 (3) HIV minimum standards as required in section 245A.19; and
- 100.10 (4) motivational counseling techniques and identifying stages of change.
- 100.11 (d) All staff having direct patient contact must be provided training every two years on
- 100.12 the following:
- 100.13 (1) specific license holder and staff responsibilities for patient confidentiality;
- 100.14 (2) standards governing use of protective procedures, including:
- 100.15 (i) approved therapeutic holds;
- 100.16 (ii) protective procedures used to prevent patients from imminent danger of harming
- 100.17 self or others;
- 100.18 (iii) the emergency conditions under which the protective procedures may be used, if
- 100.19 any;
- 100.20 (iv) documentation standards for using protective procedures;
- 100.21 (v) how to monitor and respond to patient distress; and
- 100.22 (vi) person-centered planning and trauma-informed care; and
- 100.23 (3) patient ethical boundaries and patient rights, including the rights of patients admitted
- 100.24 under chapter 253B.
- 100.25 (e) Continuing education that is completed in areas outside of the required topics must
- 100.26 provide information to the staff person that is useful to the performance of the individual
- 100.27 staff person's duties.
- 100.28 Sec. 71. Minnesota Statutes 2016, section 245F.18, is amended to read:
- 100.29 **245F.18 POLICY AND PROCEDURES MANUAL.**

101.1 A license holder must develop a written policy and procedures manual that is
101.2 alphabetically indexed and has a table of contents, so that staff have immediate access to
101.3 all policies and procedures, and that consumers of the services and other authorized parties
101.4 have access to all policies and procedures. The manual must contain the following materials:

101.5 (1) a description of patient education services as required in section 245F.06;

101.6 (2) personnel policies that comply with section 245F.16;

101.7 (3) admission information and referral and discharge policies that comply with section
101.8 245F.05;

101.9 (4) a health monitoring plan that complies with section 245F.12;

101.10 (5) a protective procedures policy that complies with section 245F.09, if the program
101.11 elects to use protective procedures;

101.12 (6) policies and procedures for assuring appropriate patient-to-staff ratios that comply
101.13 with section 245F.14;

101.14 (7) policies and procedures for assessing and documenting the susceptibility for risk of
101.15 abuse to the patient as the basis for the individual abuse prevention plan required by section
101.16 245A.65;

101.17 (8) procedures for mandatory reporting as required by sections 245A.65, ~~626.556~~, and
101.18 ~~626.557~~, and chapter 626B;

101.19 (9) a medication control plan that complies with section 245F.13; and

101.20 (10) policies and procedures regarding HIV that meet the minimum standards under
101.21 section 245A.19.

101.22 Sec. 72. Minnesota Statutes 2016, section 254A.09, is amended to read:

101.23 **254A.09 CONFIDENTIALITY OF RECORDS.**

101.24 The Department of Human Services shall assure confidentiality to individuals who are
101.25 the subject of research by the state authority or are recipients of alcohol or drug abuse
101.26 information, assessment, or treatment from a licensed or approved program. The
101.27 commissioner shall withhold from all persons not connected with the conduct of the research
101.28 the names or other identifying characteristics of a subject of research unless the individual
101.29 gives written permission that information relative to treatment and recovery may be released.
101.30 Persons authorized to protect the privacy of subjects of research may not be compelled in
101.31 any federal, state or local, civil, criminal, administrative or other proceeding to identify or

102.1 disclose other confidential information about the individuals. Identifying information and
102.2 other confidential information related to alcohol or drug abuse information, assessment,
102.3 treatment, or aftercare services may be ordered to be released by the court for the purpose
102.4 of civil or criminal investigations or proceedings if, after review of the records considered
102.5 for disclosure, the court determines that the information is relevant to the purpose for which
102.6 disclosure is requested. The court shall order disclosure of only that information which is
102.7 determined relevant. In determining whether to compel disclosure, the court shall weigh
102.8 the public interest and the need for disclosure against the injury to the patient, to the treatment
102.9 relationship in the program affected and in other programs similarly situated, and the actual
102.10 or potential harm to the ability of programs to attract and retain patients if disclosure occurs.
102.11 This section does not exempt any person from the reporting obligations under ~~section~~
102.12 ~~626.556~~ chapter 626B, nor limit the use of information reported in any proceeding arising
102.13 out of the abuse or neglect of a child. Identifying information and other confidential
102.14 information related to alcohol or drug abuse information, assessment, treatment, or aftercare
102.15 services may be ordered to be released by the court for the purpose of civil or criminal
102.16 investigations or proceedings. No information may be released pursuant to this section that
102.17 would not be released pursuant to section 595.02, subdivision 2.

102.18 Sec. 73. Minnesota Statutes 2016, section 254B.04, subdivision 1, is amended to read:

102.19 Subdivision 1. **Eligibility.** (a) Persons eligible for benefits under Code of Federal
102.20 Regulations, title 25, part 20, and persons eligible for medical assistance benefits under
102.21 sections 256B.055, 256B.056, and 256B.057, subdivisions 1, 5, and 6, or who meet the
102.22 income standards of section 256B.056, subdivision 4, are entitled to chemical dependency
102.23 fund services. State money appropriated for this paragraph must be placed in a separate
102.24 account established for this purpose.

102.25 Persons with dependent children who are determined to be in need of chemical
102.26 dependency treatment pursuant to an assessment under section ~~626.556, subdivision 10~~
102.27 626B.07, subdivision 1, or a case plan under section 260C.201, subdivision 6, or 260C.212,
102.28 shall be assisted by the local agency to access needed treatment services. Treatment services
102.29 must be appropriate for the individual or family, which may include long-term care treatment
102.30 or treatment in a facility that allows the dependent children to stay in the treatment facility.
102.31 The county shall pay for out-of-home placement costs, if applicable.

102.32 (b) A person not entitled to services under paragraph (a), but with family income that
102.33 is less than 215 percent of the federal poverty guidelines for the applicable family size, shall
102.34 be eligible to receive chemical dependency fund services within the limit of funds

appropriated for this group for the fiscal year. If notified by the state agency of limited funds, a county must give preferential treatment to persons with dependent children who are in need of chemical dependency treatment pursuant to an assessment under section ~~626.556, subdivision 10~~ 626B.07, subdivision 1, or a case plan under section 260C.201, subdivision 6, or 260C.212. A county may spend money from its own sources to serve persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

(c) Persons whose income is between 215 percent and 412 percent of the federal poverty guidelines for the applicable family size shall be eligible for chemical dependency services on a sliding fee basis, within the limit of funds appropriated for this group for the fiscal year. Persons eligible under this paragraph must contribute to the cost of services according to the sliding fee scale established under subdivision 3. A county may spend money from its own sources to provide services to persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

Sec. 74. Minnesota Statutes 2016, 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 11~~ 626B.02. 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

104.1 has access to not public data under chapter 13 maintained by state agencies, statewide
104.2 systems, or political subdivisions that are related to the child's death or circumstances
104.3 surrounding the care of the child. The commissioner shall also have access to records of
104.4 private hospitals as necessary to carry out the duties prescribed by this section. Access to
104.5 data under this paragraph is limited to police investigative data; autopsy records and coroner
104.6 or medical examiner investigative data; hospital, public health, or other medical records of
104.7 the child; hospital and other medical records of the child's parent that relate to prenatal care;
104.8 and records created by social service agencies that provided services to the child or family
104.9 within three years preceding the child's death. A state agency, statewide system, or political
104.10 subdivision shall provide the data upon request of the commissioner. Not public data may
104.11 be shared with members of the state or local child mortality review panel in connection with
104.12 an individual case.

104.13 (d) Notwithstanding the data's classification in the possession of any other agency, data
104.14 acquired by a local or state child mortality review panel in the exercise of its duties is
104.15 protected nonpublic or confidential data as defined in section 13.02, but may be disclosed
104.16 as necessary to carry out the purposes of the review panel. The data is not subject to subpoena
104.17 or discovery. The commissioner may disclose conclusions of the review panel, but shall
104.18 not disclose data that was classified as confidential or private data on decedents, under
104.19 section 13.10, or private, confidential, or protected nonpublic data in the disseminating
104.20 agency, except that the commissioner may disclose local social service agency data as
104.21 provided in section ~~626.556, subdivision 11d~~ 626B.14, subdivision 5, on individual cases
104.22 involving a fatality or near fatality of a person served by the local social service agency
104.23 prior to the date of death.

104.24 (e) A person attending a child mortality review panel meeting shall not disclose what
104.25 transpired at the meeting, except to carry out the purposes of the mortality review panel.
104.26 The proceedings and records of the mortality review panel are protected nonpublic data as
104.27 defined in section 13.02, subdivision 13, and are not subject to discovery or introduction
104.28 into evidence in a civil or criminal action against a professional, the state or a county agency,
104.29 arising out of the matters the panel is reviewing. Information, documents, and records
104.30 otherwise available from other sources are not immune from discovery or use in a civil or
104.31 criminal action solely because they were presented during proceedings of the review panel.
104.32 A person who presented information before the review panel or who is a member of the
104.33 panel shall not be prevented from testifying about matters within the person's knowledge.
104.34 However, in a civil or criminal proceeding a person shall not be questioned about the person's

105.1 presentation of information to the review panel or opinions formed by the person as a result
105.2 of the review meetings.

105.3 Sec. 75. Minnesota Statutes 2016, section 256.01, subdivision 14b, is amended to read:

105.4 Subd. 14b. **American Indian child welfare projects.** (a) The commissioner of human
105.5 services may authorize projects to test tribal delivery of child welfare services to American
105.6 Indian children and their parents and custodians living on the reservation. The commissioner
105.7 has authority to solicit and determine which tribes may participate in a project. Grants may
105.8 be issued to Minnesota Indian tribes to support the projects. The commissioner may waive
105.9 existing state rules as needed to accomplish the projects. The commissioner may authorize
105.10 projects to use alternative methods of (1) investigating and assessing reports of child
105.11 maltreatment, and (2) administrative reconsideration, administrative appeal, and judicial
105.12 appeal of maltreatment determinations, provided the alternative methods used by the projects
105.13 comply with the provisions of ~~sections~~ section 256.045 and 626.556 ~~chapter 626B~~ dealing
105.14 with the rights of individuals who are the subjects of reports or investigations, including
105.15 notice and appeal rights and data practices requirements. The commissioner may seek any
105.16 federal approvals necessary to carry out the projects as well as seek and use any funds
105.17 available to the commissioner, including use of federal funds, foundation funds, existing
105.18 grant funds, and other funds. The commissioner is authorized to advance state funds as
105.19 necessary to operate the projects. Federal reimbursement applicable to the projects is
105.20 appropriated to the commissioner for the purposes of the projects. The projects must be
105.21 required to address responsibility for safety, permanency, and well-being of children.

105.22 (b) For the purposes of this section, "American Indian child" means a person under 21
105.23 years old and who is a tribal member or eligible for membership in one of the tribes chosen
105.24 for a project under this subdivision and who is residing on the reservation of that tribe.

105.25 (c) In order to qualify for an American Indian child welfare project, a tribe must:

105.26 (1) be one of the existing tribes with reservation land in Minnesota;

105.27 (2) have a tribal court with jurisdiction over child custody proceedings;

105.28 (3) have a substantial number of children for whom determinations of maltreatment have
105.29 occurred;

105.30 (4) have capacity to respond to reports of abuse and neglect under ~~section 626.556~~
105.31 chapter 626B;

105.32 (5) provide a wide range of services to families in need of child welfare services; and

106.1 (6) have a tribal-state title IV-E agreement in effect.

106.2 (d) Grants awarded under this section may be used for the nonfederal costs of providing
106.3 child welfare services to American Indian children on the tribe's reservation, including costs
106.4 associated with:

106.5 (1) assessment and prevention of child abuse and neglect;

106.6 (2) family preservation;

106.7 (3) facilitative, supportive, and reunification services;

106.8 (4) out-of-home placement for children removed from the home for child protective
106.9 purposes; and

106.10 (5) other activities and services approved by the commissioner that further the goals of
106.11 providing safety, permanency, and well-being of American Indian children.

106.12 (e) When a tribe has initiated a project and has been approved by the commissioner to
106.13 assume child welfare responsibilities for American Indian children of that tribe under this
106.14 section, the affected county social service agency is relieved of responsibility for responding
106.15 to reports of abuse and neglect under ~~section 626.556~~ chapter 626B for those children during
106.16 the time within which the tribal project is in effect and funded. The commissioner shall
106.17 work with tribes and affected counties to develop procedures for data collection, evaluation,
106.18 and clarification of ongoing role and financial responsibilities of the county and tribe for
106.19 child welfare services prior to initiation of the project. Children who have not been identified
106.20 by the tribe as participating in the project shall remain the responsibility of the county.
106.21 Nothing in this section shall alter responsibilities of the county for law enforcement or court
106.22 services.

106.23 (f) Participating tribes may conduct children's mental health screenings under section
106.24 245.4874, subdivision 1, paragraph (a), clause (12), for children who are eligible for the
106.25 initiative and living on the reservation and who meet one of the following criteria:

106.26 (1) the child must be receiving child protective services;

106.27 (2) the child must be in foster care; or

106.28 (3) the child's parents must have had parental rights suspended or terminated.

106.29 Tribes may access reimbursement from available state funds for conducting the screenings.
106.30 Nothing in this section shall alter responsibilities of the county for providing services under
106.31 section 245.487.

107.1 (g) Participating tribes may establish a local child mortality review panel. In establishing
107.2 a local child mortality review panel, the tribe agrees to conduct local child mortality reviews
107.3 for child deaths or near-fatalities occurring on the reservation under subdivision 12. Tribes
107.4 with established child mortality review panels shall have access to nonpublic data and shall
107.5 protect nonpublic data under subdivision 12, paragraphs (c) to (e). The tribe shall provide
107.6 written notice to the commissioner and affected counties when a local child mortality review
107.7 panel has been established and shall provide data upon request of the commissioner for
107.8 purposes of sharing nonpublic data with members of the state child mortality review panel
107.9 in connection to an individual case.

107.10 (h) The commissioner shall collect information on outcomes relating to child safety,
107.11 permanency, and well-being of American Indian children who are served in the projects.
107.12 Participating tribes must provide information to the state in a format and completeness
107.13 deemed acceptable by the state to meet state and federal reporting requirements.

107.14 (i) In consultation with the White Earth Band, the commissioner shall develop and submit
107.15 to the chairs and ranking minority members of the legislative committees with jurisdiction
107.16 over health and human services a plan to transfer legal responsibility for providing child
107.17 protective services to White Earth Band member children residing in Hennepin County to
107.18 the White Earth Band. The plan shall include a financing proposal, definitions of key terms,
107.19 statutory amendments required, and other provisions required to implement the plan. The
107.20 commissioner shall submit the plan by January 15, 2012.

107.21 Sec. 76. Minnesota Statutes 2016, section 256.01, subdivision 15, is amended to read:

107.22 Subd. 15. **Citizen review panels.** (a) The commissioner shall establish a minimum of
107.23 three citizen review panels to examine the policies and procedures of state and local welfare
107.24 agencies to evaluate the extent to which the agencies are effectively discharging their child
107.25 protection responsibilities. Local social service agencies shall cooperate and work with the
107.26 citizen review panels. Where appropriate, the panels may examine specific cases to evaluate
107.27 the effectiveness of child protection activities. The panels must examine the extent to which
107.28 the state and local agencies are meeting the requirements of the federal Child Abuse
107.29 Prevention and Treatment Act and the Reporting of Maltreatment of Minors Act. The
107.30 commissioner may authorize mortality review panels or child protection teams to carry out
107.31 the duties of a citizen review panel if membership meets or is expanded to meet the
107.32 requirements of this section.

107.33 (b) The panel membership must include volunteers who broadly represent the community
107.34 in which the panel is established, including members who have expertise in the prevention

108.1 and treatment of child abuse and neglect, child protection advocates, and representatives of
108.2 the councils of color and ombudsperson for families.

108.3 (c) A citizen review panel has access to the following data for specific case review under
108.4 this paragraph: police investigative data; autopsy records and coroner or medical examiner
108.5 investigative data; hospital, public health, or other medical records of the child; hospital
108.6 and other medical records of the child's parent that relate to prenatal care; records created
108.7 by social service agencies that provided services to the child or family; and personnel data
108.8 related to an employee's performance in discharging child protection responsibilities. A
108.9 state agency, statewide system, or political subdivision shall provide the data upon request
108.10 of the commissioner. Not public data may be shared with members of the state or local
108.11 citizen review panel in connection with an individual case.

108.12 (d) Notwithstanding the data's classification in the possession of any other agency, data
108.13 acquired by a local or state citizen review panel in the exercise of its duties are protected
108.14 nonpublic or confidential data as defined in section 13.02, but may be disclosed as necessary
108.15 to carry out the purposes of the review panel. The data are not subject to subpoena or
108.16 discovery. The commissioner may disclose conclusions of the review panel, but may not
108.17 disclose data on individuals that were classified as confidential or private data on individuals
108.18 in the possession of the state agency, statewide system, or political subdivision from which
108.19 the data were received, except that the commissioner may disclose local social service
108.20 agency data as provided in section ~~626.556, subdivision 11d~~ 626B.14, subdivision 5, on
108.21 individual cases involving a fatality or near fatality of a person served by the local social
108.22 service agency prior to the date of death.

108.23 (e) A person attending a citizen review panel meeting may not disclose what transpired
108.24 at the meeting, except to carry out the purposes of the review panel. The proceedings and
108.25 records of the review panel are protected nonpublic data as defined in section 13.02,
108.26 subdivision 13, and are not subject to discovery or introduction into evidence in a civil or
108.27 criminal action against a professional, the state, or county agency arising out of the matters
108.28 the panel is reviewing. Information, documents, and records otherwise available from other
108.29 sources are not immune from discovery or use in a civil or criminal action solely because
108.30 they were presented during proceedings of the review panel. A person who presented
108.31 information before the review panel or who is a member of the panel is not prevented from
108.32 testifying about matters within the person's knowledge. However, in a civil or criminal
108.33 proceeding, a person must not be questioned about the person's presentation of information
108.34 to the review panel or opinions formed by the person as a result of the review panel meetings.

