

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 1292

(SENATE AUTHORS: UTKE)

DATE	D-PG	OFFICIAL STATUS
02/22/2017	704	Introduction and first reading Referred to Human Services Reform Finance and Policy
03/02/2017	954a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy
03/13/2017	1347a	Comm report: To pass as amended
	1359	Second reading
	6107	Rule 47, returned to Judiciary and Public Safety Finance and Policy See First Special Session, SF2, Art. 7, Sec. 1-4, 36; Art. 13, Sec. 3

1.1 A bill for an act

1.2 relating to human services; modifying provisions governing children and families

1.3 services, mental health services, community services system data sharing, and

1.4 operations; amending Minnesota Statutes 2016, sections 13.32, by adding a

1.5 subdivision; 13.46, subdivisions 1, 2; 13.84, subdivision 5; 245A.02, subdivision

1.6 3, by adding a subdivision; 245A.03, subdivision 3; 245A.04, subdivision 1;

1.7 245A.07, subdivisions 1, 2, 2a, 3; 245A.08, subdivision 3; 245C.02, subdivisions

1.8 5, 13b, by adding subdivisions; 245C.05, subdivisions 1, 5; 245C.08, subdivisions

1.9 1, 3; 245C.12; 245C.32, subdivisions 1a, 2, 3; 245C.33, subdivision 4; 245C.34,

1.10 subdivision 4; 253D.28, subdivision 3; 260C.101, by adding a subdivision;

1.11 260C.171, subdivision 2; 260C.515, subdivision 4; 260C.625; 260C.629,

1.12 subdivision 2; 626.556, subdivisions 2, 3, 10f, 10j, 10m; 626.558, subdivision 2;

1.13 repealing Minnesota Statutes 2016, section 13.468.

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

1.15 **ARTICLE 1**

1.16 **CHILDREN AND FAMILIES SERVICES**

1.17 Section 1. Minnesota Statutes 2016, section 260C.101, is amended by adding a subdivision

1.18 to read:

1.19 Subd. 6. Provisions inapplicable to a child in foster care. If the court orders a child

1.20 placed under the protective care or legal custody of the responsible social services agency

1.21 pursuant to section 260C.151, subdivision 6; 260C.178; or 260C.201, then the provisions

1.22 of section 524.5-211 and chapter 257B have no force and effect and any delegation of power

1.23 by parent or guardian or designation of standby custodian are terminated by the court's

1.24 order.

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

2.1 Sec. 2. Minnesota Statutes 2016, section 260C.171, subdivision 2, is amended to read:

2.2 Subd. 2. **Public inspection of records.** (a) The records from proceedings or portions of
2.3 proceedings involving a child in need of protection or services, permanency, or termination
2.4 of parental rights are accessible to the public as authorized by the Minnesota Rules of
2.5 Juvenile Protection Procedure, except that the court shall maintain the confidentiality of a
2.6 child's educational records. A petition filed alleging a child to be habitually truant under
2.7 section 260C.007, subdivision 6, clause (14), shall not be considered a record or information
2.8 of the child's education. The court shall maintain the confidentiality of any record filed in
2.9 proceedings under chapter 260D.

2.10 (b) None of the records relating to an appeal from a nonpublic juvenile court proceeding,
2.11 except the written appellate opinion, shall be open to public inspection or their contents
2.12 disclosed except by order of a court.

2.13 (c) The records of juvenile probation officers are records of the court for the purposes
2.14 of this subdivision. This subdivision applies to all proceedings under this chapter, including
2.15 appeals from orders of the juvenile court. The court shall maintain the confidentiality of
2.16 adoption files and records in accordance with the provisions of laws relating to adoptions.
2.17 In juvenile court proceedings any report or social history furnished to the court shall be
2.18 open to inspection by the attorneys of record and the guardian ad litem a reasonable time
2.19 before it is used in connection with any proceeding before the court.

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

2.21 Sec. 3. Minnesota Statutes 2016, section 260C.515, subdivision 4, is amended to read:

2.22 Subd. 4. **Custody to relative.** The court may order permanent legal and physical custody
2.23 to a fit and willing relative in the best interests of the child according to the following
2.24 requirements:

2.25 (1) an order for transfer of permanent legal and physical custody to a relative shall only
2.26 be made after the court has reviewed the suitability of the prospective legal and physical
2.27 custodian;

2.28 (2) in transferring permanent legal and physical custody to a relative, the juvenile court
2.29 shall follow the standards applicable under this chapter and chapter 260, and the procedures
2.30 in the Minnesota Rules of Juvenile Protection Procedure;

2.31 (3) a transfer of legal and physical custody includes responsibility for the protection,
2.32 education, care, and control of the child and decision making on behalf of the child;

3.1 (4) a permanent legal and physical custodian may not return a child to the permanent
3.2 care of a parent from whom the court removed custody without the court's approval and
3.3 without notice to the responsible social services agency;

3.4 (5) the social services agency may file a petition naming a fit and willing relative as a
3.5 proposed permanent legal and physical custodian. A petition for transfer of permanent legal
3.6 and physical custody to a relative who is not a parent shall be accompanied by a kinship
3.7 placement agreement under section 256N.22, subdivision 2, between the agency and proposed
3.8 permanent legal and physical custodian;

3.9 (6) another party to the permanency proceeding regarding the child may file a petition
3.10 to transfer permanent legal and physical custody to a relative. The petition must include
3.11 facts upon which the court can make the determination required under clause (7) and must
3.12 be filed not later than the date for the required admit-deny hearing under section 260C.507;
3.13 or if the agency's petition is filed under section 260C.503, subdivision 2, the petition must
3.14 be filed not later than 30 days prior to the trial required under section 260C.509;