109.1 Sec. 77. Minnesota Statutes 2016, section 256.045, subdivision 3, is amended to read:

109.2 Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

109.3 (1) any person applying for, receiving or having received public assistance, medical
109.4 care, or a program of social services granted by the state agency or a county agency or the
109.5 federal Food Stamp Act whose application for assistance is denied, not acted upon with
109.6 reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed
109.7 to have been incorrectly paid;

109.8 (2) any patient or relative aggrieved by an order of the commissioner under section
109.9 252.27;

109.10 (3) a party aggrieved by a ruling of a prepaid health plan;

109.11 (4) except as provided under chapter 245C, any individual or facility determined by a
109.12 lead investigative agency to have maltreated a vulnerable adult under section 626.557 after
109.13 they have exercised their right to administrative reconsideration under section 626.557;

109.14 (5) any person whose claim for foster care payment according to a placement of the
109.15 child resulting from a child protection assessment under ~~section 626.556~~ chapter 626B is
109.16 denied or not acted upon with reasonable promptness, regardless of funding source;

109.17 (6) any person to whom a right of appeal according to this section is given by other
109.18 provision of law;

109.19 (7) an applicant aggrieved by an adverse decision to an application for a hardship waiver
109.20 under section 256B.15;

109.21 (8) an applicant aggrieved by an adverse decision to an application or redetermination
109.22 for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

109.23 (9) except as provided under chapter 245A, an individual or facility determined to have
109.24 maltreated a minor under ~~section 626.556~~ chapter 626B, after the individual or facility has
109.25 exercised the right to administrative reconsideration under ~~section 626.556~~ chapter 626B;

109.26 (10) except as provided under chapter 245C, an individual disqualified under sections
109.27 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23,
109.28 on the basis of serious or recurring maltreatment; a preponderance of the evidence that the
109.29 individual has committed an act or acts that meet the definition of any of the crimes listed
109.30 in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section
109.31 ~~626.556, subdivision 3, or 626.557, subdivision 3, or 626B.03~~. Hearings regarding a
109.32 maltreatment determination under clause (4) or (9) and a disqualification under this clause

110.1 in which the basis for a disqualification is serious or recurring maltreatment, shall be
110.2 consolidated into a single fair hearing. In such cases, the scope of review by the human
110.3 services judge shall include both the maltreatment determination and the disqualification.
110.4 The failure to exercise the right to an administrative reconsideration shall not be a bar to a
110.5 hearing under this section if federal law provides an individual the right to a hearing to
110.6 dispute a finding of maltreatment;

110.7 (11) any person with an outstanding debt resulting from receipt of public assistance,
110.8 medical care, or the federal Food Stamp Act who is contesting a setoff claim by the
110.9 Department of Human Services or a county agency. The scope of the appeal is the validity
110.10 of the claimant agency's intention to request a setoff of a refund under chapter 270A against
110.11 the debt;

110.12 (12) a person issued a notice of service termination under section 245D.10, subdivision
110.13 3a, from residential supports and services as defined in section 245D.03, subdivision 1,
110.14 paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a; or

110.15 (13) an individual disability waiver recipient based on a denial of a request for a rate
110.16 exception under section 256B.4914.

110.17 (b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10),
110.18 is the only administrative appeal to the final agency determination specifically, including
110.19 a challenge to the accuracy and completeness of data under section 13.04. Hearings requested
110.20 under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or
110.21 after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged
110.22 to have maltreated a resident prior to October 1, 1995, shall be held as a contested case
110.23 proceeding under the provisions of chapter 14. Hearings requested under paragraph (a),
110.24 clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A
110.25 hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only
110.26 available when there is no district court action pending. If such action is filed in district
110.27 court while an administrative review is pending that arises out of some or all of the events
110.28 or circumstances on which the appeal is based, the administrative review must be suspended
110.29 until the judicial actions are completed. If the district court proceedings are completed,
110.30 dismissed, or overturned, the matter may be considered in an administrative hearing.

110.31 (c) For purposes of this section, bargaining unit grievance procedures are not an
110.32 administrative appeal.

110.33 (d) The scope of hearings involving claims to foster care payments under paragraph (a),
110.34 clause (5), shall be limited to the issue of whether the county is legally responsible for a

111.1 child's placement under court order or voluntary placement agreement and, if so, the correct
111.2 amount of foster care payment to be made on the child's behalf and shall not include review
111.3 of the propriety of the county's child protection determination or child placement decision.

111.4 (e) The scope of hearings under paragraph (a), clause (12), shall be limited to whether
111.5 the proposed termination of services is authorized under section 245D.10, subdivision 3a,
111.6 paragraph (b), and whether the requirements of section 245D.10, subdivision 3a, paragraph
111.7 (c), were met. If the appeal includes a request for a temporary stay of termination of services,
111.8 the scope of the hearing shall also include whether the case management provider has
111.9 finalized arrangements for a residential facility, a program, or services that will meet the
111.10 assessed needs of the recipient by the effective date of the service termination.

111.11 (f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor
111.12 under contract with a county agency to provide social services is not a party and may not
111.13 request a hearing under this section, except if assisting a recipient as provided in subdivision
111.14 4.

111.15 (g) An applicant or recipient is not entitled to receive social services beyond the services
111.16 prescribed under chapter 256M or other social services the person is eligible for under state
111.17 law.

111.18 (h) The commissioner may summarily affirm the county or state agency's proposed
111.19 action without a hearing when the sole issue is an automatic change due to a change in state
111.20 or federal law.

111.21 (i) Unless federal or Minnesota law specifies a different time frame in which to file an
111.22 appeal, an individual or organization specified in this section may contest the specified
111.23 action, decision, or final disposition before the state agency by submitting a written request
111.24 for a hearing to the state agency within 30 days after receiving written notice of the action,
111.25 decision, or final disposition, or within 90 days of such written notice if the applicant,
111.26 recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision
111.27 13, why the request was not submitted within the 30-day time limit. The individual filing
111.28 the appeal has the burden of proving good cause by a preponderance of the evidence.

111.29 Sec. 78. Minnesota Statutes 2016, section 256.045, subdivision 3b, is amended to read:

111.30 Subd. 3b. **Standard of evidence for maltreatment and disqualification hearings.** (a)
111.31 The state human services judge shall determine that maltreatment has occurred if a
111.32 preponderance of evidence exists to support the final disposition under ~~sections 626.556~~
111.33 ~~and section 626.557 and chapter 626B.~~ For purposes of hearings regarding disqualification,

112.1 the state human services judge shall affirm the proposed disqualification in an appeal under
112.2 subdivision 3, paragraph (a), clause (9), if a preponderance of the evidence shows the
112.3 individual has:

112.4 (1) committed maltreatment under section ~~626.556~~ or 626.557 or chapter 626B, which
112.5 is serious or recurring;

112.6 (2) committed an act or acts meeting the definition of any of the crimes listed in section
112.7 245C.15, subdivisions 1 to 4; or

112.8 (3) failed to make required reports under section ~~626.556~~ or 626.557 or chapter 626B,
112.9 for incidents in which the final disposition under section ~~626.556~~ or 626.557 or chapter
112.10 626B was substantiated maltreatment that was serious or recurring.

112.11 (b) If the disqualification is affirmed, the state human services judge shall determine
112.12 whether the individual poses a risk of harm in accordance with the requirements of section
112.13 245C.22, and whether the disqualification should be set aside or not set aside. In determining
112.14 whether the disqualification should be set aside, the human services judge shall consider
112.15 all of the characteristics that cause the individual to be disqualified, including those
112.16 characteristics that were not subject to review under paragraph (a), in order to determine
112.17 whether the individual poses a risk of harm. A decision to set aside a disqualification that
112.18 is the subject of the hearing constitutes a determination that the individual does not pose a
112.19 risk of harm and that the individual may provide direct contact services in the individual
112.20 program specified in the set aside.

112.21 (c) If a disqualification is based solely on a conviction or is conclusive for any reason
112.22 under section 245C.29, the disqualified individual does not have a right to a hearing under
112.23 this section.

112.24 (d) The state human services judge shall recommend an order to the commissioner of
112.25 health, education, or human services, as applicable, who shall issue a final order. The
112.26 commissioner shall affirm, reverse, or modify the final disposition. Any order of the
112.27 commissioner issued in accordance with this subdivision is conclusive upon the parties
112.28 unless appeal is taken in the manner provided in subdivision 7. In any licensing appeal under
112.29 chapters 245A and 245C and sections 144.50 to 144.58 and 144A.02 to 144A.482, the
112.30 commissioner's determination as to maltreatment is conclusive, as provided under section
112.31 245C.29.

113.1 Sec. 79. Minnesota Statutes 2016, section 256.045, subdivision 4, is amended to read:

113.2 Subd. 4. **Conduct of hearings.** (a) All hearings held pursuant to subdivision 3, 3a, 3b,
113.3 or 4a shall be conducted according to the provisions of the federal Social Security Act and
113.4 the regulations implemented in accordance with that act to enable this state to qualify for
113.5 federal grants-in-aid, and according to the rules and written policies of the commissioner
113.6 of human services. County agencies shall install equipment necessary to conduct telephone
113.7 hearings. A state human services judge may schedule a telephone conference hearing when
113.8 the distance or time required to travel to the county agency offices will cause a delay in the
113.9 issuance of an order, or to promote efficiency, or at the mutual request of the parties. Hearings
113.10 may be conducted by telephone conferences unless the applicant, recipient, former recipient,
113.11 person, or facility contesting maltreatment objects. A human services judge may grant a
113.12 request for a hearing in person by holding the hearing by interactive video technology or
113.13 in person. The human services judge must hear the case in person if the person asserts that
113.14 either the person or a witness has a physical or mental disability that would impair the
113.15 person's or witness's ability to fully participate in a hearing held by interactive video
113.16 technology. The hearing shall not be held earlier than five days after filing of the required
113.17 notice with the county or state agency. The state human services judge shall notify all
113.18 interested persons of the time, date, and location of the hearing at least five days before the
113.19 date of the hearing. Interested persons may be represented by legal counsel or other
113.20 representative of their choice, including a provider of therapy services, at the hearing and
113.21 may appear personally, testify and offer evidence, and examine and cross-examine witnesses.
113.22 The applicant, recipient, former recipient, person, or facility contesting maltreatment shall
113.23 have the opportunity to examine the contents of the case file and all documents and records
113.24 to be used by the county or state agency at the hearing at a reasonable time before the date
113.25 of the hearing and during the hearing. In hearings under subdivision 3, paragraph (a), clauses
113.26 (4), (8), and (9), either party may subpoena the private data relating to the investigation
113.27 prepared by the agency under section ~~626.556~~ or 626.557 or chapter 626B that is not
113.28 otherwise accessible under section 13.04, provided the identity of the reporter may not be
113.29 disclosed.

113.30 (b) The private data obtained by subpoena in a hearing under subdivision 3, paragraph
113.31 (a), clause (4), (8), or (9), must be subject to a protective order which prohibits its disclosure
113.32 for any other purpose outside the hearing provided for in this section without prior order of
113.33 the district court. Disclosure without court order is punishable by a sentence of not more
113.34 than 90 days imprisonment or a fine of not more than \$1,000, or both. These restrictions on
113.35 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), (8), and (9), upon 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), (8), and (9), 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

115.1 not be in the best interests of the vulnerable adult, the lead investigative agency shall inform
115.2 the human services judge of the basis for this determination, which must be included in the
115.3 final order. If the human services judge is not reasonably able to determine the address of
115.4 the vulnerable adult, the guardian, or the health care agent, the human services judge is not
115.5 required to send a hearing notice under this subdivision.

115.6 Sec. 80. Minnesota Statutes 2016, section 256B.0621, subdivision 4, is amended to read:

115.7 Subd. 4. **Relocation targeted county case management provider qualifications.** (a)

115.8 A relocation targeted county case management provider is an enrolled medical assistance
115.9 provider who is determined by the commissioner to have all of the following characteristics:

115.10 (1) the legal authority to provide public welfare under sections 393.01, subdivision 7;
115.11 and 393.07; or a federally recognized Indian tribe;

115.12 (2) the demonstrated capacity and experience to provide the components of case
115.13 management to coordinate and link community resources needed by the eligible population;

115.14 (3) the administrative capacity and experience to serve the target population for whom
115.15 it will provide services and ensure quality of services under state and federal requirements;

115.16 (4) the legal authority to provide complete investigative and protective services under
115.17 ~~section 626.556, subdivision 10~~ sections 626B.05, 626B.07, 626B.09, and 626B.10; and
115.18 child welfare and foster care services under section 393.07, subdivisions 1 and 2; or a
115.19 federally recognized Indian tribe;

115.20 (5) a financial management system that provides accurate documentation of services
115.21 and costs under state and federal requirements; and

115.22 (6) the capacity to document and maintain individual case records under state and federal
115.23 requirements.

115.24 (b) A provider of targeted case management under section 256B.0625, subdivision 20,
115.25 may be deemed a certified provider of relocation targeted case management.

115.26 (c) A relocation targeted county case management provider may subcontract with another
115.27 provider to deliver relocation targeted case management services. Subcontracted providers
115.28 must demonstrate the ability to provide the services outlined in subdivision 6, and have a
115.29 procedure in place that notifies the recipient and the recipient's legal representative of any
115.30 conflict of interest if the contracted targeted case management provider also provides, or
115.31 will provide, the recipient's services and supports. Counties must require that contracted

116.1 providers must provide information on all conflicts of interest and obtain the recipient's
116.2 informed consent or provide the recipient with alternatives.

116.3 Sec. 81. Minnesota Statutes 2016, section 256B.0625, subdivision 33, is amended to read:

116.4 Subd. 33. **Child welfare targeted case management.** Medical assistance, subject to
116.5 federal approval, covers child welfare targeted case management services as defined in
116.6 section 256B.094 to children under age 21 who have been assessed and determined in
116.7 accordance with section 256F.10 to be:

116.8 (1) at risk of placement or in placement as defined in section 260C.212, subdivision 1;

116.9 (2) at risk of maltreatment or experiencing maltreatment as defined in section ~~626.556~~,
116.10 ~~subdivision 10~~ 626B.11; or

116.11 (3) in need of protection or services as defined in section 260C.007, subdivision 6.

116.12 Sec. 82. Minnesota Statutes 2016, section 256B.0945, subdivision 1, is amended to read:

116.13 Subdivision 1. **Residential services; provider qualifications.** (a) Counties must arrange
116.14 to provide residential services for children with severe emotional disturbance according to
116.15 sections 245.4882, 245.4885, and this section.

116.16 (b) Services must be provided by a facility that is licensed according to section 245.4882
116.17 and administrative rules promulgated thereunder, and under contract with the county.

116.18 (c) Eligible service costs may be claimed for a facility that is located in a state that
116.19 borders Minnesota if:

116.20 (1) the facility is the closest facility to the child's home, providing the appropriate level
116.21 of care; and

116.22 (2) the commissioner of human services has completed an inspection of the out-of-state
116.23 program according to the interagency agreement with the commissioner of corrections under
116.24 section 260B.198, subdivision 11, paragraph (b), and the program has been certified by the
116.25 commissioner of corrections under section 260B.198, subdivision 11, paragraph (a), to
116.26 substantially meet the standards applicable to children's residential mental health treatment
116.27 programs under Minnesota Rules, chapter 2960. Nothing in this section requires the
116.28 commissioner of human services to enforce the background study requirements under chapter
116.29 245C or the requirements related to prevention and investigation of alleged maltreatment
116.30 under section ~~626.556~~ or 626.557 or chapter 626B. Complaints received by the commissioner

117.1 of human services must be referred to the out-of-state licensing authority for possible
117.2 follow-up.

117.3 (d) Notwithstanding paragraph (b), eligible service costs may be claimed for an
117.4 out-of-state inpatient treatment facility if:

117.5 (1) the facility specializes in providing mental health services to children who are deaf,
117.6 deafblind, or hard-of-hearing and who use American Sign Language as their first language;

117.7 (2) the facility is licensed by the state in which it is located; and

117.8 (3) the state in which the facility is located is a member state of the Interstate Compact
117.9 on Mental Health.

117.10 Sec. 83. Minnesota Statutes 2016, section 256B.0951, subdivision 5, is amended to read:

117.11 Subd. 5. **Variance of certain standards prohibited.** The safety standards, rights, or
117.12 procedural protections under ~~chapter~~ chapters 245C and 626B and sections 245.825; 245.91
117.13 to 245.97; 245A.09, subdivision 2, paragraph (c), clauses (2) and (5); 245A.12; 245A.13;
117.14 252.41, subdivision 9; 256B.092, subdivisions 1b, clause (7), and 10; ~~626.556~~; 626.557,
117.15 and procedures for the monitoring of psychotropic medications shall not be varied under
117.16 the alternative quality assurance licensing system. The commission may make
117.17 recommendations to the commissioners of human services and health or to the legislature
117.18 regarding alternatives to or modifications of the rules and procedures referenced in this
117.19 subdivision.

117.20 Sec. 84. Minnesota Statutes 2016, section 256B.0954, is amended to read:

117.21 **256B.0954 CERTAIN PERSONS DEFINED AS MANDATED REPORTERS.**

117.22 Members of the Quality Assurance Commission established under section 256B.0951,
117.23 members of quality assurance review councils established under section 256B.0952, quality
117.24 assurance managers appointed under section 256B.0952, and members of quality assurance
117.25 teams established under section 256B.0952 are mandated reporters as that term is defined
117.26 in sections ~~626.556, subdivision 3, and~~ 626.5572, subdivision 16, and 626B.03.

117.27 Sec. 85. Minnesota Statutes 2016, section 256B.097, subdivision 4, is amended to read:

117.28 Subd. 4. **Regional quality councils.** (a) The commissioner shall establish, as selected
117.29 by the State Quality Council, regional quality councils of key stakeholders, including regional
117.30 representatives of:

117.31 (1) disability service recipients and their family members;

- 118.1 (2) disability service providers;
- 118.2 (3) disability advocacy groups; and
- 118.3 (4) county human services agencies and staff from the Department of Human Services
- 118.4 and Ombudsman for Mental Health and Developmental Disabilities.
- 118.5 (b) Each regional quality council shall:
- 118.6 (1) direct and monitor the community-based, person-directed quality assurance system
- 118.7 in this section;
- 118.8 (2) approve a training program for quality assurance team members under clause (13);
- 118.9 (3) review summary reports from quality assurance team reviews and make
- 118.10 recommendations to the State Quality Council regarding program licensure;
- 118.11 (4) make recommendations to the State Quality Council regarding the system;
- 118.12 (5) resolve complaints between the quality assurance teams, counties, providers, persons
- 118.13 receiving services, their families, and legal representatives;
- 118.14 (6) analyze and review quality outcomes and critical incident data reporting incidents
- 118.15 of life safety concerns immediately to the Department of Human Services licensing division;
- 118.16 (7) provide information and training programs for persons with disabilities and their
- 118.17 families and legal representatives on service options and quality expectations;
- 118.18 (8) disseminate information and resources developed to other regional quality councils;
- 118.19 (9) respond to state-level priorities;
- 118.20 (10) establish regional priorities for quality improvement;
- 118.21 (11) submit an annual report to the State Quality Council on the status, outcomes,
- 118.22 improvement priorities, and activities in the region;
- 118.23 (12) choose a representative to participate on the State Quality Council and assume other
- 118.24 responsibilities consistent with the priorities of the State Quality Council; and
- 118.25 (13) recruit, train, and assign duties to members of quality assurance teams, taking into
- 118.26 account the size of the service provider, the number of services to be reviewed, the skills
- 118.27 necessary for the team members to complete the process, and ensure that no team member
- 118.28 has a financial, personal, or family relationship with the facility, program, or service being
- 118.29 reviewed or with anyone served at the facility, program, or service. Quality assurance teams
- 118.30 must be comprised of county staff, persons receiving services or the person's families, legal
- 118.31 representatives, members of advocacy organizations, providers, and other involved

119.1 community members. Team members must complete the training program approved by the
119.2 regional quality council and must demonstrate performance-based competency. Team
119.3 members may be paid a per diem and reimbursed for expenses related to their participation
119.4 in the quality assurance process.

119.5 (c) The commissioner shall monitor the safety standards, rights, and procedural
119.6 protections for the monitoring of psychotropic medications and those identified under chapter
119.7 626B and sections 245.825; 245.91 to 245.97; 245A.09, subdivision 2, paragraph (c), clauses
119.8 (2) and (5); 245A.12; 245A.13; 252.41, subdivision 9; 256B.092, subdivision 1b, clause
119.9 (7); ~~626.556~~; and 626.557.

119.10 (d) The regional quality councils may hire staff to perform the duties assigned in this
119.11 subdivision.

119.12 (e) The regional quality councils may charge fees for their services.

119.13 (f) The quality assurance process undertaken by a regional quality council consists of
119.14 an evaluation by a quality assurance team of the facility, program, or service. The process
119.15 must include an evaluation of a random sample of persons served. The sample must be
119.16 representative of each service provided. The sample size must be at least five percent but
119.17 not less than two persons served. All persons must be given the opportunity to be included
119.18 in the quality assurance process in addition to those chosen for the random sample.

119.19 (g) A facility, program, or service may contest a licensing decision of the regional quality
119.20 council as permitted under chapter 245A.

119.21 Sec. 86. Minnesota Statutes 2016, section 256B.097, subdivision 6, is amended to read:

119.22 Subd. 6. **Mandated reporters.** Members of the State Quality Council under subdivision
119.23 3, the regional quality councils under subdivision 4, and quality assurance team members
119.24 under subdivision 4, paragraph (b), clause (13), are mandated reporters as defined in sections
119.25 ~~626.556, subdivision 3, and~~ 626.5572, subdivision 16, and 626B.03.

119.26 Sec. 87. Minnesota Statutes 2016, section 256B.77, subdivision 17, is amended to read:

119.27 Subd. 17. **Approval of alternatives.** The commissioner may approve alternatives to
119.28 administrative rules if the commissioner determines that appropriate alternative measures
119.29 are in place to protect the health, safety, and rights of enrollees and to assure that services
119.30 are of sufficient quality to produce the outcomes described in the personal support plans.
119.31 Prior approved waivers, if needed by the demonstration project, shall be extended. The
119.32 commissioner shall not waive the rights or procedural protections under chapter 626B and

120.1 sections 245.825; 245.91 to 245.97; 252.41, subdivision 9; 256B.092, subdivision 10;
120.2 ~~626.556~~; and 626.557; or procedures for the monitoring of psychotropic medications.
120.3 Prohibited practices as defined in statutes and rules governing service delivery to eligible
120.4 individuals are applicable to services delivered under this demonstration project.

120.5 Sec. 88. Minnesota Statutes 2016, section 256B.85, subdivision 10, is amended to read:

120.6 Subd. 10. **Agency-provider and FMS provider qualifications and duties.** (a)

120.7 Agency-providers identified in subdivision 11 and FMS providers identified in subdivision
120.8 13a shall:

120.9 (1) enroll as a medical assistance Minnesota health care programs provider and meet all
120.10 applicable provider standards and requirements;

120.11 (2) demonstrate compliance with federal and state laws and policies for CFSS as
120.12 determined by the commissioner;

120.13 (3) comply with background study requirements under chapter 245C and maintain
120.14 documentation of background study requests and results;

120.15 (4) verify and maintain records of all services and expenditures by the participant,
120.16 including hours worked by support workers;

120.17 (5) not engage in any agency-initiated direct contact or marketing in person, by telephone,
120.18 or other electronic means to potential participants, guardians, family members, or participants'
120.19 representatives;

120.20 (6) directly provide services and not use a subcontractor or reporting agent;

120.21 (7) meet the financial requirements established by the commissioner for financial
120.22 solvency;

120.23 (8) have never had a lead agency contract or provider agreement discontinued due to
120.24 fraud, or have never had an owner, board member, or manager fail a state or FBI-based
120.25 criminal background check while enrolled or seeking enrollment as a Minnesota health care
120.26 programs provider; and

120.27 (9) have an office located in Minnesota.

120.28 (b) In conducting general duties, agency-providers and FMS providers shall:

120.29 (1) pay support workers based upon actual hours of services provided;

120.30 (2) pay for worker training and development services based upon actual hours of services
120.31 provided or the unit cost of the training session purchased;

- 121.1 (3) withhold and pay all applicable federal and state payroll taxes;
- 121.2 (4) make arrangements and pay unemployment insurance, taxes, workers' compensation,
- 121.3 liability insurance, and other benefits, if any;
- 121.4 (5) enter into a written agreement with the participant, participant's representative, or
- 121.5 legal representative that assigns roles and responsibilities to be performed before services,
- 121.6 supports, or goods are provided;
- 121.7 (6) report maltreatment as required under ~~sections 626.556 and~~ section 626.557 and
- 121.8 chapter 626B; and
- 121.9 (7) comply with any data requests from the department consistent with the Minnesota
- 121.10 Government Data Practices Act under chapter 13.

121.11 Sec. 89. Minnesota Statutes 2016, section 256B.85, subdivision 12a, is amended to read:

121.12 Subd. 12a. **CFSS agency-provider requirements; policies for complaint process and**

121.13 **incident response.** (a) The CFSS agency-provider must establish policies and procedures

121.14 that promote service recipient rights by providing a simple complaint process for participants

121.15 served by the program and their authorized representatives to bring a grievance. The

121.16 complaint process must:

- 121.17 (1) provide staff assistance with the complaint process when requested;
- 121.18 (2) allow the participant to bring the complaint to the highest level of authority in the
- 121.19 program if the grievance cannot be resolved by other staff members, and provide the name,
- 121.20 address, and telephone number of that person;
- 121.21 (3) provide the addresses and telephone numbers of outside agencies to assist the
- 121.22 participant;
- 121.23 (4) require a prompt response to all complaints affecting a participant's health and safety
- 121.24 and a timely response to all other complaints;
- 121.25 (5) require an evaluation of whether:
- 121.26 (i) related policies and procedures were followed and adequate;
- 121.27 (ii) there is a need for additional staff training;
- 121.28 (iii) the complaint is similar to past complaints with the persons, staff, or services
- 121.29 involved; and
- 121.30 (iv) there is a need for corrective action by the agency-provider to protect the health and
- 121.31 safety of participants receiving services;

122.1 (6) provide a written summary of the complaint and a notice of the complaint resolution
122.2 to the participant and, if applicable, case manager or care coordinator; and

122.3 (7) require that the complaint summary and resolution notice be maintained in the
122.4 participant's service record.

122.5 (b) The CFSS agency-provider must establish policies and procedures for responding
122.6 to incidents that occur while services are being provided. When a participant has a legal
122.7 representative or a participant's representative, incidents must be reported to these
122.8 representatives. For the purposes of this paragraph, "incident" means an occurrence that
122.9 involves a participant and requires a response that is not a part of the ordinary provision of
122.10 the services to that participant, and includes:

122.11 (1) serious injury of a participant as determined by section 245.91, subdivision 6;

122.12 (2) a participant's death;

122.13 (3) any medical emergency, unexpected serious illness, or significant unexpected change
122.14 in a participant's illness or medical condition that requires a call to 911, physician treatment,
122.15 or hospitalization;

122.16 (4) any mental health crisis that requires a call to 911 or a mental health crisis intervention
122.17 team;

122.18 (5) an act or situation involving a participant that requires a call to 911, law enforcement,
122.19 or the fire department;

122.20 (6) a participant's unexplained absence;

122.21 (7) behavior that creates an imminent risk of harm to the participant or another; and

122.22 (8) a report of alleged or suspected child or vulnerable adult maltreatment under section
122.23 ~~626.556 or 626.557~~ or chapter 626B.

122.24 Sec. 90. Minnesota Statutes 2016, section 256E.21, subdivision 5, is amended to read:

122.25 Subd. 5. **Child abuse.** "Child abuse" means sexual abuse, neglect, or physical abuse as
122.26 defined in section ~~626.556, subdivision 2, paragraphs (g), (k), and (n)~~ 626B.02, subdivisions
122.27 14, 16, and 18.

122.28 Sec. 91. Minnesota Statutes 2016, section 256F.10, subdivision 1, is amended to read:

122.29 Subdivision 1. **Eligibility.** Persons under 21 years of age who are eligible to receive
122.30 medical assistance are eligible for child welfare targeted case management services under

123.1 section 256B.094 and this section if they have received an assessment and have been
123.2 determined by the local county or tribal social services agency to be:

123.3 (1) at risk of placement or in placement as described in section 260C.212, subdivision
123.4 1;

123.5 (2) at risk of maltreatment or experiencing maltreatment as defined in section ~~626.556~~,
123.6 ~~subdivision 10~~ section 626B.11; or

123.7 (3) in need of protection or services as defined in section 260C.007, subdivision 6.

123.8 Sec. 92. Minnesota Statutes 2016, section 256F.10, subdivision 4, is amended to read:

123.9 Subd. 4. **Provider qualifications and certification standards.** The commissioner must
123.10 certify each provider before enrolling it as a child welfare targeted case management provider
123.11 of services under section 256B.094 and this section. The certification process shall examine
123.12 the provider's ability to meet the qualification requirements and certification standards in
123.13 this subdivision and other federal and state requirements of this service. A certified child
123.14 welfare targeted case management provider is an enrolled medical assistance provider who
123.15 is determined by the commissioner to have all of the following:

123.16 (1) the legal authority to provide public welfare under sections 393.01, subdivision 7,
123.17 and 393.07 or a federally recognized Indian tribe;

123.18 (2) the demonstrated capacity and experience to provide the components of case
123.19 management to coordinate and link community resources needed by the eligible population;

123.20 (3) administrative capacity and experience in serving the target population for whom it
123.21 will provide services and in ensuring quality of services under state and federal requirements;

123.22 (4) the legal authority to provide complete investigative and protective services under
123.23 ~~section 626.556, subdivision 10~~ sections 626B.05, 626B.07, 626B.09, and 626B.10, and
123.24 child welfare and foster care services under section 393.07, subdivisions 1 and 2, or a
123.25 federally recognized Indian tribe;

123.26 (5) a financial management system that provides accurate documentation of services
123.27 and costs under state and federal requirements; and

123.28 (6) the capacity to document and maintain individual case records under state and federal
123.29 requirements.

124.1 Sec. 93. Minnesota Statutes 2016, section 256L.07, subdivision 4, is amended to read:

124.2 Subd. 4. **Families with children in need of chemical dependency treatment.** Premiums
124.3 for families with children when a parent has been determined to be in need of chemical
124.4 dependency treatment pursuant to an assessment conducted by the county under section
124.5 ~~626.556, subdivision 10~~ 626B.07, subdivision 1, or a case plan under section 260C.201,
124.6 subdivision 6, or 260C.212, who are eligible for MinnesotaCare under section 256L.04,
124.7 subdivision 1, may be paid by the county of residence of the person in need of treatment
124.8 for one year from the date the family is determined to be eligible or if the family is currently
124.9 enrolled in MinnesotaCare from the date the person is determined to be in need of chemical
124.10 dependency treatment. Upon renewal, the family is responsible for any premiums owed
124.11 under section 256L.15. If the family is not currently enrolled in MinnesotaCare, the local
124.12 county human services agency shall determine whether the family appears to meet the
124.13 eligibility requirements and shall assist the family in applying for the MinnesotaCare
124.14 program.

124.15 Sec. 94. Minnesota Statutes 2016, section 256M.10, subdivision 2, is amended to read:

124.16 Subd. 2. **Vulnerable children and adults services.** (a) "Vulnerable children and adults
124.17 services" means services provided or arranged for by county boards for vulnerable children
124.18 under ~~chapter~~ chapters 260C and 626B, and ~~sections 626.556 and section 626.5561~~, and
124.19 adults under section 626.557 who experience dependency, abuse, or neglect, as well as
124.20 services for family members to support those individuals. These services may be provided
124.21 by professionals or nonprofessionals, including the person's natural supports in the
124.22 community. For the purpose of this chapter, "vulnerable children" means children and
124.23 adolescents.

124.24 (b) Vulnerable children and adults services do not include services under the public
124.25 assistance programs known as the Minnesota family investment program, Minnesota
124.26 supplemental aid, medical assistance, general assistance, MinnesotaCare, or community
124.27 health services.

124.28 Sec. 95. Minnesota Statutes 2016, section 256M.40, subdivision 1, is amended to read:

124.29 Subdivision 1. **Formula.** The commissioner shall allocate state funds appropriated under
124.30 this chapter to each county board on a calendar year basis in an amount determined according
124.31 to the formula in paragraphs (a) to (e).

124.32 (a) For calendar years 2011 and 2012, the commissioner shall allocate available funds
124.33 to each county in proportion to that county's share in calendar year 2010.

125.1 (b) For calendar year 2013 and each calendar year thereafter, the commissioner shall
125.2 allocate available funds to each county as follows:

125.3 (1) 75 percent must be distributed on the basis of the county share in calendar year 2012;

125.4 (2) five percent must be distributed on the basis of the number of persons residing in
125.5 the county as determined by the most recent data of the state demographer;

125.6 (3) ten percent must be distributed on the basis of the number of vulnerable children
125.7 that are subjects of reports under ~~chapter~~ chapters 260C and 626B and ~~sections 626.556 and~~
125.8 section 626.5561, and in the county as determined by the most recent data of the
125.9 commissioner; and

125.10 (4) ten percent must be distributed on the basis of the number of vulnerable adults that
125.11 are subjects of reports under section 626.557 in the county as determined by the most recent
125.12 data of the commissioner.

125.13 (c) The commissioner is precluded from changing the formula under this subdivision or
125.14 recommending a change to the legislature without public review and input.

125.15 Sec. 96. Minnesota Statutes 2016, section 256M.41, subdivision 1, is amended to read:

125.16 Subdivision 1. **Formula for county staffing funds.** (a) The commissioner shall allocate
125.17 state funds appropriated under this section to each county board on a calendar year basis in
125.18 an amount determined according to the following formula:

125.19 (1) 50 percent must be distributed on the basis of the child population residing in the
125.20 county as determined by the most recent data of the state demographer;

125.21 (2) 25 percent must be distributed on the basis of the number of screened-in reports of
125.22 child maltreatment under ~~sections 626.556 and~~ section 626.5561 and chapter 626B, and in
125.23 the county as determined by the most recent data of the commissioner; and

125.24 (3) 25 percent must be distributed on the basis of the number of open child protection
125.25 case management cases in the county as determined by the most recent data of the
125.26 commissioner.

125.27 (b) Notwithstanding this subdivision, no county shall be awarded an allocation of less
125.28 than \$75,000.

126.1 Sec. 97. Minnesota Statutes 2016, section 256M.41, subdivision 3, is amended to read:

126.2 Subd. 3. **Payments based on performance.** (a) The commissioner shall make payments
126.3 under this section to each county board on a calendar year basis in an amount determined
126.4 under paragraph (b).

126.5 (b) Calendar year allocations under subdivision 1 shall be paid to counties in the following
126.6 manner:

126.7 (1) 80 percent of the allocation as determined in subdivision 1 must be paid to counties
126.8 on or before July 10 of each year;

126.9 (2) ten percent of the allocation shall be withheld until the commissioner determines if
126.10 the county has met the performance outcome threshold of 90 percent based on face-to-face
126.11 contact with alleged child victims. In order to receive the performance allocation, the county
126.12 child protection workers must have a timely face-to-face contact with at least 90 percent of
126.13 all alleged child victims of screened-in maltreatment reports. The standard requires that
126.14 each initial face-to-face contact occur consistent with timelines defined in section ~~626.556,~~
126.15 ~~subdivision 10, paragraph (i)~~ 626B.09, subdivision 4. The commissioner shall make threshold
126.16 determinations in January of each year and payments to counties meeting the performance
126.17 outcome threshold shall occur in February of each year. Any withheld funds from this
126.18 appropriation for counties that do not meet this requirement shall be reallocated by the
126.19 commissioner to those counties meeting the requirement; and

126.20 (3) ten percent of the allocation shall be withheld until the commissioner determines
126.21 that the county has met the performance outcome threshold of 90 percent based on
126.22 face-to-face visits by the case manager. In order to receive the performance allocation, the
126.23 total number of visits made by caseworkers on a monthly basis to children in foster care
126.24 and children receiving child protection services while residing in their home must be at least
126.25 90 percent of the total number of such visits that would occur if every child were visited
126.26 once per month. The commissioner shall make such determinations in January of each year
126.27 and payments to counties meeting the performance outcome threshold shall occur in February
126.28 of each year. Any withheld funds from this appropriation for counties that do not meet this
126.29 requirement shall be reallocated by the commissioner to those counties meeting the
126.30 requirement. For 2015, the commissioner shall only apply the standard for monthly foster
126.31 care visits.

126.32 (c) The commissioner shall work with stakeholders and the Human Services Performance
126.33 Council under section 402A.16 to develop recommendations for specific outcome measures
126.34 that counties should meet in order to receive funds withheld under paragraph (b), and include

127.1 in those recommendations a determination as to whether the performance measures under
127.2 paragraph (b) should be modified or phased out. The commissioner shall report the
127.3 recommendations to the legislative committees having jurisdiction over child protection
127.4 issues by January 1, 2018.

127.5 Sec. 98. Minnesota Statutes 2016, section 257.0764, is amended to read:

127.6 **257.0764 COMPLAINTS.**

127.7 An ombudsperson may receive a complaint from any source concerning an action of an
127.8 agency, facility, or program. After completing a review, the ombudsperson shall inform the
127.9 complainant, agency, facility, or program. Services to a child shall not be unfavorably altered
127.10 as a result of an investigation or complaint. An agency, facility, or program shall not retaliate
127.11 or take adverse action, as defined in section ~~626.556, subdivision 4a~~ 626B.03, subdivision
127.12 3, paragraph (c), against an individual who, in good faith, makes a complaint or assists in
127.13 an investigation.

127.14 Sec. 99. Minnesota Statutes 2016, section 260.012, is amended to read:

127.15 **260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY**
127.16 **REUNIFICATION; REASONABLE EFFORTS.**

127.17 (a) Once a child alleged to be in need of protection or services is under the court's
127.18 jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate
127.19 services, by the social services agency are made to prevent placement or to eliminate the
127.20 need for removal and to reunite the child with the child's family at the earliest possible time,
127.21 and the court must ensure that the responsible social services agency makes reasonable
127.22 efforts to finalize an alternative permanent plan for the child as provided in paragraph (e).
127.23 In determining reasonable efforts to be made with respect to a child and in making those
127.24 reasonable efforts, the child's best interests, health, and safety must be of paramount concern.
127.25 Reasonable efforts to prevent placement and for rehabilitation and reunification are always
127.26 required except upon a determination by the court that a petition has been filed stating a
127.27 prima facie case that:

127.28 (1) the parent has subjected a child to egregious harm as defined in section 260C.007,
127.29 subdivision 14;

127.30 (2) the parental rights of the parent to another child have been terminated involuntarily;

127.31 (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph
127.32 (a), clause (2);

128.1 (4) the parent's custodial rights to another child have been involuntarily transferred to a
128.2 relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d),
128.3 clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction;

128.4 (5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~
128.5 626B.02, against the child or another child of the parent;

128.6 (6) the parent has committed an offense that requires registration as a predatory offender
128.7 under section 243.166, subdivision 1b, paragraph (a) or (b); or

128.8 (7) the provision of services or further services for the purpose of reunification is futile
128.9 and therefore unreasonable under the circumstances.

128.10 (b) When the court makes one of the prima facie determinations under paragraph (a),
128.11 either permanency pleadings under section 260C.505, or a termination of parental rights
128.12 petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under
128.13 sections 260C.503 to 260C.521 must be held within 30 days of this determination.