3.15 (7) where a petition is for transfer of permanent legal and physical custody to a relative
3.16 who is not a parent, the court must find that:

3.17 (i) transfer of permanent legal and physical custody and receipt of Northstar kinship
3.18 assistance under chapter 256N, when requested and the child is eligible, are in the child's
3.19 best interests;

3.20 (ii) adoption is not in the child's best interests based on the determinations in the kinship
3.21 placement agreement required under section 256N.22, subdivision 2;

3.22 (iii) the agency made efforts to discuss adoption with the child's parent or parents, or
3.23 the agency did not make efforts to discuss adoption and the reasons why efforts were not
3.24 made; and

3.25 (iv) there are reasons to separate siblings during placement, if applicable; The court
3.26 may find there is a reason to separate siblings when the court finds both (A) that the
3.27 responsible social services agency made reasonable efforts to place siblings together and
3.28 (B) that placing siblings together is not in the best interest of one or more of the siblings;

3.29 (8) the court may defer finalization of an order transferring permanent legal and physical
3.30 custody to a relative when deferring finalization is necessary to determine eligibility for
3.31 Northstar kinship assistance under chapter 256N;

3.32 (9) the court may finalize a permanent transfer of physical and legal custody to a relative
3.33 regardless of eligibility for Northstar kinship assistance under chapter 256N; ~~and~~

4.1 (10) the juvenile court may maintain jurisdiction over the responsible social services
4.2 agency, the parents or guardian of the child, the child, and the permanent legal and physical
4.3 custodian for purposes of ensuring appropriate services are delivered to the child and
4.4 permanent legal custodian for the purpose of ensuring conditions ordered by the court related
4.5 to the care and custody of the child are met; and

4.6 (11) after finalization of the permanent transfer of physical and legal custody to a relative
4.7 who is not a parent, the court administrator must mail a copy of the final order to the
4.8 commissioner of human services.

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

4.10 Sec. 4. Minnesota Statutes 2016, section 260C.625, is amended to read:

4.11 **260C.625 DOCUMENTS FILED BY SOCIAL SERVICES AGENCY.**

4.12 (a) The following shall be filed with the court by the responsible social services agency
4.13 prior to finalization of the adoption:

4.14 (1) ~~a certified~~ an electronic copy of the child's certified birth record;

4.15 (2) ~~a certified~~ an electronic copy of the certified findings and order terminating parental
4.16 rights or order accepting the parent's consent to adoption under section 260C.515, subdivision
4.17 3, and for guardianship to the commissioner;

4.18 (3) a copy of any communication or contact agreement under section 260C.619;

4.19 (4) certification that the Minnesota Fathers' Adoption Registry has been searched which
4.20 requirement may be met according to the requirements of the Minnesota Rules of Adoption
4.21 Procedure, Rule 32.01, subdivision 2;

4.22 (5) an electronic copy of the original of each consent to adoption required, if any, unless
4.23 the original was filed in the permanency proceeding conducted under section 260C.515,
4.24 subdivision 3, and the order filed under clause (2) has a copy of the consent attached; and

4.25 (6) the postplacement assessment report required under section 259.53, subdivision 2.

4.26 (b) The responsible social services agency shall provide any known aliases of the child
4.27 to the court.

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

5.1 Sec. 5. Minnesota Statutes 2016, section 260C.629, subdivision 2, is amended to read:

5.2 Subd. 2. **Required documents.** In order to issue a decree for adoption and enter judgment
5.3 accordingly, the court must have the following documents in the record:

5.4 (1) an electronic copy of the original birth record of the child;

5.5 (2) an adoption study report including a background study required under section ~~259.41~~
5.6 260C.611;

5.7 (3) ~~a~~ an electronic copy of the certified copy of the findings and order terminating parental
5.8 rights or order accepting the parent's consent to adoption under section 260C.515, subdivision
5.9 3, and for guardianship to the commissioner;

5.10 (4) any consents required under subdivision 1;

5.11 (5) the child's social and medical history under section 260C.609;

5.12 (6) the postplacement assessment report required under section 259.53, subdivision 2,
5.13 unless waived by the court on the record at a hearing under section 260C.607; and

5.14 (7) a report from the child's guardian ad litem.

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

5.16 Sec. 6. Minnesota Statutes 2016, section 626.556, subdivision 2, is amended to read:

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

5.19 (a) "Accidental" means a sudden, not reasonably foreseeable, and unexpected occurrence
5.20 or event which:

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

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

5.25 (b) "Commissioner" means the commissioner of human services.

5.26 (c) "Facility" means:

5.27 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
5.28 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
5.29 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245D;

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

6.3 (3) a nonlicensed personal care provider organization as defined in section ~~256B.0625,~~
6.4 ~~subdivision 19a~~ 256B.0659.

6.5 (d) "Family assessment" means a comprehensive assessment of child safety, risk of
6.6 subsequent child maltreatment, and family strengths and needs that is applied to a child
6.7 maltreatment report that does not allege sexual abuse or substantial child endangerment.
6.8 Family assessment does not include a determination as to whether child maltreatment
6.9 occurred but does determine the need for services to address the safety of family members
6.10 and the risk of subsequent maltreatment.

6.11 (e) "Investigation" means fact gathering related to the current safety of a child and the
6.12 risk of subsequent maltreatment that determines whether child maltreatment occurred and
6.13 whether child protective services are needed. An investigation must be used when reports
6.14 involve sexual abuse or substantial child endangerment, and for reports of maltreatment in
6.15 facilities required to be licensed under chapter 245A or 245D; under sections 144.50 to
6.16 144.58 and 241.021; in a school as defined in section 120A.05, subdivisions 9, 11, and 13,
6.17 and chapter 124E; or in a nonlicensed personal care provider association as defined in section
6.18 ~~256B.0625, subdivision 19a~~ 256B.0659.