128.14 (c) In the case of an Indian child, in proceedings under sections 260B.178, 260C.178,
128.15 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, the juvenile court
128.16 must make findings and conclusions consistent with the Indian Child Welfare Act of 1978,
128.17 United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In
128.18 cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section
128.19 1901, the responsible social services agency must provide active efforts as required under
128.20 United States Code, title 25, section 1911(d).

128.21 (d) "Reasonable efforts to prevent placement" means:

128.22 (1) the agency has made reasonable efforts to prevent the placement of the child in foster
128.23 care by working with the family to develop and implement a safety plan; or

128.24 (2) given the particular circumstances of the child and family at the time of the child's
128.25 removal, there are no services or efforts available which could allow the child to safely
128.26 remain in the home.

128.27 (e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence
128.28 by the responsible social services agency to:

128.29 (1) reunify the child with the parent or guardian from whom the child was removed;

128.30 (2) assess a noncustodial parent's ability to provide day-to-day care for the child and,
128.31 where appropriate, provide services necessary to enable the noncustodial parent to safely
128.32 provide the care, as required by section 260C.219;

129.1 (3) conduct a relative search to identify and provide notice to adult relatives as required
129.2 under section 260C.221;

129.3 (4) place siblings removed from their home in the same home for foster care or adoption,
129.4 or transfer permanent legal and physical custody to a relative. Visitation between siblings
129.5 who are not in the same foster care, adoption, or custodial placement or facility shall be
129.6 consistent with section 260C.212, subdivision 2; and

129.7 (5) when the child cannot return to the parent or guardian from whom the child was
129.8 removed, to plan for and finalize a safe and legally permanent alternative home for the child,
129.9 and considers permanent alternative homes for the child inside or outside of the state,
129.10 preferably through adoption or transfer of permanent legal and physical custody of the child.

129.11 (f) Reasonable efforts are made upon the exercise of due diligence by the responsible
129.12 social services agency to use culturally appropriate and available services to meet the needs
129.13 of the child and the child's family. Services may include those provided by the responsible
129.14 social services agency and other culturally appropriate services available in the community.
129.15 At each stage of the proceedings where the court is required to review the appropriateness
129.16 of the responsible social services agency's reasonable efforts as described in paragraphs (a),
129.17 (d), and (e), the social services agency has the burden of demonstrating that:

129.18 (1) it has made reasonable efforts to prevent placement of the child in foster care;

129.19 (2) it has made reasonable efforts to eliminate the need for removal of the child from
129.20 the child's home and to reunify the child with the child's family at the earliest possible time;

129.21 (3) it has made reasonable efforts to finalize an alternative permanent home for the child,
129.22 and considers permanent alternative homes for the child inside or outside of the state; or

129.23 (4) reasonable efforts to prevent placement and to reunify the child with the parent or
129.24 guardian are not required. The agency may meet this burden by stating facts in a sworn
129.25 petition filed under section 260C.141, by filing an affidavit summarizing the agency's
129.26 reasonable efforts or facts the agency believes demonstrate there is no need for reasonable
129.27 efforts to reunify the parent and child, or through testimony or a certified report required
129.28 under juvenile court rules.

129.29 (g) Once the court determines that reasonable efforts for reunification are not required
129.30 because the court has made one of the prima facie determinations under paragraph (a), the
129.31 court may only require reasonable efforts for reunification after a hearing according to
129.32 section 260C.163, where the court finds there is not clear and convincing evidence of the
129.33 facts upon which the court based its prima facie determination. In this case when there is

130.1 clear and convincing evidence that the child is in need of protection or services, the court
130.2 may find the child in need of protection or services and order any of the dispositions available
130.3 under section 260C.201, subdivision 1. Reunification of a child with a parent is not required
130.4 if the parent has been convicted of:

130.5 (1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185
130.6 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

130.7 (2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the child;

130.8 (3) a violation of, or an attempt or conspiracy to commit a violation of, United States
130.9 Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

130.10 (4) committing sexual abuse as defined in section ~~626.556, subdivision 2~~ 626B.02,
130.11 against the child or another child of the parent; or

130.12 (5) an offense that requires registration as a predatory offender under section 243.166,
130.13 subdivision 1b, paragraph (a) or (b).

130.14 (h) The juvenile court, in proceedings under sections 260B.178, 260C.178, 260C.201,
130.15 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, shall make findings and
130.16 conclusions as to the provision of reasonable efforts. When determining whether reasonable
130.17 efforts have been made, the court shall consider whether services to the child and family
130.18 were:

130.19 (1) relevant to the safety and protection of the child;

130.20 (2) adequate to meet the needs of the child and family;

130.21 (3) culturally appropriate;

130.22 (4) available and accessible;

130.23 (5) consistent and timely; and

130.24 (6) realistic under the circumstances.

130.25 In the alternative, the court may determine that provision of services or further services
130.26 for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances
130.27 or that reasonable efforts are not required as provided in paragraph (a).

130.28 (i) This section does not prevent out-of-home placement for treatment of a child with a
130.29 mental disability when it is determined to be medically necessary as a result of the child's
130.30 diagnostic assessment or individual treatment plan indicates that appropriate and necessary
130.31 treatment cannot be effectively provided outside of a residential or inpatient treatment

131.1 program and the level or intensity of supervision and treatment cannot be effectively and
131.2 safely provided in the child's home or community and it is determined that a residential
131.3 treatment setting is the least restrictive setting that is appropriate to the needs of the child.

131.4 (j) If continuation of reasonable efforts to prevent placement or reunify the child with
131.5 the parent or guardian from whom the child was removed is determined by the court to be
131.6 inconsistent with the permanent plan for the child or upon the court making one of the prima
131.7 facie determinations under paragraph (a), reasonable efforts must be made to place the child
131.8 in a timely manner in a safe and permanent home and to complete whatever steps are
131.9 necessary to legally finalize the permanent placement of the child.

131.10 (k) Reasonable efforts to place a child for adoption or in another permanent placement
131.11 may be made concurrently with reasonable efforts to prevent placement or to reunify the
131.12 child with the parent or guardian from whom the child was removed. When the responsible
131.13 social services agency decides to concurrently make reasonable efforts for both reunification
131.14 and permanent placement away from the parent under paragraph (a), the agency shall disclose
131.15 its decision and both plans for concurrent reasonable efforts to all parties and the court.
131.16 When the agency discloses its decision to proceed on both plans for reunification and
131.17 permanent placement away from the parent, the court's review of the agency's reasonable
131.18 efforts shall include the agency's efforts under both plans.

131.19 Sec. 100. Minnesota Statutes 2016, section 260.761, subdivision 2, is amended to read:

131.20 Subd. 2. **Agency and court notice to tribes.** (a) When a local social services agency
131.21 has information that a family assessment or investigation being conducted may involve an
131.22 Indian child, the local social services agency shall notify the Indian child's tribe of the family
131.23 assessment or investigation according to section ~~626.556, subdivision 10, paragraph (a)~~
131.24 626B.07, subdivision 1, paragraph (b), clause (5). Initial notice shall be provided by telephone
131.25 and by e-mail or facsimile. The local social services agency shall request that the tribe or a
131.26 designated tribal representative participate in evaluating the family circumstances, identifying
131.27 family and tribal community resources, and developing case plans.

131.28 (b) When a local social services agency has information that a child receiving services
131.29 may be an Indian child, the local social services agency shall notify the tribe by telephone
131.30 and by e-mail or facsimile of the child's full name and date of birth, the full names and dates
131.31 of birth of the child's biological parents, and, if known, the full names and dates of birth of
131.32 the child's grandparents and of the child's Indian custodian. This notification must be provided
131.33 so the tribe can determine if the child is enrolled in the tribe or eligible for membership,
131.34 and must be provided within seven days. If information regarding the child's grandparents

132.1 or Indian custodian is not available within the seven-day period, the local social services
132.2 agency shall continue to request this information and shall notify the tribe when it is received.
132.3 Notice shall be provided to all tribes to which the child may have any tribal lineage. If the
132.4 identity or location of the child's parent or Indian custodian and tribe cannot be determined,
132.5 the local social services agency shall provide the notice required in this paragraph to the
132.6 United States secretary of the interior.

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

132.13 (d) A local social services agency must provide the notices required under this subdivision
132.14 at the earliest possible time to facilitate involvement of the Indian child's tribe. Nothing in
132.15 this subdivision is intended to hinder the ability of the local social services agency and the
132.16 court to respond to an emergency situation. Lack of participation by a tribe shall not prevent
132.17 the tribe from intervening in services and proceedings at a later date. A tribe may participate
132.18 at any time. At any stage of the local social services agency's involvement with an Indian
132.19 child, the agency shall provide full cooperation to the tribal social services agency, including
132.20 disclosure of all data concerning the Indian child. Nothing in this subdivision relieves the
132.21 local social services agency of satisfying the notice requirements in the Indian Child Welfare
132.22 Act.

132.23 Sec. 101. Minnesota Statutes 2016, section 260B.171, subdivision 6, is amended to read:

132.24 Subd. 6. **Attorney access to records.** An attorney representing a child, parent, or guardian
132.25 ad litem in a proceeding under this chapter shall be given access to records, local social
132.26 services agency files, and reports which form the basis of any recommendation made to the
132.27 court. An attorney does not have access under this subdivision to the identity of a person
132.28 who made a report under ~~section 626.556~~ chapter 626B. The court may issue protective
132.29 orders to prohibit an attorney from sharing a specified record or portion of a record with a
132.30 client other than a guardian ad litem.

133.1 Sec. 102. Minnesota Statutes 2016, section 260B.198, subdivision 1, is amended to read:

133.2 Subdivision 1. **Court order, findings, remedies, treatment.** If the court finds that the
133.3 child is delinquent, it shall enter an order making any of the following dispositions of the
133.4 case which are deemed necessary to the rehabilitation of the child:

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

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

133.12 (3) if the court determines that the child is a danger to self or others, subject to the
133.13 supervision of the court, transfer legal custody of the child to one of the following:

133.14 (i) a child-placing agency; or

133.15 (ii) the local social services agency; or

133.16 (iii) a reputable individual of good moral character. No person may receive custody of
133.17 two or more unrelated children unless licensed as a residential facility pursuant to sections
133.18 245A.01 to 245A.16; or

133.19 (iv) a county home school, if the county maintains a home school or enters into an
133.20 agreement with a county home school; or

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

133.23 (4) transfer legal custody by commitment to the commissioner of corrections;

133.24 (5) if the child is found to have violated a state or local law or ordinance which has
133.25 resulted in damage to the person or property of another, the court may order the child to
133.26 make reasonable restitution for such damage;

133.27 (6) require the child to pay a fine of up to \$1,000. The court shall order payment of the
133.28 fine in accordance with a time payment schedule which shall not impose an undue financial
133.29 hardship on the child;

133.30 (7) if the child is in need of special treatment and care for reasons of physical or mental
133.31 health, the court may order the child's parent, guardian, or custodian to provide it. If the

134.1 parent, guardian, or custodian fails to provide this treatment or care, the court may order it
134.2 provided;

134.3 (8) if the court believes that it is in the best interests of the child and of public safety
134.4 that the driver's license of the child be canceled until the child's 18th birthday, the court
134.5 may recommend to the commissioner of public safety the cancellation of the child's license
134.6 for any period up to the child's 18th birthday, and the commissioner is hereby authorized
134.7 to cancel such license without a hearing. At any time before the termination of the period
134.8 of cancellation, the court may, for good cause, recommend to the commissioner of public
134.9 safety that the child be authorized to apply for a new license, and the commissioner may so
134.10 authorize;

134.11 (9) if the court believes that it is in the best interest of the child and of public safety that
134.12 the child is enrolled in school, the court may require the child to remain enrolled in a public
134.13 school until the child reaches the age of 18 or completes all requirements needed to graduate
134.14 from high school. Any child enrolled in a public school under this clause is subject to the
134.15 provisions of the Pupil Fair Dismissal Act in chapter 127;

134.16 (10) if the child is petitioned and found by the court to have committed a controlled
134.17 substance offense under sections 152.021 to 152.027, the court shall determine whether the
134.18 child unlawfully possessed or sold the controlled substance while driving a motor vehicle.
134.19 If so, the court shall notify the commissioner of public safety of its determination and order
134.20 the commissioner to revoke the child's driver's license for the applicable time period specified
134.21 in section 152.0271. If the child does not have a driver's license or if the child's driver's
134.22 license is suspended or revoked at the time of the delinquency finding, the commissioner
134.23 shall, upon the child's application for driver's license issuance or reinstatement, delay the
134.24 issuance or reinstatement of the child's driver's license for the applicable time period specified
134.25 in section 152.0271. Upon receipt of the court's order, the commissioner is authorized to
134.26 take the licensing action without a hearing;

134.27 (11) if the child is petitioned and found by the court to have committed or attempted to
134.28 commit an act in violation of section 609.342; 609.343; 609.344; 609.345; 609.3451;
134.29 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a delinquency
134.30 petition based on one or more of those sections, the court shall order an independent
134.31 professional assessment of the child's need for sex offender treatment. An assessor providing
134.32 an assessment for the court must be experienced in the evaluation and treatment of juvenile
134.33 sex offenders. If the assessment indicates that the child is in need of and amenable to sex
134.34 offender treatment, the court shall include in its disposition order a requirement that the
134.35 child undergo treatment. Notwithstanding chapter 626B or sections 13.384, 13.85, 144.291

135.1 to 144.298, or 260B.171, ~~or 626.556~~, the assessor has access to the following private or
135.2 confidential data on the child if access is relevant and necessary for the assessment:

135.3 (i) medical data under section 13.384;

135.4 (ii) corrections and detention data under section 13.85;

135.5 (iii) health records under sections 144.291 to 144.298;

135.6 (iv) juvenile court records under section 260B.171; and

135.7 (v) local welfare agency records under ~~section 626.556~~ chapter 626B.

135.8 Data disclosed under this clause may be used only for purposes of the assessment and
135.9 may not be further disclosed to any other person, except as authorized by law;

135.10 (12) if the child is found delinquent due to the commission of an offense that would be
135.11 a felony if committed by an adult, the court shall make a specific finding on the record
135.12 regarding the juvenile's mental health and chemical dependency treatment needs;

135.13 (13) any order for a disposition authorized under this section shall contain written findings
135.14 of fact to support the disposition ordered and shall also set forth in writing the following
135.15 information:

135.16 (i) why the best interests of the child are served by the disposition ordered; and

135.17 (ii) what alternative dispositions were considered by the court and why such dispositions
135.18 were not appropriate in the instant case. Item (i) does not apply to a disposition under
135.19 subdivision 1a.

135.20 Sec. 103. Minnesota Statutes 2016, section 260C.007, subdivision 3, is amended to read:

135.21 Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child
135.22 and parent or guardian, or, when reunification is not required, the child alone, that is
135.23 developed according to the requirements of section 245.4871, subdivision 19 or 21; 245.492,
135.24 subdivision 16; 256B.092; 260C.212, subdivision 1; or ~~626.556, subdivision 10~~ 626B.11,
135.25 subdivision 11.

135.26 Sec. 104. Minnesota Statutes 2016, section 260C.007, subdivision 5, is amended to read:

135.27 Subd. 5. **Child abuse.** "Child abuse" means an act that involves a minor victim that
135.28 constitutes a violation of section 609.221, 609.222, 609.223, 609.224, 609.2242, 609.322,
135.29 609.324, 609.342, 609.343, 609.344, 609.345, 609.377, 609.378, 617.246, or that is physical
135.30 or sexual abuse as defined in section ~~626.556, subdivision 2~~ 626B.02, or an act committed

136.1 in another state that involves a minor victim and would constitute a violation of one of these
136.2 sections if committed in this state.

136.3 Sec. 105. Minnesota Statutes 2016, section 260C.007, subdivision 6, is amended to read:

136.4 Subd. 6. **Child in need of protection or services.** "Child in need of protection or
136.5 services" means a child who is in need of protection or services because the child:

136.6 (1) is abandoned or without parent, guardian, or custodian;

136.7 (2)(i) has been a victim of physical or sexual abuse as defined in section ~~626.556~~,
136.8 ~~subdivision 2~~ 626B.02, (ii) resides with or has resided with a victim of child abuse as defined
136.9 in subdivision 5 or domestic child abuse as defined in subdivision 13, (iii) resides with or
136.10 would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child
136.11 abuse as defined in subdivision 5 or 13, or (iv) is a victim of emotional maltreatment as
136.12 defined in subdivision 15;

136.13 (3) is without necessary food, clothing, shelter, education, or other required care for the
136.14 child's physical or mental health or morals because the child's parent, guardian, or custodian
136.15 is unable or unwilling to provide that care;

136.16 (4) is without the special care made necessary by a physical, mental, or emotional
136.17 condition because the child's parent, guardian, or custodian is unable or unwilling to provide
136.18 that care;

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

136.28 (i) the infant is chronically and irreversibly comatose;

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

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

137.3 (6) is one whose parent, guardian, or other custodian for good cause desires to be relieved
137.4 of the child's care and custody, including a child who entered foster care under a voluntary
137.5 placement agreement between the parent and the responsible social services agency under
137.6 section 260C.227;

137.7 (7) has been placed for adoption or care in violation of law;

137.8 (8) is without proper parental care because of the emotional, mental, or physical disability,
137.9 or state of immaturity of the child's parent, guardian, or other custodian;

137.10 (9) is one whose behavior, condition, or environment is such as to be injurious or
137.11 dangerous to the child or others. An injurious or dangerous environment may include, but
137.12 is not limited to, the exposure of a child to criminal activity in the child's home;

137.13 (10) is experiencing growth delays, which may be referred to as failure to thrive, that
137.14 have been diagnosed by a physician and are due to parental neglect;

137.15 (11) is a sexually exploited youth;

137.16 (12) has committed a delinquent act or a juvenile petty offense before becoming ten
137.17 years old;

137.18 (13) is a runaway;

137.19 (14) is a habitual truant;

137.20 (15) has been found incompetent to proceed or has been found not guilty by reason of
137.21 mental illness or mental deficiency in connection with a delinquency proceeding, a
137.22 certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a
137.23 proceeding involving a juvenile petty offense; or

137.24 (16) has a parent whose parental rights to one or more other children were involuntarily
137.25 terminated or whose custodial rights to another child have been involuntarily transferred to
137.26 a relative and there is a case plan prepared by the responsible social services agency
137.27 documenting a compelling reason why filing the termination of parental rights petition under
137.28 section 260C.503, subdivision 2, is not in the best interests of the child.

137.29 Sec. 106. Minnesota Statutes 2016, section 260C.007, subdivision 13, is amended to read:

137.30 Subd. 13. **Domestic child abuse.** "Domestic child abuse" means:

138.1 (1) any physical injury to a minor family or household member inflicted by an adult
138.2 family or household member other than by accidental means;

138.3 (2) subjection of a minor family or household member by an adult family or household
138.4 member to any act which constitutes a violation of sections 609.321 to 609.324, 609.342,
138.5 609.343, 609.344, 609.345, or 617.246; or

138.6 (3) physical or sexual abuse as defined in section ~~626.556, subdivision 2~~ 626B.02.

138.7 Sec. 107. Minnesota Statutes 2016, section 260C.139, subdivision 3, is amended to read:

138.8 Subd. 3. **Status of child.** For purposes of proceedings under this chapter and adoption
138.9 proceedings, a newborn left at a safe place, pursuant to subdivision 3 and section 145.902,
138.10 is considered an abandoned child under section ~~626.556, subdivision 2, paragraph (e)~~
138.11 626B.02, subdivision 19, clause (2). The child is abandoned under sections 260C.007,
138.12 subdivision 6, clause (1), and 260C.301, subdivision 1, paragraph (b), clause (1).

138.13 Sec. 108. Minnesota Statutes 2016, section 260C.150, subdivision 3, is amended to read:

138.14 Subd. 3. **Identifying parents of child; diligent efforts; data.** (a) The responsible social
138.15 services agency shall make diligent efforts to identify and locate both parents of any child
138.16 who is the subject of proceedings under this chapter. Diligent efforts include:

138.17 (1) asking the custodial or known parent to identify any nonresident parent of the child
138.18 and provide information that can be used to verify the nonresident parent's identity including
138.19 the dates and locations of marriages and divorces; dates and locations of any legal
138.20 proceedings regarding paternity; date and place of the child's birth; nonresident parent's full
138.21 legal name; nonresident parent's date of birth, or if the nonresident parent's date of birth is
138.22 unknown, an approximate age; the nonresident parent's Social Security number; the
138.23 nonresident parent's whereabouts including last known whereabouts; and the whereabouts
138.24 of relatives of the nonresident parent. For purposes of this subdivision, "nonresident parent"
138.25 means a parent who does not reside in the same household as the child or did not reside in
138.26 the same household as the child at the time the child was removed when the child is in foster
138.27 care;

138.28 (2) obtaining information that will identify and locate the nonresident parent from the
138.29 county and state of Minnesota child support enforcement information system;

138.30 (3) requesting a search of the Minnesota Fathers' Adoption Registry 30 days after the
138.31 child's birth; and

138.32 (4) using any other reasonable means to identify and locate the nonresident parent.

139.1 (b) The agency may disclose data which is otherwise private under section 13.46 or
139.2 ~~626.556~~ chapter 626B in order to carry out its duties under this subdivision.

139.3 (c) Upon the filing of a petition alleging the child to be in need of protection or services,
139.4 the responsible social services agency may contact a putative father who registered with
139.5 the Minnesota Fathers' Adoption Registry more than 30 days after the child's birth. The
139.6 social service agency may consider a putative father for the day-to-day care of the child
139.7 under section 260C.219 if the putative father cooperates with genetic testing and there is a
139.8 positive test result under section 257.62, subdivision 5. Nothing in this paragraph:

139.9 (1) relieves a putative father who registered with the Minnesota Fathers' Adoption
139.10 Registry more than 30 days after the child's birth of the duty to cooperate with paternity
139.11 establishment proceedings under section 260C.219;

139.12 (2) gives a putative father who registered with the Minnesota Fathers' Adoption Registry
139.13 more than 30 days after the child's birth the right to notice under section 260C.151 unless
139.14 the putative father is entitled to notice under sections 259.24 and 259.49, subdivision 1,
139.15 paragraph (a) or (b), clauses (1) to (7); or

139.16 (3) establishes a right to assert an interest in the child in a termination of parental rights
139.17 proceeding contrary to section 259.52, subdivision 6, unless the putative father is entitled
139.18 to notice under sections 259.24 and 259.49, subdivision 1, paragraph (a) or (b), clauses (1)
139.19 to (7).

139.20 Sec. 109. Minnesota Statutes 2016, section 260C.171, subdivision 3, is amended to read:

139.21 Subd. 3. **Attorney access to records.** An attorney representing a child, parent, or guardian
139.22 ad litem in a proceeding under this chapter shall be given access to records, responsible
139.23 social services agency files, and reports which form the basis of any recommendation made
139.24 to the court. An attorney does not have access under this subdivision to the identity of a
139.25 person who made a report under ~~section 626.556~~ chapter 626B. The court may issue
139.26 protective orders to prohibit an attorney from sharing a specified record or portion of a
139.27 record with a client other than a guardian ad litem.

139.28 Sec. 110. Minnesota Statutes 2016, section 260C.177, is amended to read:

139.29 **260C.177 PARENTAL AND LAW ENFORCEMENT NOTIFICATION.**

139.30 An emergency shelter and its agents, employees, and volunteers must comply with court
139.31 orders, ~~section 626.556~~, this chapter, chapter 626B, and all other applicable laws. In any
139.32 event, unless other legal requirements require earlier or different notification or actions, an

140.1 emergency shelter must attempt to notify a runaway's parent or legal guardian of the
140.2 runaway's location and status within 72 hours. The notification must include a description
140.3 of the runaway's physical and emotional condition and the circumstances surrounding the
140.4 runaway's admission to the emergency shelter, unless there are compelling reasons not to
140.5 provide the parent or legal guardian with this information. Compelling reasons may include
140.6 circumstances in which the runaway is or has been exposed to domestic violence or a victim
140.7 of abuse, neglect, or abandonment.

140.8 Sec. 111. Minnesota Statutes 2016, section 260C.178, subdivision 1, is amended to read:

140.9 Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody
140.10 under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a
140.11 hearing within 72 hours of the time the child was taken into custody, excluding Saturdays,
140.12 Sundays, and holidays, to determine whether the child should continue in custody.

140.13 (b) Unless there is reason to believe that the child would endanger self or others or not
140.14 return for a court hearing, or that the child's health or welfare would be immediately
140.15 endangered, the child shall be released to the custody of a parent, guardian, custodian, or
140.16 other suitable person, subject to reasonable conditions of release including, but not limited
140.17 to, a requirement that the child undergo a chemical use assessment as provided in section
140.18 260C.157, subdivision 1.

140.19 (c) If the court determines there is reason to believe that the child would endanger self
140.20 or others or not return for a court hearing, or that the child's health or welfare would be
140.21 immediately endangered if returned to the care of the parent or guardian who has custody
140.22 and from whom the child was removed, the court shall order the child into foster care under
140.23 the legal responsibility of the responsible social services agency or responsible probation
140.24 or corrections agency for the purposes of protective care as that term is used in the juvenile
140.25 court rules or into the home of a noncustodial parent and order the noncustodial parent to
140.26 comply with any conditions the court determines to be appropriate to the safety and care of
140.27 the child, including cooperating with paternity establishment proceedings in the case of a
140.28 man who has not been adjudicated the child's father. The court shall not give the responsible
140.29 social services legal custody and order a trial home visit at any time prior to adjudication
140.30 and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may
140.31 order the child returned to the care of the parent or guardian who has custody and from
140.32 whom the child was removed and order the parent or guardian to comply with any conditions
140.33 the court determines to be appropriate to meet the safety, health, and welfare of the child.

141.1 (d) In determining whether the child's health or welfare would be immediately
141.2 endangered, the court shall consider whether the child would reside with a perpetrator of
141.3 domestic child abuse.

141.4 (e) The court, before determining whether a child should be placed in or continue in
141.5 foster care under the protective care of the responsible agency, shall also make a
141.6 determination, consistent with section 260.012 as to whether reasonable efforts were made
141.7 to prevent placement or whether reasonable efforts to prevent placement are not required.
141.8 In the case of an Indian child, the court shall determine whether active efforts, according
141.9 to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25,
141.10 section 1912(d), were made to prevent placement. The court shall enter a finding that the
141.11 responsible social services agency has made reasonable efforts to prevent placement when
141.12 the agency establishes either:

141.13 (1) that it has actually provided services or made efforts in an attempt to prevent the
141.14 child's removal but that such services or efforts have not proven sufficient to permit the
141.15 child to safely remain in the home; or

141.16 (2) that there are no services or other efforts that could be made at the time of the hearing
141.17 that could safely permit the child to remain home or to return home. When reasonable efforts
141.18 to prevent placement are required and there are services or other efforts that could be ordered
141.19 which would permit the child to safely return home, the court shall order the child returned
141.20 to the care of the parent or guardian and the services or efforts put in place to ensure the
141.21 child's safety. When the court makes a prima facie determination that one of the
141.22 circumstances under paragraph (g) exists, the court shall determine that reasonable efforts
141.23 to prevent placement and to return the child to the care of the parent or guardian are not
141.24 required.

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

141.29 (f) The court may not order or continue the foster care placement of the child unless the
141.30 court makes explicit, individualized findings that continued custody of the child by the
141.31 parent or guardian would be contrary to the welfare of the child and that placement is in the
141.32 best interest of the child.

142.1 (g) At the emergency removal hearing, or at any time during the course of the proceeding,
142.2 and upon notice and request of the county attorney, the court shall determine whether a
142.3 petition has been filed stating a prima facie case that:

142.4 (1) the parent has subjected a child to egregious harm as defined in section 260C.007,
142.5 subdivision 14;

142.6 (2) the parental rights of the parent to another child have been involuntarily terminated;

142.7 (3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph
142.8 (a), clause (2);

142.9 (4) the parents' custodial rights to another child have been involuntarily transferred to a
142.10 relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e),
142.11 clause (1); section 260C.515, subdivision 4; or a similar law of another jurisdiction;

142.12 (5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~
142.13 626B.02, against the child or another child of the parent;

142.14 (6) the parent has committed an offense that requires registration as a predatory offender
142.15 under section 243.166, subdivision 1b, paragraph (a) or (b); or

142.16 (7) the provision of services or further services for the purpose of reunification is futile
142.17 and therefore unreasonable.

142.18 (h) When a petition to terminate parental rights is required under section 260C.301,
142.19 subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to
142.20 proceed with a termination of parental rights petition, and has instead filed a petition to
142.21 transfer permanent legal and physical custody to a relative under section 260C.507, the
142.22 court shall schedule a permanency hearing within 30 days of the filing of the petition.

142.23 (i) If the county attorney has filed a petition under section 260C.307, the court shall
142.24 schedule a trial under section 260C.163 within 90 days of the filing of the petition except
142.25 when the county attorney determines that the criminal case shall proceed to trial first under
142.26 section 260C.503, subdivision 2, paragraph (c).

142.27 (j) If the court determines the child should be ordered into foster care and the child's
142.28 parent refuses to give information to the responsible social services agency regarding the
142.29 child's father or relatives of the child, the court may order the parent to disclose the names,
142.30 addresses, telephone numbers, and other identifying information to the responsible social
142.31 services agency for the purpose of complying with sections 260C.151, 260C.212, 260C.215,
142.32 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~~ 626B.11, subdivision 11, and Minnesota Rules, part 9560.0228.

Sec. 112. Minnesota Statutes 2016, 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.

(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~~ 626B.11, subdivision 11, 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.

144.1 Sec. 113. Minnesota Statutes 2016, section 260C.209, subdivision 2, is amended to read:

144.2 Subd. 2. **General procedures.** (a) When accessing information under subdivision 1, the
144.3 agency shall require the individual being assessed to provide sufficient information to ensure
144.4 an accurate assessment under this section, including:

144.5 (1) the individual's first, middle, and last name and all other names by which the
144.6 individual has been known;

144.7 (2) home address, zip code, city, county, and state of residence for the past five years;

144.8 (3) sex;

144.9 (4) date of birth; and

144.10 (5) driver's license number or state identification number.

144.11 (b) When notified by the responsible social services agency that it is accessing information
144.12 under subdivision 1, the Bureau of Criminal Apprehension, commissioners of health and
144.13 human services, law enforcement, and county agencies must provide the responsible social
144.14 services agency or county attorney with the following information on the individual being
144.15 assessed: criminal history data, local law enforcement data about the household, reports
144.16 about the maltreatment of adults substantiated under section 626.557, and reports of
144.17 maltreatment of minors substantiated under ~~section 626.556~~ chapter 626B.

144.18 Sec. 114. Minnesota Statutes 2016, section 260C.212, subdivision 12, is amended to read:

144.19 Subd. 12. **Fair hearing review.** Any person whose claim for foster care payment pursuant
144.20 to the placement of a child resulting from a child protection assessment under ~~section 626.556~~
144.21 chapter 626B is denied or not acted upon with reasonable promptness may appeal the
144.22 decision under section 256.045, subdivision 3.

144.23 Sec. 115. Minnesota Statutes 2016, section 260C.221, is amended to read:

144.24 **260C.221 RELATIVE SEARCH.**

144.25 (a) The responsible social services agency shall exercise due diligence to identify and
144.26 notify adult relatives prior to placement or within 30 days after the child's removal from the
144.27 parent. The county agency shall consider placement with a relative under this section without
144.28 delay and whenever the child must move from or be returned to foster care. The relative
144.29 search required by this section shall be comprehensive in scope. After a finding that the
144.30 agency has made reasonable efforts to conduct the relative search under this paragraph, the
144.31 agency has the continuing responsibility to appropriately involve relatives, who have

145.1 responded to the notice required under this paragraph, in planning for the child and to
145.2 continue to consider relatives according to the requirements of section 260C.212, subdivision
145.3 2. At any time during the course of juvenile protection proceedings, the court may order
145.4 the agency to reopen its search for relatives when it is in the child's best interest to do so.

145.5 (b) The relative search required by this section shall include both maternal and paternal
145.6 adult relatives of the child; all adult grandparents; all legal parents, guardians or custodians
145.7 of the child's siblings; and any other adult relatives suggested by the child's parents, subject
145.8 to the exceptions due to family violence in paragraph (c). The search shall also include
145.9 getting information from the child in an age-appropriate manner about who the child
145.10 considers to be family members and important friends with whom the child has resided or
145.11 had significant contact. The relative search required under this section must fulfill the
145.12 agency's duties under the Indian Child Welfare Act regarding active efforts to prevent the
145.13 breakup of the Indian family under United States Code, title 25, section 1912(d), and to
145.14 meet placement preferences under United States Code, title 25, section 1915. The relatives
145.15 must be notified:

145.16 (1) of the need for a foster home for the child, the option to become a placement resource
145.17 for the child, and the possibility of the need for a permanent placement for the child;

145.18 (2) of their responsibility to keep the responsible social services agency and the court
145.19 informed of their current address in order to receive notice in the event that a permanent
145.20 placement is sought for the child and to receive notice of the permanency progress review
145.21 hearing under section 260C.204. A relative who fails to provide a current address to the
145.22 responsible social services agency and the court forfeits the right to receive notice of the
145.23 possibility of permanent placement and of the permanency progress review hearing under
145.24 section 260C.204. A decision by a relative not to be identified as a potential permanent
145.25 placement resource or participate in planning for the child at the beginning of the case shall
145.26 not affect whether the relative is considered for placement of the child with that relative
145.27 later;

145.28 (3) that the relative may participate in the care and planning for the child, including that
145.29 the opportunity for such participation may be lost by failing to respond to the notice sent
145.30 under this subdivision. "Participate in the care and planning" includes, but is not limited to,
145.31 participation in case planning for the parent and child, identifying the strengths and needs
145.32 of the parent and child, supervising visits, providing respite and vacation visits for the child,
145.33 providing transportation to appointments, suggesting other relatives who might be able to
145.34 help support the case plan, and to the extent possible, helping to maintain the child's familiar
145.35 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 626B, 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 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.

147.1 (e) Notwithstanding chapter 13, the agency shall disclose data about particular relatives
147.2 identified, searched for, and contacted for the purposes of the court's review of the agency's
147.3 due diligence.

147.4 (f) When the court is satisfied that the agency has exercised due diligence to identify
147.5 relatives and provide the notice required in paragraph (a), the court may find that reasonable
147.6 efforts have been made to conduct a relative search to identify and provide notice to adult
147.7 relatives as required under section 260.012, paragraph (e), clause (3). If the court is not
147.8 satisfied that the agency has exercised due diligence to identify relatives and provide the
147.9 notice required in paragraph (a), the court may order the agency to continue its search and
147.10 notice efforts and to report back to the court.

147.11 (g) When the placing agency determines that permanent placement proceedings are
147.12 necessary because there is a likelihood that the child will not return to a parent's care, the
147.13 agency must send the notice provided in paragraph (h), may ask the court to modify the
147.14 duty of the agency to send the notice required in paragraph (h), or may ask the court to
147.15 completely relieve the agency of the requirements of paragraph (h). The relative notification
147.16 requirements of paragraph (h) do not apply when the child is placed with an appropriate
147.17 relative or a foster home that has committed to adopting the child or taking permanent legal
147.18 and physical custody of the child and the agency approves of that foster home for permanent
147.19 placement of the child. The actions ordered by the court under this section must be consistent
147.20 with the best interests, safety, permanency, and welfare of the child.

147.21 (h) Unless required under the Indian Child Welfare Act or relieved of this duty by the
147.22 court under paragraph (f), when the agency determines that it is necessary to prepare for
147.23 permanent placement determination proceedings, or in anticipation of filing a termination
147.24 of parental rights petition, the agency shall send notice to the relatives, any adult with whom
147.25 the child is currently residing, any adult with whom the child has resided for one year or
147.26 longer in the past, and any adults who have maintained a relationship or exercised visitation
147.27 with the child as identified in the agency case plan. The notice must state that a permanent
147.28 home is sought for the child and that the individuals receiving the notice may indicate to
147.29 the agency their interest in providing a permanent home. The notice must state that within
147.30 30 days of receipt of the notice an individual receiving the notice must indicate to the agency
147.31 the individual's interest in providing a permanent home for the child or that the individual
147.32 may lose the opportunity to be considered for a permanent placement.

148.1 Sec. 116. Minnesota Statutes 2016, section 260C.503, subdivision 2, is amended to read:

148.2 Subd. 2. **Termination of parental rights.** (a) The responsible social services agency
148.3 must ask the county attorney to immediately file a termination of parental rights petition
148.4 when:

148.5 (1) the child has been subjected to egregious harm as defined in section 260C.007,
148.6 subdivision 14;

148.7 (2) the child is determined to be the sibling of a child who was subjected to egregious
148.8 harm;

148.9 (3) the child is an abandoned infant as defined in section 260C.301, subdivision 2,
148.10 paragraph (a), clause (2);

148.11 (4) the child's parent has lost parental rights to another child through an order involuntarily
148.12 terminating the parent's rights;

148.13 (5) the parent has committed sexual abuse as defined in section ~~626.556, subdivision 2~~
148.14 626B.02, against the child or another child of the parent;

148.15 (6) the parent has committed an offense that requires registration as a predatory offender
148.16 under section 243.166, subdivision 1b, paragraph (a) or (b); or

148.17 (7) another child of the parent is the subject of an order involuntarily transferring
148.18 permanent legal and physical custody of the child to a relative under this chapter or a similar
148.19 law of another jurisdiction;

148.20 The county attorney shall file a termination of parental rights petition unless the conditions
148.21 of paragraph (d) are met.

148.22 (b) When the termination of parental rights petition is filed under this subdivision, the
148.23 responsible social services agency shall identify, recruit, and approve an adoptive family
148.24 for the child. If a termination of parental rights petition has been filed by another party, the
148.25 responsible social services agency shall be joined as a party to the petition.

148.26 (c) If criminal charges have been filed against a parent arising out of the conduct alleged
148.27 to constitute egregious harm, the county attorney shall determine which matter should
148.28 proceed to trial first, consistent with the best interests of the child and subject to the
148.29 defendant's right to a speedy trial.