6.19 (f) "Mental injury" means an injury to the psychological capacity or emotional stability
6.20 of a child as evidenced by an observable or substantial impairment in the child's ability to
6.21 function within a normal range of performance and behavior with due regard to the child's
6.22 culture.

6.23 (g) "Neglect" means the commission or omission of any of the acts specified under
6.24 clauses (1) to ~~(9)~~ (10), other than by accidental means:

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

6.28 (2) failure to protect a child from conditions or actions that seriously endanger the child's
6.29 physical or mental health when reasonably able to do so, including a growth delay, which
6.30 may be referred to as a failure to thrive, that has been diagnosed by a physician and is due
6.31 to parental neglect;

6.32 (3) failure to provide for necessary supervision or child care arrangements appropriate
6.33 for a child after considering factors as the child's age, mental ability, physical condition,

7.1 length of absence, or environment, when the child is unable to care for the child's own basic
7.2 needs or safety, or the basic needs or safety of another child in their care;

7.3 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
7.4 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
7.5 child with sympathomimetic medications, consistent with section 125A.091, subdivision
7.6 5;

7.7 (5) nothing in this section shall be construed to mean that a child is neglected solely
7.8 because the child's parent, guardian, or other person responsible for the child's care in good
7.9 faith selects and depends upon spiritual means or prayer for treatment or care of disease or
7.10 remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker,
7.11 or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of
7.12 medical care may cause serious danger to the child's health. This section does not impose
7.13 upon persons, not otherwise legally responsible for providing a child with necessary food,
7.14 clothing, shelter, education, or medical care, a duty to provide that care;

7.15 (6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision
7.16 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in
7.17 the child at birth, results of a toxicology test performed on the mother at delivery or the
7.18 child at birth, medical effects or developmental delays during the child's first year of life
7.19 that medically indicate prenatal exposure to a controlled substance, or the presence of a
7.20 fetal alcohol spectrum disorder;

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

7.22 (8) chronic and severe use of alcohol or a controlled substance by a parent or person
7.23 responsible for the care of the child that adversely affects the child's basic needs and safety;
7.24 ~~or~~

7.25 (9) emotional harm from a pattern of behavior which contributes to impaired emotional
7.26 functioning of the child which may be demonstrated by a substantial and observable effect
7.27 in the child's behavior, emotional response, or cognition that is not within the normal range
7.28 for the child's age and stage of development, with due regard to the child's culture; or

7.29 (10) abandonment of the child exhibited when a parent or person responsible for a child's
7.30 care, does not have regular contact with the child and failed to demonstrate consistent interest
7.31 in the child's well-being; unless the parent or person responsible for a child's care establishes
7.32 an extreme financial hardship, physical hardship, treatment for mental disability or chemical
7.33 dependency, or other good cause that prevented the parent or person responsible for a child's

8.1 care from making contact with the child. A child custody determination under chapter 257
8.2 or 518 is not abandonment of the child.

8.3 (h) "Nonmaltreatment mistake" means:

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

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

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

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

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

8.16 This definition only applies to child care centers licensed under Minnesota Rules, chapter
8.17 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated
8.18 maltreatment by the individual, the commissioner of human services shall determine that a
8.19 nonmaltreatment mistake was made by the individual.

8.20 (i) "Operator" means an operator or agency as defined in section 245A.02.

8.21 (j) "Person responsible for the child's care" means (1) an individual functioning within
8.22 the family unit and having responsibilities for the care of the child such as a parent, guardian,
8.23 or other person having similar care responsibilities, or (2) an individual functioning outside
8.24 the family unit and having responsibilities for the care of the child such as a teacher, school
8.25 administrator, other school employees or agents, or other lawful custodian of a child having
8.26 either full-time or short-term care responsibilities including, but not limited to, day care,
8.27 babysitting whether paid or unpaid, counseling, teaching, and coaching.

8.28 (k) "Physical abuse" means any physical injury, mental injury, or threatened injury,
8.29 inflicted by a person responsible for the child's care on a child other than by accidental
8.30 means, or any physical or mental injury that cannot reasonably be explained by the child's
8.31 history of injuries, or any aversive or deprivation procedures, or regulated interventions,
8.32 that have not been authorized under section 125A.0942 or 245.825.

9.1 Abuse does not include reasonable and moderate physical discipline of a child
9.2 administered by a parent or legal guardian which does not result in an injury. Abuse does
9.3 not include the use of reasonable force by a teacher, principal, or school employee as allowed
9.4 by section 121A.582. Actions which are not reasonable and moderate include, but are not
9.5 limited to, any of the following:

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

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

9.8 (3) shaking a child under age three;

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

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

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

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

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

9.16 (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
9.17 substances which were not prescribed for the child by a practitioner, in order to control or
9.18 punish the child; or other substances that substantially affect the child's behavior, motor
9.19 coordination, or judgment or that results in sickness or internal injury, or subjects the child
9.20 to medical procedures that would be unnecessary if the child were not exposed to the
9.21 substances;

9.22 (10) unreasonable physical confinement or restraint not permitted under section 609.379,
9.23 including but not limited to tying, caging, or chaining; or

9.24 (11) in a school facility or school zone, an act by a person responsible for the child's
9.25 care that is a violation under section 121A.58.

9.26 (l) "Practice of social services," for the purposes of subdivision 3, includes but is not
9.27 limited to employee assistance counseling and the provision of guardian ad litem and
9.28 parenting time expeditor services.

9.29 (m) "Report" means any communication received by the local welfare agency, police
9.30 department, county sheriff, or agency responsible for child protection pursuant to this section
9.31 that describes neglect or physical or sexual abuse of a child and contains sufficient content

10.1 to identify the child and any person believed to be responsible for the neglect or abuse, if
10.2 known.