148.30 (d) The requirement of paragraph (a) does not apply if the responsible social services
148.31 agency and the county attorney determine and file with the court:

149.1 (1) a petition for transfer of permanent legal and physical custody to a relative under
149.2 sections 260C.505 and 260C.515, subdivision 3, including a determination that adoption is
149.3 not in the child's best interests and that transfer of permanent legal and physical custody is
149.4 in the child's best interests; or

149.5 (2) a petition under section 260C.141 alleging the child, and where appropriate, the
149.6 child's siblings, to be in need of protection or services accompanied by a case plan prepared
149.7 by the responsible social services agency documenting a compelling reason why filing a
149.8 termination of parental rights petition would not be in the best interests of the child.

149.9 Sec. 117. Minnesota Statutes 2016, section 260D.01, is amended to read:

149.10 **260D.01 CHILD IN VOLUNTARY FOSTER CARE FOR TREATMENT.**

149.11 (a) Sections 260D.01 to 260D.10, may be cited as the "child in voluntary foster care for
149.12 treatment" provisions of the Juvenile Court Act.

149.13 (b) The juvenile court has original and exclusive jurisdiction over a child in voluntary
149.14 foster care for treatment upon the filing of a report or petition required under this chapter.
149.15 All obligations of the agency to a child and family in foster care contained in chapter 260C
149.16 not inconsistent with this chapter are also obligations of the agency with regard to a child
149.17 in foster care for treatment under this chapter.

149.18 (c) This chapter shall be construed consistently with the mission of the children's mental
149.19 health service system as set out in section 245.487, subdivision 3, and the duties of an agency
149.20 under sections 256B.092 and 260C.157 and Minnesota Rules, parts 9525.0004 to 9525.0016,
149.21 to meet the needs of a child with a developmental disability or related condition. This
149.22 chapter:

149.23 (1) establishes voluntary foster care through a voluntary foster care agreement as the
149.24 means for an agency and a parent to provide needed treatment when the child must be in
149.25 foster care to receive necessary treatment for an emotional disturbance or developmental
149.26 disability or related condition;

149.27 (2) establishes court review requirements for a child in voluntary foster care for treatment
149.28 due to emotional disturbance or developmental disability or a related condition;

149.29 (3) establishes the ongoing responsibility of the parent as legal custodian to visit the
149.30 child, to plan together with the agency for the child's treatment needs, to be available and
149.31 accessible to the agency to make treatment decisions, and to obtain necessary medical,
149.32 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 626B 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 626B 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;

(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.

151.1 (f) The legal parent-child relationship shall be supported under this chapter by maintaining
151.2 the parent's legal authority and responsibility for ongoing planning for the child and by the
151.3 agency's assisting the parent, where necessary, to exercise the parent's ongoing right and
151.4 obligation to visit or to have reasonable contact with the child. Ongoing planning means:

151.5 (1) actively participating in the planning and provision of educational services, medical,
151.6 and dental care for the child;

151.7 (2) actively planning and participating with the agency and the foster care facility for
151.8 the child's treatment needs; and

151.9 (3) planning to meet the child's need for safety, stability, and permanency, and the child's
151.10 need to stay connected to the child's family and community.

151.11 (g) The provisions of section 260.012 to ensure placement prevention, family
151.12 reunification, and all active and reasonable effort requirements of that section apply. This
151.13 chapter shall be construed consistently with the requirements of the Indian Child Welfare
151.14 Act of 1978, United States Code, title 25, section 1901, et al., and the provisions of the
151.15 Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

151.16 Sec. 118. Minnesota Statutes 2016, section 260D.02, subdivision 3, is amended to read:

151.17 Subd. 3. **Case plan.** "Case plan" means any plan for the delivery of services to a child
151.18 and parent, or when reunification is not required, the child alone, that is developed according
151.19 to the requirements of sections 245.4871, subdivision 19 or 21; 245.492, subdivision 16;
151.20 256B.092; 260C.212, subdivision 1; ~~626.556, subdivision 10~~ 626B.11, subdivision 11; and
151.21 Minnesota Rules, parts 9525.0004 to 9525.0016.

151.22 Sec. 119. Minnesota Statutes 2016, section 260D.02, subdivision 5, is amended to read:

151.23 Subd. 5. **Child in voluntary foster care for treatment.** "Child in voluntary foster care
151.24 for treatment" means a child who is emotionally disturbed or developmentally disabled or
151.25 has a related condition and is in foster care under a voluntary foster care agreement between
151.26 the child's parent and the agency due to concurrence between the agency and the parent
151.27 when it is determined that foster care is medically necessary:

151.28 (1) due to a determination by the agency's screening team based on its review of the
151.29 diagnostic and functional assessment under section 245.4885; or

151.30 (2) due to a determination by the agency's screening team under section 256B.092 and
151.31 Minnesota Rules, parts 9525.0004 to 9525.0016.

A child is not in voluntary foster care for treatment under this chapter when there is a current determination under ~~section 626.556~~ chapter 626B 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. 120. Minnesota Statutes 2016, 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 and 4a, 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 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 626B. 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. 121. Minnesota Statutes 2016, 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~~ 626B.04, subdivision 3, 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.

153.1 Sec. 122. Minnesota Statutes 2016, section 518.165, subdivision 2, is amended to read:

153.2 Subd. 2. **Required appointment of guardian ad litem.** In all proceedings for child
153.3 custody or for marriage dissolution or legal separation in which custody or parenting time
153.4 with a minor child is an issue, if the court has reason to believe that the minor child is a
153.5 victim of domestic child abuse or neglect, as those terms are defined in ~~sections~~ section
153.6 260C.007 and ~~626.556~~ chapter 626B, respectively, the court shall appoint a guardian ad
153.7 litem. The guardian ad litem shall represent the interests of the child and advise the court
153.8 with respect to custody and parenting time. If the child is represented by a guardian ad litem
153.9 in any other pending proceeding, the court may appoint that guardian to represent the child
153.10 in the custody or parenting time proceeding. No guardian ad litem need be appointed if the
153.11 alleged domestic child abuse or neglect is before the court on a juvenile dependency and
153.12 neglect petition. Nothing in this subdivision requires the court to appoint a guardian ad litem
153.13 in any proceeding for child custody, marriage dissolution, or legal separation in which an
153.14 allegation of domestic child abuse or neglect has not been made.

153.15 Sec. 123. Minnesota Statutes 2016, section 518.165, subdivision 5, is amended to read:

153.16 Subd. 5. **Procedure, criminal history, and maltreatment records background study.**

153.17 (a) When the court requests a background study under subdivision 4, paragraph (a), the
153.18 request shall be submitted to the Department of Human Services through the department's
153.19 electronic online background study system.

153.20 (b) When the court requests a search of the National Criminal Records Repository, the
153.21 court must provide a set of classifiable fingerprints of the subject of the study on a fingerprint
153.22 card provided by the commissioner of human services.

153.23 (c) The commissioner of human services shall provide the court with criminal history
153.24 data as defined in section 13.87 from the Bureau of Criminal Apprehension in the Department
153.25 of Public Safety, other criminal history data held by the commissioner of human services,
153.26 and data regarding substantiated maltreatment of a minor under ~~section 626.556~~ chapter
153.27 626B, and substantiated maltreatment of a vulnerable adult under section 626.557, within
153.28 15 working days of receipt of a request. If the subject of the study has been determined by
153.29 the Department of Human Services or the Department of Health to be the perpetrator of
153.30 substantiated maltreatment of a minor or vulnerable adult in a licensed facility, the response
153.31 must include a copy of the public portion of the investigation memorandum under section
153.32 ~~626.556, subdivision 10 of 626B.11, subdivision 8,~~ or the public portion of the investigation
153.33 memorandum under section 626.557, subdivision 12b. When the background study shows
153.34 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, or 626.557, subdivision 12b, or 626B.11, subdivision 8~~, 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. 124. Minnesota Statutes 2016, 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~~ chapter 626B 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~~ 626B.11, subdivision 8. 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 626.557, subdivision 12b, or ~~626.556, subdivision 10f~~ 626B.11, subdivision 8, 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. 125. Minnesota Statutes 2016, 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

156.1 minister belongs; nor shall a member of the clergy or other minister of any religion be
156.2 examined as to any communication made to the member of the clergy or other minister by
156.3 any person seeking religious or spiritual advice, aid, or comfort or advice given thereon in
156.4 the course of the member of the clergy's or other minister's professional character, without
156.5 the consent of the person.

156.6 (d) A licensed physician or surgeon, dentist, or chiropractor shall not, without the consent
156.7 of the patient, be allowed to disclose any information or any opinion based thereon which
156.8 the professional acquired in attending the patient in a professional capacity, and which was
156.9 necessary to enable the professional to act in that capacity; after the decease of the patient,
156.10 in an action to recover insurance benefits, where the insurance has been in existence two
156.11 years or more, the beneficiaries shall be deemed to be the personal representatives of the
156.12 deceased person for the purpose of waiving this privilege, and no oral or written waiver of
156.13 the privilege shall have any binding force or effect except when made upon the trial or
156.14 examination where the evidence is offered or received.

156.15 (e) A public officer shall not be allowed to disclose communications made to the officer
156.16 in official confidence when the public interest would suffer by the disclosure.

156.17 (f) Persons of unsound mind and persons intoxicated at the time of their production for
156.18 examination are not competent witnesses if they lack capacity to remember or to relate
156.19 truthfully facts respecting which they are examined.

156.20 (g) A registered nurse, psychologist, consulting psychologist, or licensed social worker
156.21 engaged in a psychological or social assessment or treatment of an individual at the
156.22 individual's request shall not, without the consent of the professional's client, be allowed to
156.23 disclose any information or opinion based thereon which the professional has acquired in
156.24 attending the client in a professional capacity, and which was necessary to enable the
156.25 professional to act in that capacity. Nothing in this clause exempts licensed social workers
156.26 from compliance with the provisions of ~~sections 626.556 and~~ section 626.557 and chapter
156.27 626B.

156.28 (h) An interpreter for a person disabled in communication shall not, without the consent
156.29 of the person, be allowed to disclose any communication if the communication would, if
156.30 the interpreter were not present, be privileged. For purposes of this section, a "person disabled
156.31 in communication" means a person who, because of a hearing, speech or other communication
156.32 disorder, or because of the inability to speak or comprehend the English language, is unable
156.33 to understand the proceedings in which the person is required to participate. The presence
156.34 of an interpreter as an aid to communication does not destroy an otherwise existing privilege.

157.1 (i) Licensed chemical dependency counselors shall not disclose information or an opinion
157.2 based on the information which they acquire from persons consulting them in their
157.3 professional capacities, and which was necessary to enable them to act in that capacity,
157.4 except that they may do so:

157.5 (1) when informed consent has been obtained in writing, except in those circumstances
157.6 in which not to do so would violate the law or would result in clear and imminent danger
157.7 to the client or others;

157.8 (2) when the communications reveal the contemplation or ongoing commission of a
157.9 crime; or

157.10 (3) when the consulting person waives the privilege by bringing suit or filing charges
157.11 against the licensed professional whom that person consulted.

157.12 (j) A parent or the parent's minor child may not be examined as to any communication
157.13 made in confidence by the minor to the minor's parent. A communication is confidential if
157.14 made out of the presence of persons not members of the child's immediate family living in
157.15 the same household. This exception may be waived by express consent to disclosure by a
157.16 parent entitled to claim the privilege or by the child who made the communication or by
157.17 failure of the child or parent to object when the contents of a communication are demanded.
157.18 This exception does not apply to a civil action or proceeding by one spouse against the other
157.19 or by a parent or child against the other, nor to a proceeding to commit either the child or
157.20 parent to whom the communication was made or to place the person or property or either
157.21 under the control of another because of an alleged mental or physical condition, nor to a
157.22 criminal action or proceeding in which the parent is charged with a crime committed against
157.23 the person or property of the communicating child, the parent's spouse, or a child of either
157.24 the parent or the parent's spouse, or in which a child is charged with a crime or act of
157.25 delinquency committed against the person or property of a parent or a child of a parent, nor
157.26 to an action or proceeding for termination of parental rights, nor any other action or
157.27 proceeding on a petition alleging child abuse, child neglect, abandonment or nonsupport
157.28 by a parent.

157.29 (k) Sexual assault counselors may not be allowed to disclose any opinion or information
157.30 received from or about the victim without the consent of the victim. However, a counselor
157.31 may be compelled to identify or disclose information in investigations or proceedings related
157.32 to neglect or termination of parental rights if the court determines good cause exists. In
157.33 determining whether to compel disclosure, the court shall weigh the public interest and need
157.34 for disclosure against the effect on the victim, the treatment relationship, and the treatment

158.1 services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from
158.2 compliance with the provisions of ~~sections 626.556 and~~ section 626.557 and chapter 626B.

158.3 "Sexual assault counselor" for the purpose of this section means a person who has
158.4 undergone at least 40 hours of crisis counseling training and works under the direction of
158.5 a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or
158.6 assistance to victims of sexual assault.

158.7 (l) A domestic abuse advocate may not be compelled to disclose any opinion or
158.8 information received from or about the victim without the consent of the victim unless
158.9 ordered by the court. In determining whether to compel disclosure, the court shall weigh
158.10 the public interest and need for disclosure against the effect on the victim, the relationship
158.11 between the victim and domestic abuse advocate, and the services if disclosure occurs.
158.12 Nothing in this paragraph exempts domestic abuse advocates from compliance with the
158.13 provisions of ~~sections 626.556 and~~ section 626.557 and chapter 626B.

158.14 For the purposes of this section, "domestic abuse advocate" means an employee or
158.15 supervised volunteer from a community-based battered women's shelter and domestic abuse
158.16 program eligible to receive grants under section 611A.32; that provides information,
158.17 advocacy, crisis intervention, emergency shelter, or support to victims of domestic abuse
158.18 and who is not employed by or under the direct supervision of a law enforcement agency,
158.19 a prosecutor's office, or by a city, county, or state agency.

158.20 (m) A person cannot be examined as to any communication or document, including
158.21 work notes, made or used in the course of or because of mediation pursuant to an agreement
158.22 to mediate or a collaborative law process pursuant to an agreement to participate in
158.23 collaborative law. This does not apply to the parties in the dispute in an application to a
158.24 court by a party to have a mediated settlement agreement or a stipulated agreement resulting
158.25 from the collaborative law process set aside or reformed. A communication or document
158.26 otherwise not privileged does not become privileged because of this paragraph. This
158.27 paragraph is not intended to limit the privilege accorded to communication during mediation
158.28 or collaborative law by the common law.

158.29 (n) A child under ten years of age is a competent witness unless the court finds that the
158.30 child lacks the capacity to remember or to relate truthfully facts respecting which the child
158.31 is examined. A child describing any act or event may use language appropriate for a child
158.32 of that age.

158.33 (o) A communication assistant for a telecommunications relay system for persons who
158.34 have communication disabilities shall not, without the consent of the person making the

159.1 communication, be allowed to disclose communications made to the communication assistant
159.2 for the purpose of relaying.

159.3 Sec. 126. Minnesota Statutes 2016, section 595.02, subdivision 2, is amended to read:

159.4 Subd. 2. **Exceptions.** (a) The exception provided by paragraphs (d) and (g) of subdivision
159.5 1 shall not apply to any testimony, records, or other evidence relating to the abuse or neglect
159.6 of a minor in any proceeding under chapter 260 or any proceeding under section 245A.08,
159.7 to revoke a day care or foster care license, arising out of the neglect or physical or sexual
159.8 abuse of a minor, as defined in section ~~626.556, subdivision 2~~ 626B.02.

159.9 (b) The exception provided by paragraphs (d) and (g) of subdivision 1 shall not apply
159.10 to criminal proceedings arising out of the neglect or physical or sexual abuse of a minor,
159.11 as defined in section ~~626.556, subdivision 2~~ 626B.02, if the court finds that:

159.12 (1) there is a reasonable likelihood that the records in question will disclose material
159.13 information or evidence of substantial value in connection with the investigation or
159.14 prosecution; and

159.15 (2) there is no other practicable way of obtaining the information or evidence. This
159.16 clause shall not be construed to prohibit disclosure of the patient record when it supports
159.17 the otherwise uncorroborated statements of any material fact by a minor alleged to have
159.18 been abused or neglected by the patient; and

159.19 (3) the actual or potential injury to the patient-health professional relationship in the
159.20 treatment program affected, and the actual or potential harm to the ability of the program
159.21 to attract and retain patients, is outweighed by the public interest in authorizing the disclosure
159.22 sought.

159.23 No records may be disclosed under this paragraph other than the records of the specific
159.24 patient suspected of the neglect or abuse of a minor. Disclosure and dissemination of any
159.25 information from a patient record shall be limited under the terms of the order to assure that
159.26 no information will be disclosed unnecessarily and that dissemination will be no wider than
159.27 necessary for purposes of the investigation or prosecution.

159.28 Sec. 127. Minnesota Statutes 2016, section 609.26, subdivision 7, is amended to read:

159.29 Subd. 7. **Reporting of deprivation of parental rights.** Any violation of this section
159.30 shall be reported pursuant to section ~~626.556, subdivision 3a~~ 626B.04, subdivision 1,
159.31 paragraph (b).

160.1 Sec. 128. Minnesota Statutes 2016, section 609.3457, subdivision 2, is amended to read:

160.2 Subd. 2. **Access to data.** Notwithstanding chapter 626B or sections 13.384, 13.85,
160.3 144.291 to 144.298, 260B.171, or 260C.171, ~~or 626.556~~, the assessor has access to the
160.4 following private or confidential data on the person if access is relevant and necessary for
160.5 the assessment:

160.6 (1) medical data under section 13.384;

160.7 (2) corrections and detention data under section 13.85;

160.8 (3) health records under sections 144.291 to 144.298;

160.9 (4) juvenile court records under sections 260B.171 and 260C.171; and

160.10 (5) local welfare agency records under ~~section 626.556~~ chapter 626B.

160.11 Data disclosed under this section may be used only for purposes of the assessment and
160.12 may not be further disclosed to any other person, except as authorized by law.

160.13 Sec. 129. Minnesota Statutes 2016, section 609.379, subdivision 2, is amended to read:

160.14 Subd. 2. **Applicability.** This section applies to chapter 626B and sections 260B.425,
160.15 260C.425, 609.255, 609.376, and 609.378, ~~and 626.556~~.

160.16 Sec. 130. Minnesota Statutes 2016, section 609.507, is amended to read:

160.17 **609.507 FALSELY REPORTING CHILD ABUSE.**

160.18 A person is guilty of a misdemeanor who:

160.19 (1) informs another person that a person has committed sexual abuse, physical abuse,
160.20 or neglect of a child, as defined in section ~~626.556~~, ~~subdivision 2~~ 626B.02;

160.21 (2) knows that the allegation is false or is without reason to believe that the alleged
160.22 abuser committed the abuse or neglect; and

160.23 (3) has the intent that the information influence a child custody hearing.

160.24 Sec. 131. Minnesota Statutes 2016, section 609.7495, subdivision 1, is amended to read:

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

160.27 (a) "Facility" means any of the following:

160.28 (1) a hospital or other health institution licensed under sections 144.50 to 144.56;

- 161.1 (2) a medical facility as defined in section 144.561;
- 161.2 (3) an agency, clinic, or office operated under the direction of or under contract with the
161.3 commissioner of health or a community health board, as defined in section 145A.02;
- 161.4 (4) a facility providing counseling regarding options for medical services or recovery
161.5 from an addiction;
- 161.6 (5) a facility providing emergency shelter services for battered women, as defined in
161.7 section 611A.31, subdivision 3, or a facility providing transitional housing for battered
161.8 women and their children;
- 161.9 (6) a facility as defined in section ~~626.556, subdivision 2, paragraph (c)~~ 626B.02,
161.10 subdivision 5;
- 161.11 (7) a facility as defined in section 626.5572, subdivision 6, where the services described
161.12 in that paragraph are provided;
- 161.13 (8) a place to or from which ambulance service, as defined in section 144E.001, is
161.14 provided or sought to be provided; and
- 161.15 (9) a hospice provider licensed under section 144A.753.
- 161.16 (b) "Aggrieved party" means a person whose access to or egress from a facility is
161.17 obstructed in violation of subdivision 2, or the facility.
- 161.18 Sec. 132. Minnesota Statutes 2016, section 611A.203, subdivision 4, is amended to read:
- 161.19 Subd. 4. **Duties; access to data.** (a) The domestic fatality review team shall collect,
161.20 review, and analyze death certificates and death data, including investigative reports, medical
161.21 and counseling records, victim service records, employment records, child abuse reports,
161.22 or other information concerning domestic violence deaths, survivor interviews and surveys,
161.23 and other information deemed by the team as necessary and appropriate concerning the
161.24 causes and manner of domestic violence deaths.
- 161.25 (b) The review team has access to the following not public data, as defined in section
161.26 13.02, subdivision 8a, relating to a case being reviewed by the team: inactive law enforcement
161.27 investigative data under section 13.82; autopsy records and coroner or medical examiner
161.28 investigative data under section 13.83; hospital, public health, or other medical records of
161.29 the victim under section 13.384; records under section 13.46, created by social service
161.30 agencies that provided services to the victim, the alleged perpetrator, or another victim who
161.31 experienced or was threatened with domestic abuse by the perpetrator; and child maltreatment
161.32 records under ~~section 626.556~~ chapter 626B, relating to the victim or a family or household

162.1 member of the victim. Access to medical records under this paragraph also includes records
162.2 governed by sections 144.291 to 144.298. The review team has access to corrections and
162.3 detention data as provided in section 13.85.

162.4 (c) As part of any review, the domestic fatality review team may compel the production
162.5 of other records by applying to the district court for a subpoena, which will be effective
162.6 throughout the state according to the Rules of Civil Procedure.

162.7 Sec. 133. Minnesota Statutes 2016, section 611A.90, subdivision 1, is amended to read:

162.8 Subdivision 1. **Definition.** For purposes of this section, "physical abuse" and "sexual
162.9 abuse" have the meanings given in section ~~626.556, subdivision 2~~ 626B.02, except that
162.10 abuse is not limited to acts by a person responsible for the child's care or in a significant
162.11 relationship with the child or position of authority.

162.12 Sec. 134. Minnesota Statutes 2016, section 626.5561, subdivision 1, is amended to read:

162.13 Subdivision 1. **Reports required.** (a) Except as provided in paragraph (b), a person
162.14 mandated to report under section ~~626.556, subdivision 3~~ 626B.03, shall immediately report
162.15 to the local welfare agency if the person knows or has reason to believe that a woman is
162.16 pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy,
162.17 including, but not limited to, tetrahydrocannabinol, or has consumed alcoholic beverages
162.18 during the pregnancy in any way that is habitual or excessive.

162.19 (b) A health care professional or a social service professional who is mandated to report
162.20 under section ~~626.556, subdivision 3~~ 626B.03, is exempt from reporting under paragraph
162.21 (a) a woman's use or consumption of tetrahydrocannabinol or alcoholic beverages during
162.22 pregnancy if the professional is providing the woman with prenatal care or other healthcare
162.23 services.

162.24 (c) Any person may make a voluntary report if the person knows or has reason to believe
162.25 that a woman is pregnant and has used a controlled substance for a nonmedical purpose
162.26 during the pregnancy, including, but not limited to, tetrahydrocannabinol, or has consumed
162.27 alcoholic beverages during the pregnancy in any way that is habitual or excessive.

162.28 (d) An oral report shall be made immediately by telephone or otherwise. An oral report
162.29 made by a person required to report shall be followed within 72 hours, exclusive of weekends
162.30 and holidays, by a report in writing to the local welfare agency. Any report shall be of
162.31 sufficient content to identify the pregnant woman, the nature and extent of the use, if known,
162.32 and the name and address of the reporter. The local welfare agency shall accept a report

163.1 made under paragraph (c) notwithstanding refusal by a voluntary reporter to provide the
163.2 reporter's name or address as long as the report is otherwise sufficient.

163.3 (e) For purposes of this section, "prenatal care" means the comprehensive package of
163.4 medical and psychological support provided throughout the pregnancy.

163.5 Sec. 135. Minnesota Statutes 2016, section 626.5561, subdivision 3, is amended to read:

163.6 Subd. 3. **Related provisions.** Reports under this section are governed by ~~section 626.556,~~
163.7 ~~subdivisions 4, 4a, 5, 6, 8, and 11~~ sections 626B.03, subdivision 3; 626B.04, subdivisions
163.8 3 and 4; 626B.11, subdivision 13; 626B.13; and 626B.14, subdivisions 1 and 3.

163.9 Sec. 136. Minnesota Statutes 2016, section 626.5562, subdivision 2, is amended to read:

163.10 Subd. 2. **Newborns.** A physician shall administer to each newborn infant born under
163.11 the physician's care a toxicology test to determine whether there is evidence of prenatal
163.12 exposure to a controlled substance, if the physician has reason to believe based on a medical
163.13 assessment of the mother or the infant that the mother used a controlled substance for a
163.14 nonmedical purpose during the pregnancy. If the test results are positive, the physician shall
163.15 report the results as neglect under ~~section 626.556~~ chapter 626B. A negative test result does
163.16 not eliminate the obligation to report under ~~section 626.556~~ chapter 626B if other medical
163.17 evidence of prenatal exposure to a controlled substance is present.

163.18 Sec. 137. Minnesota Statutes 2016, section 626.557, subdivision 9d, is amended to read:

163.19 Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under
163.20 paragraph (e), any individual or facility which a lead investigative agency determines has
163.21 maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf
163.22 of the vulnerable adult, regardless of the lead investigative agency's determination, who
163.23 contests the lead investigative agency's final disposition of an allegation of maltreatment,
163.24 may request the lead investigative agency to reconsider its final disposition. The request
163.25 for reconsideration must be submitted in writing to the lead investigative agency within 15
163.26 calendar days after receipt of notice of final disposition or, if the request is made by an
163.27 interested person who is not entitled to notice, within 15 days after receipt of the notice by
163.28 the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the
163.29 request for reconsideration must be postmarked and sent to the lead investigative agency
163.30 within 15 calendar days of the individual's or facility's receipt of the final disposition. If the
163.31 request for reconsideration is made by personal service, it must be received by the lead
163.32 investigative agency within 15 calendar days of the individual's or facility's receipt of the

164.1 final disposition. An individual who was determined to have maltreated a vulnerable adult
164.2 under this section and who was disqualified on the basis of serious or recurring maltreatment
164.3 under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment
164.4 determination and the disqualification. The request for reconsideration of the maltreatment
164.5 determination and the disqualification must be submitted in writing within 30 calendar days
164.6 of the individual's receipt of the notice of disqualification under sections 245C.16 and
164.7 245C.17. If mailed, the request for reconsideration of the maltreatment determination and
164.8 the disqualification must be postmarked and sent to the lead investigative agency within 30
164.9 calendar days of the individual's receipt of the notice of disqualification. If the request for
164.10 reconsideration is made by personal service, it must be received by the lead investigative
164.11 agency within 30 calendar days after the individual's receipt of the notice of disqualification.

164.12 (b) Except as provided under paragraphs (e) and (f), if the lead investigative agency
164.13 denies the request or fails to act upon the request within 15 working days after receiving
164.14 the request for reconsideration, the person or facility entitled to a fair hearing under section
164.15 256.045, may submit to the commissioner of human services a written request for a hearing
164.16 under that statute. The vulnerable adult, or an interested person acting on behalf of the
164.17 vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel
164.18 under section 256.021 if the lead investigative agency denies the request or fails to act upon
164.19 the request, or if the vulnerable adult or interested person contests a reconsidered disposition.
164.20 The lead investigative agency shall notify persons who request reconsideration of their
164.21 rights under this paragraph. The request must be submitted in writing to the review panel
164.22 and a copy sent to the lead investigative agency within 30 calendar days of receipt of notice
164.23 of a denial of a request for reconsideration or of a reconsidered disposition. The request
164.24 must specifically identify the aspects of the lead investigative agency determination with
164.25 which the person is dissatisfied.

164.26 (c) If, as a result of a reconsideration or review, the lead investigative agency changes
164.27 the final disposition, it shall notify the parties specified in subdivision 9c, paragraph (f).

164.28 (d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable
164.29 adult" means a person designated in writing by the vulnerable adult to act on behalf of the
164.30 vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy
164.31 or health care agent appointed under chapter 145B or 145C, or an individual who is related
164.32 to the vulnerable adult, as defined in section 245A.02, subdivision 13.

164.33 (e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis
164.34 of a determination of maltreatment, which was serious or recurring, and the individual has
164.35 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, and~~ 626.557, subdivision 9d, and 626B.12, 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, and~~ 626.557, subdivision 9d, and 626B.12.

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

166.1 be consolidated into a single contested case hearing upon consent of all parties and the
166.2 administrative law judge.

166.3 (g) Until August 1, 2002, an individual or facility that was determined by the
166.4 commissioner of human services or the commissioner of health to be responsible for neglect
166.5 under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001,
166.6 that believes that the finding of neglect does not meet an amended definition of neglect may
166.7 request a reconsideration of the determination of neglect. The commissioner of human
166.8 services or the commissioner of health shall mail a notice to the last known address of
166.9 individuals who are eligible to seek this reconsideration. The request for reconsideration
166.10 must state how the established findings no longer meet the elements of the definition of
166.11 neglect. The commissioner shall review the request for reconsideration and make a
166.12 determination within 15 calendar days. The commissioner's decision on this reconsideration
166.13 is the final agency action.

166.14 (1) For purposes of compliance with the data destruction schedule under subdivision
166.15 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a
166.16 result of a reconsideration under this paragraph, the date of the original finding of a
166.17 substantiated maltreatment must be used to calculate the destruction date.

166.18 (2) For purposes of any background studies under chapter 245C, when a determination
166.19 of substantiated maltreatment has been changed as a result of a reconsideration under this
166.20 paragraph, any prior disqualification of the individual under chapter 245C that was based
166.21 on this determination of maltreatment shall be rescinded, and for future background studies
166.22 under chapter 245C the commissioner must not use the previous determination of
166.23 substantiated maltreatment as a basis for disqualification or as a basis for referring the
166.24 individual's maltreatment history to a health-related licensing board under section 245C.31.

166.25 Sec. 138. Minnesota Statutes 2016, section 626.558, subdivision 3, is amended to read:

166.26 Subd. 3. **Information sharing.** (a) The local welfare agency may make available to the
166.27 case consultation committee or subcommittee, all records collected and maintained by the
166.28 agency under ~~section 626.556~~ chapter 626B and in connection with case consultation. A
166.29 case consultation committee or subcommittee member may share information acquired in
166.30 the member's professional capacity with the committee or subcommittee to assist in case
166.31 consultation.

166.32 (b) Case consultation committee or subcommittee members must annually sign a data
166.33 sharing agreement, approved by the commissioner of human services, assuring compliance
166.34 with chapter 13. Not public data, as defined by section 13.02, subdivision 8a, may be shared

167.1 with members appointed to the committee or subcommittee in connection with an individual
167.2 case when the members have signed the data sharing agreement.

167.3 (c) All data acquired by the case consultation committee or subcommittee in exercising
167.4 case consultation duties, are confidential as defined in section 13.02, subdivision 3, and
167.5 shall not be disclosed except to the extent necessary to perform case consultation, and shall
167.6 not be subject to subpoena or discovery.

167.7 (d) No members of a case consultation committee or subcommittee meeting shall disclose
167.8 what transpired at a case consultation meeting, except to the extent necessary to carry out
167.9 the case consultation plan. The proceedings and records of the case consultation meeting
167.10 are not subject to discovery, and may not be introduced into evidence in any civil or criminal
167.11 action against a professional or local welfare agency arising out of the matter or matters
167.12 which are the subject of consideration of the case consultation meeting. Information,
167.13 documents, or records otherwise available from original sources are not immune from
167.14 discovery or use in any civil or criminal action merely because they were presented during
167.15 a case consultation meeting. Any person who presented information before the consultation
167.16 committee or subcommittee or who is a member shall not be prevented from testifying as
167.17 to matters within the person's knowledge. However, in a civil or criminal proceeding a
167.18 person shall not be questioned about the person's presentation of information before the
167.19 case consultation committee or subcommittee or about opinions formed as a result of the
167.20 case consultation meetings.

167.21 A person who violates this subdivision is subject to the civil remedies and penalties
167.22 provided under chapter 13.

167.23 Sec. 139. Minnesota Statutes 2016, section 626.559, subdivision 1, is amended to read:

167.24 Subdivision 1. **Job classification; continuing education.** The commissioner of human
167.25 services, for employees subject to the Minnesota Merit System, and directors of county
167.26 personnel systems, for counties not subject to the Minnesota Merit System, shall establish
167.27 a job classification consisting exclusively of persons with the specialized knowledge, skills,
167.28 and experience required to satisfactorily perform child protection duties pursuant to ~~section~~
167.29 ~~626.556, subdivisions 10, 10a, and 10b~~ sections 626B.05, 626B.07, 626B.09, and 626B.10.

167.30 All child protection workers or social services staff having responsibility for child
167.31 protective duties under ~~section 626.556~~ chapter 626B shall receive 15 hours of continuing
167.32 education or in-service training each year relevant to providing child protective services.
167.33 The local social service agency shall maintain a record of training completed by each
167.34 employee having responsibility for performing child protective duties.

168.1 Sec. 140. Minnesota Statutes 2016, section 626.559, subdivision 2, is amended to read:

168.2 Subd. 2. **Joint training.** The commissioners of human services and public safety shall
168.3 cooperate in the development of a joint program for training child abuse services
168.4 professionals in the appropriate techniques for child abuse assessment and investigation.

168.5 The program shall include but need not be limited to the following areas:

168.6 (1) the public policy goals of the state as set forth in section 260C.001 and the role of
168.7 the assessment or investigation in meeting these goals;

168.8 (2) the special duties of child protection workers and law enforcement officers under
168.9 ~~section 626.556~~ chapter 626B;

168.10 (3) the appropriate methods for directing and managing affiliated professionals who
168.11 may be utilized in providing protective services and strengthening family ties;

168.12 (4) the appropriate methods for interviewing alleged victims of child abuse and other
168.13 minors in the course of performing an assessment or an investigation;

168.14 (5) the dynamics of child abuse and neglect within family systems and the appropriate
168.15 methods for interviewing parents in the course of the assessment or investigation, including
168.16 training in recognizing cases in which one of the parents is a victim of domestic abuse and
168.17 in need of special legal or medical services;

168.18 (6) the legal, evidentiary considerations that may be relevant to the conduct of an
168.19 assessment or an investigation;

168.20 (7) the circumstances under which it is appropriate to remove the alleged abuser or the
168.21 alleged victim from the home;

168.22 (8) the protective social services that are available to protect alleged victims from further
168.23 abuse, to prevent child abuse and domestic abuse, and to preserve the family unit, and
168.24 training in the preparation of case plans to coordinate services for the alleged child abuse
168.25 victim with services for any parents who are victims of domestic abuse;

168.26 (9) the methods by which child protection workers and law enforcement workers
168.27 cooperate in conducting assessments and investigations in order to avoid duplication of
168.28 efforts; and

168.29 (10) appropriate methods for interviewing alleged victims of child abuse and conducting
168.30 investigations in cases where the alleged victim is developmentally, physically, or mentally
168.31 disabled.

169.1 Sec. 141. Minnesota Statutes 2016, section 626.559, subdivision 3, is amended to read:

169.2 Subd. 3. **Priority training.** The commissioners of human services and public safety
169.3 shall provide the program courses described in subdivision 2 at convenient times and
169.4 locations in the state. The commissioners shall give training priority in the program areas
169.5 cited in subdivision 2 to persons currently performing assessments and investigations
169.6 pursuant to ~~section 626.556, subdivisions 10, 10a, and 10b~~ sections 626B.05, 626B.07,
169.7 626B.09, and 626B.10.

169.8 Sec. 142. Minnesota Statutes 2016, section 626.5591, subdivision 1, is amended to read:

169.9 Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings
169.10 given unless the specific context indicates otherwise:

169.11 (a) "Child protection agency" means an agency authorized to receive reports, conduct
169.12 assessments and investigations, and make determinations pursuant to ~~section 626.556,~~
169.13 ~~subdivision 10~~ sections 626B.05, 626B.07, 626B.09, and 626B.10.

169.14 (b) "Child protection services" means the receipt and assessment of reports of child
169.15 maltreatment and the provision of services to families and children when maltreatment has
169.16 occurred or when there is risk of maltreatment. These services include: (1) the assessment
169.17 of risk to a child alleged to have been abused or neglected; (2) interviews of any person
169.18 alleged to have abused or neglected a child and the child or children involved in the report,
169.19 and interviews with persons having facts or knowledge necessary to assess the level of risk
169.20 to a child and the need for protective intervention; (3) the gathering of written or evidentiary
169.21 materials; (4) the recording of case findings and determinations; and (5) other actions
169.22 required by ~~section 626.556~~ chapter 626B, administrative rule, or agency policy.

169.23 (c) "Competency-based training" means a course of instruction that provides both
169.24 information and skills practice, which is based upon clearly stated and measurable
169.25 instructional objectives, and which requires demonstration of the achievement of a particular
169.26 standard of skills and knowledge for satisfactory completion.

169.27 (d) "Foundation training" means training provided to a local child protection worker
169.28 after the person has begun to perform child protection duties, but before the expiration of
169.29 six months of employment as a child protection worker. This foundation training must occur
169.30 during the performance of job duties and must include an evaluation of the employee's
169.31 application of skills and knowledge.

169.32 (e) "Advanced training" means training provided to a local child protection worker after
169.33 the person has performed an initial six months of employment as a child protection worker.

170.1 Sec. 143. Minnesota Statutes 2016, section 626.561, subdivision 2, is amended to read:

170.2 Subd. 2. **Definitions.** As used in this section:

170.3 (1) "child abuse" means physical or sexual abuse as defined in section ~~626.556,~~
170.4 ~~subdivision 2~~ 626B.02;

170.5 (2) "government employee" means an employee of a state or local agency, and any
170.6 person acting as an agent of a state or local agency;

170.7 (3) "interview" means a statement of an alleged child abuse victim which is given or
170.8 made to a government employee during the course of a child abuse assessment, criminal
170.9 investigation, or prosecution; and

170.10 (4) "record" means an audio or videotape recording of an interview, or a written record
170.11 of an interview.