10.3 (n) "Sexual abuse" means the subjection of a child by a person responsible for the child's
10.4 care, by a person who has a significant relationship to the child, as defined in section 609.341,
10.5 or by a person in a position of authority, as defined in section 609.341, subdivision 10, to
10.6 any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first
10.7 degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual
10.8 conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or
10.9 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act
10.10 which involves a minor which constitutes a violation of prostitution offenses under sections
10.11 609.321 to 609.324 or 617.246. Effective May 29, 2017, sexual abuse includes all reports
10.12 of known or suspected child sex trafficking involving a child who is identified as a victim
10.13 of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321,
10.14 subdivisions 7a and 7b. ~~Sexual abuse includes threatened sexual abuse which includes the~~
10.15 ~~status of a parent or household member who has committed a violation which requires~~
10.16 ~~registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or~~
10.17 ~~required registration under section 243.166, subdivision 1b, paragraph (a) or (b).~~

10.18 (o) "Substantial child endangerment" means a person responsible for a child's care, by
10.19 act or omission, commits or attempts to commit an act against a child under their care that
10.20 constitutes any of the following:

10.21 (1) egregious harm as defined in section 260C.007, subdivision 14;

10.22 (2) abandonment under section 260C.301, subdivision 2, paragraph (a), clause (2);

10.23 (3) neglect as defined in paragraph (g), clause (2), that substantially endangers the child's
10.24 physical or mental health, including a growth delay, which may be referred to as failure to
10.25 thrive, that has been diagnosed by a physician and is due to parental neglect;

10.26 (4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

10.27 (5) manslaughter in the first or second degree under section 609.20 or 609.205;

10.28 (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

10.29 (7) solicitation, inducement, and promotion of prostitution under section 609.322;

10.30 (8) criminal sexual conduct under sections 609.342 to 609.3451;

10.31 (9) solicitation of children to engage in sexual conduct under section 609.352;

11.1 (10) malicious punishment or neglect or endangerment of a child under section 609.377
11.2 or 609.378;

11.3 (11) use of a minor in sexual performance under section 617.246; or

11.4 (12) parental behavior, status, or condition which mandates that the county attorney file
11.5 a termination of parental rights petition under section 260C.503, subdivision 2.

11.6 (p) "Threatened injury" means a statement, overt act, condition, or status that represents
11.7 a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes,
11.8 but is not limited to, exposing a child to a person responsible for the child's care, as defined
11.9 in paragraph (j), clause (1), who has:

11.10 (1) subjected a child to, or failed to protect a child from, an overt act or condition that
11.11 constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law
11.12 of another jurisdiction;

11.13 (2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph
11.14 (b), clause (4), or a similar law of another jurisdiction;

11.15 (3) committed an act that has resulted in an involuntary termination of parental rights
11.16 under section 260C.301, or a similar law of another jurisdiction; ~~or~~

11.17 (4) committed an act that has resulted in the involuntary transfer of permanent legal and
11.18 physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201,
11.19 subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law
11.20 of another jurisdiction;

11.21 ~~(5) A child is the subject of~~ subjected a child to a status or condition requiring a report
11.22 ~~of threatened injury when the responsible social services agency receives birth match data~~
11.23 ~~under paragraph (q) from the Department of Human Services;~~ or

11.24 (6) committed a violation which requires registration as an offender under section
11.25 243.166, subdivision 1b, paragraph (a) or (b), and is a parent or a household member.

11.26 (q) Upon receiving data under section 144.225, subdivision 2b, contained in a birth
11.27 record or recognition of parentage identifying a child who is subject to threatened injury
11.28 under paragraph (p), the Department of Human Services shall send the data to the responsible
11.29 social services agency. The data is known as "birth match" data. Unless the responsible
11.30 social services agency has already begun an investigation or assessment of the report due
11.31 to the birth of the child or execution of the recognition of parentage and the parent's previous
11.32 history with child protection, the agency shall accept the birth match data as a report under
11.33 this section. The agency ~~may~~ shall use ~~either a family assessment or an~~ investigation to

12.1 determine whether the child is safe. All of the provisions of this section apply. If the child
12.2 is determined to be safe, the agency shall consult with the county attorney to determine the
12.3 appropriateness of filing a petition alleging the child is in need of protection or services
12.4 under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If
12.5 the child is determined not to be safe, the agency and the county attorney shall take
12.6 appropriate action as required under section 260C.503, subdivision 2.

12.7 (r) Persons who conduct assessments or investigations under this section shall take into
12.8 account accepted child-rearing practices of the culture in which a child participates and
12.9 accepted teacher discipline practices, which are not injurious to the child's health, welfare,
12.10 and safety.

12.11 (s) "Safety plan" means a written or oral plan made with the local social services agency
12.12 and the child's parent or legal custodian or ordered by the court that sets out the conditions
12.13 necessary to keep the child safe. A safety plan is developed, when required, after a safety
12.14 assessment. The plan may be part of a child protective services plan, out-of-home placement
12.15 plan, or reunification plan when the child leaves foster care.

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

12.17 Sec. 7. Minnesota Statutes 2016, section 626.556, subdivision 3, is amended to read:

12.18 Subd. 3. **Persons mandated to report; persons voluntarily reporting.** (a) A person
12.19 who knows or has reason to believe a child is being neglected or physically or sexually
12.20 abused, as defined in subdivision 2, or has been neglected or physically or sexually abused
12.21 within the preceding three years, shall immediately report the information to the local welfare
12.22 agency, agency responsible for assessing or investigating the report, police department,
12.23 county sheriff, tribal social services agency, or tribal police department if the person is:

12.24 (1) a professional or professional's delegate who is engaged in the practice of the healing
12.25 arts, social services, hospital administration, psychological or psychiatric treatment, child
12.26 care, education, correctional supervision, probation and correctional services, or law
12.27 enforcement; or

12.28 (2) employed as a member of the clergy and received the information while engaged in
12.29 ministerial duties, provided that a member of the clergy is not required by this subdivision
12.30 to report information that is otherwise privileged under section 595.02, subdivision 1,
12.31 paragraph (c).