170.12 Sec. 144. Minnesota Statutes 2016, section 626.561, subdivision 3, is amended to read:

170.13 Subd. 3. **Record required.** Whenever an interview is conducted, the interviewer must
170.14 make a record of the interview. The record must contain the following information:

170.15 (1) the date, time, place, and duration of the interview;

170.16 (2) the identity of the persons present at the interview; and

170.17 (3) if the record is in writing, a summary of the information obtained during the interview.

170.18 The records shall be maintained by the interviewer in accordance with applicable
170.19 provisions of section ~~626.556, subdivision 11~~ 626B.14, subdivisions 1, paragraphs (g) and
170.20 (h), and 3, and chapter 13.

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626.556 REPORTING OF MALTREATMENT OF MINORS.

Subdivision 1. **Public 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 physical abuse, neglect, or sexual abuse. 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 abuse or neglect and should engage the protective capacities of families. In furtherance of this public policy, it is the intent of the legislature under this section 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 physically or sexually abused or neglected children.

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

- (1) require the reporting of neglect or physical or sexual abuse of children in the home, school, and community settings;
- (2) provide for the voluntary reporting of abuse or neglect 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
- (5) provide protective, family support, and family preservation services when needed in appropriate cases.

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

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

- (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.

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

(c) "Facility" means:

- (1) a licensed or unlicensed day care facility, 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 245D;
- (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.

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

(e) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve sexual abuse or substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245D; 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.

(f) "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.

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

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(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) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for 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; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section 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;

(6) 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;

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

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

(9) emotional harm from a pattern of behavior which 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.

(h) "Nonmaltreatment mistake" means:

(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;

(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.

This definition only applies to child care centers licensed under Minnesota Rules, chapter 9503. If clauses (1) to (5) apply, 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.

(i) "Operator" means an operator or agency as defined in section 245A.02.

(j) "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 employees or agents, 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.

(k) "Physical abuse" means any physical injury, mental injury, or threatened injury, 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

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injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 125A.0942 or 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which 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. Actions which 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 which 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 poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
 - (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.
- (l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.
- (m) "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 neglect or physical or sexual abuse of a child and contains sufficient content to identify the child and any person believed to be responsible for the neglect or abuse, if known.
- (n) "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, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of 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), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Effective May 29, 2017, 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 which 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).
- (o) "Substantial child endangerment" means 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 as defined in section 260C.007, subdivision 14;
 - (2) abandonment under section 260C.301, subdivision 2;
 - (3) neglect as defined in paragraph (g), 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;
 - (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;

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(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 which mandates that the county attorney file a termination of parental rights petition under section 260C.503, subdivision 2.

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

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, 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 has 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 has 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.

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

(q) 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 paragraph (p), the Department of Human Services shall send the data to the responsible social services agency. The data is known as "birth match" data. Unless the responsible social services 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 this section. The agency may use either a family assessment or investigation to determine whether the child is safe. All of the provisions of this section apply. If the child 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.

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

Subd. 3. Persons mandated to report; persons voluntarily reporting. (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused 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) 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 neglected or subjected to physical or sexual abuse.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245D; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner

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of education. Section 13.03, subdivision 4, applies to data received by the commissioner of education from a licensing entity.

(d) Notification requirements under subdivision 10 apply to all reports received under this section.

(e) For purposes of this section, "immediately" means as soon as possible but in no event longer than 24 hours.

Subd. 3a. **Report of deprivation of parental rights or kidnapping.** A person mandated to report under subdivision 3, 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. Receipt by a local welfare agency of a report or notification of a report of a violation of section 609.25 or 609.26 shall not be construed to invoke the duties of subdivision 10, 10a, or 10b.

Subd. 3b. **Agency responsible for assessing or investigating reports of maltreatment.** The Department of Education is the agency responsible for assessing or investigating allegations of child maltreatment in schools as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E.

Subd. 3c. **Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.** (a) The county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, legally unlicensed child care, juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county, 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.

(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245D, except for child foster care and family child care.

(c) The Department of Health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58 and 144A.43 to 144A.482.

Subd. 3d. **Authority to interview.** The agency responsible for assessing or investigating reports of child maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing safety and risk to the child, and formulating a plan.

Subd. 3e. **Agency responsible for assessing or investigating reports of sexual abuse.** The local welfare agency is the agency responsible for investigating allegations 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. Effective May 29, 2017, the local welfare agency is also responsible for investigating when a child is identified as a victim of sex trafficking.

Subd. 3f. **Law enforcement agency responsible for investigating maltreatment.** The local law enforcement agency has responsibility for investigating any report of child maltreatment if a violation of a criminal statute is alleged. Law enforcement and the responsible agency must coordinate their investigations or assessments as required under subdivision 10.

Subd. 4. **Immunity from liability.** (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;

(2) any 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 under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, 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 subdivision 10d; and

(3) any public or private school, facility as defined in subdivision 2, 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 subdivision 10 or under section 626.5561.

(b) A person who is a supervisor or person with responsibility for performing duties under this section employed by a local welfare agency, the commissioner of human services, or the commissioner of education complying with subdivisions 10 and 11 or section 626.5561 or any

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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 subdivision 10, paragraphs (h), (i), and (j).

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Subd. 4a. **Retaliation prohibited.** (a) An employer of any person required to make reports under subdivision 3 shall not retaliate against the person for reporting in good faith abuse or neglect pursuant to this section, 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 subdivision 3 who retaliates against the person because of a report of abuse or neglect is liable to that person for actual damages and, in addition, a penalty 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 subdivision 3 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;

(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.

Subd. 5. **Malicious and reckless reports.** Any person who knowingly or recklessly makes a false report under the provisions of this section 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.

Subd. 6. **Failure to report.** (a) A person mandated by this section to report who knows or has reason to believe that a child is neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor.

(b) A person mandated by this section to report who knows or has reason to believe that two or more children not related to the perpetrator have been physically or sexually abused, as defined in subdivision 2, by the same perpetrator 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 subdivision 2, paragraph (g), 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 subdivision.

Subd. 6a. **Failure to notify.** If a local welfare agency receives a report under subdivision 3, paragraph (a) or (b), and fails to notify the local police department or county sheriff as required by subdivision 10, 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. If a local police department or a county sheriff receives a report under subdivision 3, paragraph (a) or (b), and fails to notify the local welfare agency as required by subdivision 10, 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.

Subd. 7. **Report; information provided to parent; reporter.** (a) An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by

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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) 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. 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 subdivision 10, paragraph (i), clause (3), item (iii).

(c) Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect 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 subdivision 3 notwithstanding refusal by a reporter to provide the reporter's name or address as long as the report is otherwise sufficient under this paragraph. 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. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

(d) When 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 section, the agency shall advise the reporter the report was screened out. 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.

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

(f) 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. A local welfare agency or agency responsible for evaluating a report alleging maltreatment of a child shall consider prior reports, including screened-out reports, to determine whether an investigation or family assessment must be conducted.

(g) Notwithstanding paragraph (a), 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 assessing or investigating the report of alleged maltreatment.

(h) Regardless of whether a report is made under this subdivision, 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 has occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

(i) 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 subdivision 11.

Subd. 7a. Guidance for screening reports. (a) Child protection staff, supervisors, and others involved in child protection screening shall follow the guidance provided in the child maltreatment screening guidelines issued by the commissioner of human services and, when notified by the commissioner, shall immediately implement updated procedures and protocols.

(b) Any modifications to the screening guidelines must be preapproved by the commissioner of human services 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 protections 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 screening determinations.

Subd. 8. Evidence not privileged. No evidence relating to the neglect or abuse of a child or to any prior incidents of neglect or abuse involving any of the same persons accused of neglect or abuse shall be excluded in any proceeding arising out of the alleged neglect or

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physical or sexual abuse on the grounds of privilege set forth in section 595.02, subdivision 1, paragraph (a), (d), or (g).

Subd. 9. **Mandatory reporting to medical examiner or coroner.** When a person required to report under the provisions of subdivision 3 knows or has reason to believe a child has died as a result of neglect or physical or sexual abuse, the person shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department, or county sheriff. Medical examiners or coroners shall notify the local welfare agency or police department or county sheriff in instances in which they believe that the child has died as a result of neglect or physical or sexual abuse. 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. If the child was receiving services or treatment for mental illness, developmentally disabled, 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.

Subd. 10. **Duties of local welfare agency and local law enforcement agency upon receipt of report; mandatory notification between police or sheriff and agency.** (a) The police department or the county sheriff shall immediately notify the local welfare agency or agency responsible for child protection reports under this section orally and in writing when a report is received. 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. The county sheriff and the head of every local welfare agency, agency responsible for child protection reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph are carried out. When the alleged maltreatment occurred on tribal land, the local welfare agency or agency responsible for child protection reports and the local police department or the county sheriff shall immediately notify the tribe's social services agency and tribal law enforcement orally and in writing when a report is received.

(b) 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 child maltreatment. The local welfare agency:

(1) shall conduct an investigation on reports involving sexual abuse or substantial child endangerment;

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

(3) 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;

(4) 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; and

(5) 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 clause, "immediate notice" means notice provided within 24 hours.

If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, or sexual abuse by a person with a significant relationship to the child when that person resides in the child's household or by a sibling, the local welfare agency shall immediately conduct a family assessment or investigation as identified in clauses (1) to (4). In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence and offer services for purposes of preventing future child maltreatment, safeguarding and enhancing the welfare of the abused or neglected minor, and supporting and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or 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 its investigation or assessment. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation

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to make a determination of whether or not maltreatment occurred. 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. In performing any of these duties, the local welfare agency shall maintain appropriate records.

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.

(c) When a local 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 physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, 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 defined as a client in section 245.91 that maltreatment occurred at a school as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E.

(d) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, 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 paragraph, 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.

(e) When the local welfare, 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 prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. 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 or 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 or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or 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 or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the

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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.

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

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

(h) 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 facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(i) 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 child 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 duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. 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. 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. 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.

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. 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;

(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.

Nothing in this paragraph 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. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access to medical data and

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records for purposes of clause (3). 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 in accordance with subdivision 11. 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 section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

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

(j) Upon receipt of a 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. 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. At the initial contact, the local child 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.

(k) 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. For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

- (1) audio recordings of all interviews with witnesses and collateral sources; and
- (2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(l) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (c), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (j) and (k), and subdivision 3d, 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 assessment or investigation provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (j) and (k), and subdivision 3d.

Subd. 10a. Law enforcement agency responsibility for investigation; welfare agency reliance on law enforcement fact-finding; welfare agency offer of services. (a) If the report alleges neglect, physical abuse, or sexual abuse 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 subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.

(b) The local agency may rely on the fact-finding efforts of the law enforcement investigation conducted under this subdivision to make a determination whether or not threatened injury or other maltreatment has occurred under subdivision 2 if an alleged offender has minor children or lives with minors.

(c) If a child is the victim of an alleged crime under paragraph (a), 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 abused or neglected minor.

Subd. 10b. Duties of commissioner; neglect or abuse in facility. (a) This section applies to the commissioners of human services, health, and education. The commissioner of the agency responsible for assessing or investigating the report shall immediately assess or investigate if the report alleges that:

- (1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in that facility, or has been so neglected or abused, or been the victim of maltreatment in a facility by an individual in that facility within the three years preceding the report; or

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(2) a child was neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner of the agency responsible for assessing or 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. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner of the agency responsible for assessing or 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 their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner of the agency responsible for assessing or 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 subdivision 10d, paragraph (a). 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 subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j). In conducting assessments or investigations under this subdivision, 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 subdivision 2, paragraph (c), 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.

(d) The commissioner may request assistance from the local social services agency.

Subd. 10c. Duties of local social service agency upon receipt of report of 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. If the review or examination leads to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by initiating legal proceedings under section 260C.141 and by filing an expedited motion to prevent the withholding of medically indicated treatment.

Subd. 10d. Notification of neglect or abuse in facility. (a) When a report is received that alleges neglect, physical abuse, sexual abuse, or 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 according to sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 245D, 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 assessing or 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 neglected, physically abused, sexually abused, or the victim of maltreatment of a child in the facility: the name of the facility; the fact that a report alleging neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has been received; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; that the agency is conducting an assessment or 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.

(b) The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may also provide the information in paragraph (a) 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 neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility

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has occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the number of children allegedly neglected, physically abused, sexually abused, or victims of maltreatment of a child in the facility; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner of the agency responsible for assessing or 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 neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the investigator's name; a summary of the investigation findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. 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 perpetrator or of those interviewed during the investigation. 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. 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. 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. 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. The commissioner of education may notify the parent, guardian, or legal custodian of any student involved as a witness to alleged maltreatment.

Subd. 10e. **Determinations.** (a) 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.

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

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

(d) If the commissioner of education conducts an assessment or 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 has 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 paragraph (f), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

(e) 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 paragraph (i). 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.

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

- (1) physical abuse as defined in subdivision 2, paragraph (k);
- (2) neglect as defined in subdivision 2, paragraph (g);
- (3) sexual abuse as defined in subdivision 2, paragraph (n);

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

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

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

(h) This subdivision does not mean that maltreatment has occurred 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. However, if lack 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.

(i) 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.

The evaluation of the facility's responsibility under 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.

(j) Notwithstanding paragraph (i), 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 actions under sections 245A.06 or 245A.07 apply.

Subd. 10f. Notice of determinations. 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 child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed. 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, the person determined to be maltreating the child, and, if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. 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. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), 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. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. 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. The notice must also state that a finding of maltreatment may result in denial of a license 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, the Department of Health under chapter

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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. 10g. **Interstate data exchange.** All reports and records created, collected, or maintained under this section by a local social service agency or law enforcement agency may be disclosed to a local social service or other child welfare agency of another state when the agency certifies that:

(1) the reports and records are necessary in order to conduct an investigation of actions that would qualify as sexual abuse, physical abuse, or neglect under this section; 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.

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 subdivision 10e, or a disposition of any criminal proceedings 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 any report or record under this subdivision.

Subd. 10h. **Child abuse data; release to family court services.** The responsible authority or its designee of a local welfare 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 this section to a court services agency if:

(1) the court services 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 court services agency to effectively process the court services' case, including investigating or performing other duties relating to the case required by law.

The data disclosed under this subdivision may be used only for purposes of the active court services case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

Subd. 10i. **Administrative reconsideration; review panel.** (a) Administrative reconsideration is not applicable in family assessments since no determination concerning maltreatment is made. For investigations, except as provided under paragraph (e), an individual or facility that the commissioner of human services, a local social service 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. Effective January 1, 2002, an individual who was determined to have maltreated a child 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 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 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.

(b) Except as provided under paragraphs (e) and (f), 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 that section. 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

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section are the only administrative appeal of a decision issued under paragraph (a). Determinations under this section are not subject to accuracy and completeness challenges under section 13.04.

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

(d) Except as provided under paragraph (f), 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 assure 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.

(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 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 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, 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;

(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, 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, 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) For purposes of this subdivision, "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 perpetrator of the maltreatment.

Subd. 10j. Release of data to mandated reporters. (a) A local social services 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 section 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. 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

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care providers, residential care staff, crisis nursery staff, probation officers, and court services personnel. Under this section, 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 section must be limited to data pertinent to the individual's responsibility for caring for the child.

(b) 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 section or other law.

Subd. 10k. **Release of certain assessment or investigative records to other counties.** Records maintained under subdivision 11c, paragraph (a), 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.

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

Subd. 10m. **Provision of child protective services; consultation with county attorney.** (a) 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.

(b) 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.

Subd. 10n. **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 beginning March 15, 2014. Refusal to have a child screened is not a basis for a child in need of protection or services petition under chapter 260C.

Subd. 11. **Records.** (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. 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 subdivision 7 to be sent to the local police department or the county sheriff. 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 county medical examiners or county coroners. Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data other than the reports. The local social services agency or agency responsible for assessing or investigating the report shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to 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

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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 in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure.

(b) Upon request of the legislative auditor, data on individuals maintained under this section 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 in accordance with chapter 13.

(c) 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 subdivision 2, paragraph (c), when the data is 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 necessary and relevant information to the licensing entity to enable the entity to fulfill its statutory duties. 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. 11a. **Disclosure of information not required in certain cases.** When interviewing a minor under subdivision 10, an individual does not include the parent or guardian of the minor for purposes of section 13.04, subdivision 2, when the parent or guardian is the alleged perpetrator of the abuse or neglect.

Subd. 11b. **Data received from law enforcement.** Active law enforcement investigative data received by a local welfare agency or agency responsible for assessing or investigating the report under this section are confidential data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals.

Subd. 11c. **Welfare, court services agency, and school records maintained.** Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, agencies responsible for assessing or investigating the report, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority.

(a) For reports alleging child maltreatment that were not accepted for assessment or investigation, family assessment cases, and cases where an investigation results in no determination of maltreatment or the need for child protective services, the records must be maintained for a period of five years after the date the report was not accepted for assessment or investigation or of the final entry in the case record. Records of reports that were 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.

(b) All records relating to reports which, 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.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), 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.

(d) Private or confidential data released to a court services agency under subdivision 10h 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. 11d. **Disclosure in child fatality or near-fatality cases.** (a) The definitions in this paragraph apply to this section.

(1) "Child fatality" means the death of a child from child abuse or neglect.

(2) "Near fatality" means a case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury caused by child abuse or neglect.

(3) "Findings and information" means a written summary described in paragraph (c) of actions taken or services rendered by a local social services agency following receipt of a report.

(b) 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:

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- (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 child abuse or neglect.
- (c) 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 child abuse or neglect that are pertinent to the abuse or neglect that led to the child fatality or near fatality;
 - (4) information on any previous investigations that are pertinent to the abuse or neglect that led to the child fatality or near fatality;
 - (5) the results of any investigations described in clause (4);
 - (6) actions of and services provided by the local social services agency on behalf of a child that are pertinent to the child abuse or neglect that led to the child fatality or near fatality; and
 - (7) the results 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.
- (d) Nothing in this subdivision authorizes access to the private data in the custody of a local social services agency, or the disclosure to the public of the records or content of any psychiatric, psychological, or therapeutic evaluations, or the disclosure of information that would reveal the identities of persons who provided information related to abuse or neglect of the child.
- (e) 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 section must be set down for immediate hearing, and subsequent proceedings in those actions must be given priority by the appellate courts.

(f) A public agency or its employees acting in good faith in disclosing or declining to disclose information under this section are immune from criminal or civil liability that might otherwise be incurred or imposed for that action.

Subd. 12. **Duties of facility operators.** Any operator, employee, or volunteer worker at any facility who intentionally neglects, physically abuses, or sexually abuses 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 which result in neglect, physical abuse, sexual abuse, or 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. 14. **Conflict of interest.** (a) A potential conflict of interest related to assisting in an assessment under this section resulting in a direct or shared financial interest with a child abuse and neglect 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 assessment under this section or section 626.5561 may not have:

- (1) any direct or shared financial interest or referral relationship resulting in a direct shared financial gain with a child abuse and neglect treatment provider; or
- (2) a personal or family relationship with a party in the investigation.

If an independent assessor is not available, the person responsible for making the determination under this section may use the services of an assessor with a financial interest, referral, or personal or family relationship.

Subd. 15. **Auditing.** The commissioner of human services shall regularly audit for accuracy the data reported by counties on maltreatment of minors.

Subd. 16. **Commissioner's duty to provide oversight; quality assurance reviews; annual summary of reviews.** (a) 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. Quality assurance reviews must begin no later than September 30, 2015.

(b) 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

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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.