12.32 (b) Any person may voluntarily report to the local welfare agency, agency responsible
12.33 for assessing or investigating the report, police department, county sheriff, tribal social

13.1 services agency, or tribal police department if the person knows, has reason to believe, or
 13.2 suspects a child is being or has been neglected or subjected to physical or sexual abuse.

13.3 (c) A person mandated to report physical or sexual child abuse or neglect occurring
 13.4 within a licensed facility shall report the information to the agency responsible for licensing
 13.5 the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245D;
 13.6 or a nonlicensed personal care provider organization as defined in section ~~256B.0625,~~
 13.7 ~~subdivision 19~~ 256B.0659. A health or corrections agency receiving a report may request
 13.8 the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b.
 13.9 A board or other entity whose licensees perform work within a school facility, upon receiving
 13.10 a complaint of alleged maltreatment, shall provide information about the circumstances of
 13.11 the alleged maltreatment to the commissioner of education. Section 13.03, subdivision 4,
 13.12 applies to data received by the commissioner of education from a licensing entity.

13.13 (d) Notification requirements under subdivision 10 apply to all reports received under
 13.14 this section.

13.15 (e) For purposes of this section, "immediately" means as soon as possible but in no event
 13.16 longer than 24 hours.

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

13.18 Sec. 8. Minnesota Statutes 2016, section 626.556, subdivision 10f, is amended to read:

13.19 Subd. 10f. **Notice of determinations.** Within ten working days of the conclusion of a
 13.20 family assessment, the local welfare agency shall notify the parent or guardian of the child
 13.21 of the need for services to address child safety concerns or significant risk of subsequent
 13.22 child maltreatment. The local welfare agency and the family may also jointly agree that
 13.23 family support and family preservation services are needed. Within ten working days of the
 13.24 conclusion of an investigation, the local welfare agency or agency responsible for
 13.25 investigating the report shall notify the parent or guardian of the child, the person determined
 13.26 to be maltreating the child, and, if applicable, the director of the facility, of the determination
 13.27 and a summary of the specific reasons for the determination. When the investigation involves
 13.28 a child foster care setting that is monitored by a private licensing agency under section
 13.29 245A.16, the local welfare agency responsible for investigating the report shall notify the
 13.30 private licensing agency of the determination and shall provide a summary of the specific
 13.31 reasons for the determination. The notice to the private licensing agency must include
 13.32 identifying private data, but not the identity of the reporter of maltreatment. The notice must
 13.33 also include a certification that the information collection procedures under subdivision 10,
 13.34 paragraphs ~~(h)~~ (i), ~~(i)~~ (j), and ~~(j)~~ (k), were followed and a notice of the right of a data subject

14.1 to obtain access to other private data on the subject collected, created, or maintained under
 14.2 this section. In addition, the notice shall include the length of time that the records will be
 14.3 kept under subdivision 11c. When the investigation involves a nonlicensed personal care
 14.4 provider organization as defined in section 256B.0659, regardless of the relationship of the
 14.5 victim to the nonlicensed personal care attendant, the local welfare agency responsible for
 14.6 investigating the report shall notify the personal care provider agency of the determination
 14.7 and shall provide a summary of the specific reasons for the determination. The notice to
 14.8 the personal care provider agency must include identifying private data, but cannot identify
 14.9 the reporter of maltreatment. The notice must also include a certification that the procedures
 14.10 under subdivision 10, paragraphs (i), (j), and (k), were followed and a notice of the right of
 14.11 a data subject to obtain access to other private data on the subject collected, created, or
 14.12 maintained under this section. In addition, the notice shall include the length of time that
 14.13 the records will be kept according to subdivision 11c. The investigating agency shall notify
 14.14 the parent or guardian of the child who is the subject of the report, and any person or facility
 14.15 determined to have maltreated a child, of their appeal or review rights under this section.
 14.16 The notice must also state that a finding of maltreatment may result in denial of a license
 14.17 application or background study disqualification under chapter 245C related to employment
 14.18 or services that are licensed by the Department of Human Services under chapter 245A, the
 14.19 Department of Health under chapter 144 or 144A, the Department of Corrections under
 14.20 section 241.021, and from providing services related to an unlicensed personal care provider
 14.21 organization under chapter 256B.

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

14.23 Sec. 9. Minnesota Statutes 2016, section 626.556, subdivision 10m, is amended to read:

14.24 Subd. 10m. **Provision of child protective services; safety planning; consultation with**
 14.25 **county attorney.** (a) The local welfare agency shall create a written plan, in collaboration
 14.26 with the family whenever possible, within 30 days of the determination that child protective
 14.27 services are needed or upon joint agreement of the local welfare agency and the family that
 14.28 family support and preservation services are needed. Child protective services for a family
 14.29 are voluntary ~~unless~~ on the part of the family until ordered by the court; after a petition
 14.30 under section 260C.141 has been filed. Family support and preservation services are voluntary
 14.31 unless the services are ordered by the court.

14.32 (b) When a child's removal from a parent or guardian is necessary as part of a safety
 14.33 plan, the removal must occur pursuant to a voluntary placement agreement under section
 14.34 260C.227; a court order under section 260C.151, subdivision 6, 260C.178 or 260C.201; or

15.1 peace officer action authorized under section 260C.175, subdivision 1, clause (2). The local
 15.2 agency must not use a delegation of power by a parent or guardian under section 524.5-211
 15.3 or the standby custodian provisions of chapter 257B as authority to support removal of a
 15.4 child from the care of a parent or guardian.

15.5 (c) The local welfare agency shall consult with the county attorney to determine the
 15.6 appropriateness of filing a petition alleging the child is in need of protection or services
 15.7 under section 260C.007, subdivision 6, if:

15.8 (1) the family does not accept or comply with a plan for child protective services or
 15.9 safety plan;

15.10 (2) voluntary child protective services on the part of the family may not provide sufficient
 15.11 protection for the child; ~~or~~

15.12 (3) the family is not cooperating with an investigation or assessment; or

15.13 (4) removal of the child from a parent or guardian is necessary and a voluntary placement
 15.14 agreement under section 260C.227 may not provide sufficient protection for the child.

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

15.16 Sec. 10. Minnesota Statutes 2016, section 626.558, subdivision 2, is amended to read:

15.17 Subd. 2. **Duties of team.** A multidisciplinary child protection team may provide public
 15.18 and professional education, develop resources for prevention, intervention, and treatment,
 15.19 and provide case consultation including, but not limited to, screening, to the local welfare
 15.20 agency or other interested community-based agencies. The community-based agencies may
 15.21 request case consultation from the multidisciplinary child protection team regarding a child
 15.22 or family for whom the community-based agency is providing services. As used in this
 15.23 section, "case consultation" means a case review process in which recommendations are
 15.24 made concerning services to be provided to the identified children and family and which
 15.25 may include screening. Case consultation may be performed by a committee or subcommittee
 15.26 of members representing human services, including mental health and chemical dependency;
 15.27 law enforcement, including probation and parole; the county attorney; a children's advocacy
 15.28 center; health care; education; community-based agencies and other necessary agencies;
 15.29 and persons directly involved in an individual case as designated by other members
 15.30 performing case consultation.

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

16.1

ARTICLE 2

16.2

OPERATIONS

16.3 Section 1. Minnesota Statutes 2016, section 245A.02, subdivision 3, is amended to read:

16.4 Subd. 3. **Applicant.** "Applicant" means an individual, ~~corporation, partnership, voluntary~~
 16.5 ~~association, controlling individual, or other~~ organization, or government entity, as defined
 16.6 in section 13.02, subdivision 7a, that has applied for licensure under this chapter and the
 16.7 rules of the commissioner is subject to licensure under this chapter and that has applied for
 16.8 but not yet been granted a license under this chapter.

16.9 **EFFECTIVE DATE.** This section is effective August 1, 2017.

16.10 Sec. 2. Minnesota Statutes 2016, section 245A.02, is amended by adding a subdivision to
 16.11 read:

16.12 Subd. 10c. **Owner.** "Owner" means each individual or organization that has five percent
 16.13 or more direct or indirect ownership interest in a program licensed under this chapter. For
 16.14 purposes of this subdivision, "direct ownership interest" means the possession of equity in
 16.15 capital, stock, or profits of an organization and "indirect ownership interest" means a direct
 16.16 ownership interest in an entity that has a direct or indirect ownership interest in a licensed
 16.17 program. For purposes of this chapter, owner of a nonprofit corporation means each member
 16.18 of the board of directors. A government entity that is issued a license under this chapter
 16.19 shall be designated the owner.

16.20 **EFFECTIVE DATE.** This section is effective August 1, 2017.

16.21 Sec. 3. Minnesota Statutes 2016, section 245A.03, subdivision 3, is amended to read:

16.22 Subd. 3. **Unlicensed programs.** (a) It is a misdemeanor for an individual, ~~corporation,~~
 16.23 ~~partnership, voluntary association, other~~ organization, or a ~~controlling individual~~ government
 16.24 entity to provide a residential or nonresidential program without a license issued under this
 16.25 chapter and in willful disregard of this chapter unless the program is excluded from licensure
 16.26 under subdivision 2.

16.27 (b) The commissioner may ask the appropriate county attorney or the attorney general
 16.28 to begin proceedings to secure a court order against the continued operation of the program,
 16.29 if an individual, ~~corporation, partnership, voluntary association, other~~ organization, or
 16.30 ~~controlling individual~~ government entity has:

17.1 (1) failed to apply for a license under this chapter after receiving notice that a license is
 17.2 required or continues to operate without a license after receiving notice that a license is
 17.3 required;

17.4 (2) continued to operate without a license after ~~the~~ a license issued under this chapter
 17.5 has been revoked or suspended under ~~section 245A.07~~ this chapter, and the commissioner
 17.6 has issued a final order affirming the revocation or suspension, or the license holder did not
 17.7 timely appeal the sanction; or

17.8 (3) continued to operate without a license after ~~the~~ a license issued under this chapter
 17.9 has been temporarily immediately suspended ~~under section 245A.07~~ pursuant to this chapter.

17.10 The county attorney and the attorney general have a duty to cooperate with the commissioner.

17.11 **EFFECTIVE DATE.** This section is effective August 1, 2017.

17.12 Sec. 4. Minnesota Statutes 2016, section 245A.04, subdivision 1, is amended to read:

17.13 Subdivision 1. **Application for licensure.** (a) An individual, ~~corporation, partnership,~~
 17.14 ~~voluntary association, other organization or controlling individual,~~ or government entity
 17.15 that is subject to licensure under section 245A.03 must apply for a license. The application
 17.16 must be made on the forms and in the manner prescribed by the commissioner. The
 17.17 commissioner shall provide the applicant with instruction in completing the application and
 17.18 provide information about the rules and requirements of other state agencies that affect the
 17.19 applicant. An applicant seeking licensure in Minnesota with headquarters outside of
 17.20 Minnesota must have a program office located within the state. An applicant who intends
 17.21 to buy or otherwise acquire a program or services licensed under this chapter that is owned
 17.22 by another license holder must comply with the application procedures in this section and
 17.23 section 245A.03.

17.24 The commissioner shall act on the application within 90 working days after a complete
 17.25 application and any required reports have been received from other state agencies or
 17.26 departments, counties, municipalities, or other political subdivisions. The commissioner
 17.27 shall not consider an application to be complete until the commissioner receives all of the
 17.28 information required under section 245C.05.

17.29 When the commissioner receives an application for initial licensure that is incomplete
 17.30 because the applicant failed to submit required documents or that is substantially deficient
 17.31 because the documents submitted do not meet licensing requirements, the commissioner
 17.32 shall provide the applicant written notice that the application is incomplete or substantially
 17.33 deficient. In the written notice to the applicant the commissioner shall identify documents

18.1 that are missing or deficient and give the applicant 45 days to resubmit a second application
18.2 that is substantially complete. An applicant's failure to submit a substantially complete
18.3 application after receiving notice from the commissioner is a basis for license denial under
18.4 section 245A.05.

18.5 (b) An application for licensure must identify all controlling individuals as defined in
18.6 section 245A.02, subdivision 5a, and must specify an designate one controlling individual
18.7 to be the authorized agent who is responsible for dealing with the commissioner of human
18.8 services on all matters provided for in this chapter and on whom service of all notices and
18.9 orders must be made for the license holder. The application must be signed by the authorized
18.10 agent and must include the first, middle, and last name; mailing address; and e-mail address
18.11 of the authorized agent. By submitting an application for licensure, the authorized agent
18.12 consents to electronic communication with the commissioner throughout the application
18.13 process. The authorized agent must be authorized to accept service on behalf of all of the
18.14 controlling individuals of the program. Service on the authorized agent is service on all of
18.15 the controlling individuals of the program. It is not a defense to any action arising under
18.16 this chapter that service was not made on each controlling individual of the program. The
18.17 designation of one or more a controlling individuals individual as agents the authorized
18.18 agent under this paragraph does not affect the legal responsibility of any other controlling
18.19 individual under this chapter.

18.20 (c) An applicant or license holder must have a policy that prohibits license holders,
18.21 employees, subcontractors, and volunteers, when directly responsible for persons served
18.22 by the program, from abusing prescription medication or being in any manner under the
18.23 influence of a chemical that impairs the individual's ability to provide services or care. The
18.24 license holder must train employees, subcontractors, and volunteers about the program's
18.25 drug and alcohol policy.

18.26 (d) An applicant and license holder must have a program grievance procedure that permits
18.27 persons served by the program and their authorized representatives to bring a grievance to
18.28 the highest level of authority in the program.

18.29 (e) ~~The applicant must be able to demonstrate competent knowledge of the applicable~~
18.30 ~~requirements of this chapter and chapter 245C, and the requirements of other licensing~~
18.31 ~~statutes and rules applicable to the program or services for which the applicant is seeking~~
18.32 ~~to be licensed. Effective January 1, 2013, The commissioner may limit communication~~
18.33 during the application process to the authorized agent or the controlling individual identified
18.34 on the license application and for whom a background study was initiated under chapter
18.35 245C. The commissioner may require the applicant, except for child foster care, to

19.1 demonstrate competence in the applicable licensing requirements by successfully completing
 19.2 a written examination. The commissioner may develop a prescribed written examination
 19.3 format.

19.4 (f) When an applicant is an individual, the individual must provide:

19.5 (1) the applicant's taxpayer identification numbers including the Social Security number
 19.6 or Minnesota tax identification number, and federal employer identification number if the
 19.7 applicant has employees;

19.8 (2) a copy of the most recent filing with the secretary of state that includes the complete
 19.9 business name, if any, and if doing business under a different name, the doing business as
 19.10 (DBA) name, as registered with the secretary of state; ~~and~~

19.11 (3) ~~a notarized signature of the applicant.~~ if applicable, the applicant's National Provider
 19.12 Identifier (NPI) number and Unique Minnesota Provider Identifier (UMPI) number; and

19.13 (4) at the request of the commissioner, the notarized signature of the applicant or
 19.14 authorized agent.

19.15 (g) When an applicant is ~~a non-individual~~ an organization, the applicant must provide
 19.16 ~~the:~~

19.17 (1) the applicant's taxpayer identification numbers including the Minnesota tax
 19.18 identification number and federal employer identification number;

19.19 (2) a copy of the most recent filing with the secretary of state that includes the complete
 19.20 business name, and if doing business under a different name, the doing business as (DBA)
 19.21 name, as registered with the secretary of state;

19.22 (3) the first, middle, and last name, and address for all individuals who will be controlling
 19.23 individuals, including all officers, owners, and managerial officials as defined in section
 19.24 245A.02, subdivision 5a, and the date that the background study was initiated by the applicant
 19.25 for each controlling individual; ~~and~~

19.26 (4) ~~first, middle, and last name, mailing address, and notarized signature of the agent~~
 19.27 ~~authorized by the applicant to accept service on behalf of the controlling individuals.~~

19.28 (4) if applicable, the applicant's National Provider Identifier (NPI) number and Unique
 19.29 Minnesota Provider Identifier (UMPI) number;

19.30 (5) the records that created the organization and that determine its internal governance
 19.31 and the relations among the persons that own it, have an interest in it, or are members of it,
 19.32 in each case as provided or authorized by its governing statute, which may include a

20.1 partnership agreement, bylaws, articles of organization, organizational chart, and operating
 20.2 agreement, or comparable documents as provided in the organization's governing statute;
 20.3 and

20.4 (6) at the request of the commissioner, the notarized signature of the applicant or
 20.5 authorized agent.

20.6 (h) When the applicant is a government entity, the applicant must provide:

20.7 (1) the name of the government agency, political subdivision, or other unit of government
 20.8 that is seeking the license and the name of the program or services that will be licensed;

20.9 (2) the taxpayer identification numbers including the Minnesota tax identification number
 20.10 and federal employer identification number;

20.11 (3) a letter signed by the manager, administrator, or other executive of the government
 20.12 entity authorizing the submission of the license application;

20.13 (4) if applicable, the applicant's National Provider Identifier (NPI) number and Unique
 20.14 Minnesota Provider Identifier (UMPI) number; and

20.15 (5) first, middle, and last name; mailing address; e-mail address; and signature of the
 20.16 authorized agent for each license issued to the government entity. A government entity that
 20.17 holds multiple licenses under this chapter may designate one authorized agent for all licenses
 20.18 issued under this chapter or may designate a different authorized agent for each license.

20.19 ~~(h)~~ (i) At the time of application for licensure or renewal of a license under this chapter,
 20.20 the applicant or license holder must acknowledge on the form provided by the commissioner
 20.21 if the applicant or license holder elects to receive any public funding reimbursement from
 20.22 the commissioner for services provided under the license that:

20.23 (1) the applicant's or license holder's compliance with the provider enrollment agreement
 20.24 or registration requirements for receipt of public funding may be monitored by the
 20.25 commissioner as part of a licensing investigation or licensing inspection; and

20.26 (2) noncompliance with the provider enrollment agreement or registration requirements
 20.27 for receipt of public funding that is identified through a licensing investigation or licensing
 20.28 inspection, or noncompliance with a licensing requirement that is a basis of enrollment for
 20.29 reimbursement for a service, may result in:

20.30 (i) a correction order or a conditional license under section 245A.06, or sanctions under
 20.31 ~~section~~ sections 245A.045 and 245A.07;

- 21.1 (ii) nonpayment of claims submitted by the license holder for public program
 21.2 reimbursement;
- 21.3 (iii) recovery of payments made for the service;
- 21.4 (iv) disenrollment in the public payment program; or
- 21.5 (v) other administrative, civil, or criminal penalties as provided by law.

21.6 **EFFECTIVE DATE.** This section is effective August 1, 2017.

21.7 Sec. 5. Minnesota Statutes 2016, section 245A.07, subdivision 1, is amended to read:

21.8 Subdivision 1. **Sanctions; appeals; license; inactive programs.** (a) In addition to
 21.9 making a license conditional under section 245A.06, the commissioner may suspend or
 21.10 revoke the license, impose a fine, or secure an injunction against the continuing operation
 21.11 of the program of a license holder who does not comply with applicable law or rule. When
 21.12 applying sanctions authorized under this section, the commissioner shall consider the nature,
 21.13 chronicity, or severity of the violation of law or rule and the effect of the violation on the
 21.14 health, safety, or rights of persons served by the program.

21.15 (b) If a license holder appeals the suspension or revocation of a license and the license
 21.16 holder continues to operate the program pending a final order on the appeal, the commissioner
 21.17 shall issue the license holder a temporary provisional license. Unless otherwise specified
 21.18 by the commissioner, variances in effect on the date of the license sanction under appeal
 21.19 continue under the temporary provisional license. If a license holder fails to comply with
 21.20 applicable law or rule while operating under a temporary provisional license, the
 21.21 commissioner may impose additional sanctions under this section and section 245A.06, and
 21.22 may terminate any prior variance. If a temporary provisional license is set to expire, a new
 21.23 temporary provisional license shall be issued to the license holder upon payment of any fee
 21.24 required under section 245A.10. The temporary provisional license shall expire on the date
 21.25 the final order is issued. If the license holder prevails on the appeal, a new nonprovisional
 21.26 license shall be issued for the remainder of the current license period.

21.27 (c) If a license holder is under investigation and the license issued under this chapter is
 21.28 due to expire before completion of the investigation, the program shall be issued a new
 21.29 license upon completion of the reapplication requirements and payment of any applicable
 21.30 license fee. Upon completion of the investigation, a licensing sanction may be imposed
 21.31 against the new license under this section, section 245A.06, or 245A.08.

21.32 (d) Failure to reapply or closure of a license issued under this chapter by the license
 21.33 holder prior to the completion of any investigation shall not preclude the commissioner

22.1 from issuing a licensing sanction under this section, or section 245A.06, or 245A.08
 22.2 245A.045 or 245A.06 at the conclusion of the investigation.

22.3 (e) The commissioner may suspend or close a license when the commissioner determines
 22.4 that a licensed program has not been serving any clients for a consecutive period of 12
 22.5 months or longer. The commissioner need not consider nature, severity, or chronicity of
 22.6 the act when suspending or closing a license under this provision.

22.7 **EFFECTIVE DATE.** This section is effective August 1, 2017.

22.8 Sec. 6. Minnesota Statutes 2016, section 245A.07, subdivision 2, is amended to read:

22.9 Subd. 2. **Temporary immediate suspension.** (a) The commissioner shall act immediately
 22.10 to temporarily suspend a license issued under this chapter if:

22.11 (1) the license holder's actions or failure to comply with applicable law or rule, or the
 22.12 actions of other individuals or conditions in the program, pose an imminent risk of harm to
 22.13 the health, safety, or rights of persons served by the program; ~~or~~

22.14 (2) while the program continues to operate pending an appeal of an order of revocation,
 22.15 the commissioner identifies one or more subsequent violations of law or rule which may
 22.16 adversely affect the health or safety of persons served by the program; or

22.17 (3) the license holder has been criminally charged in state or federal court with an offense
 22.18 that involves fraud or theft against a program administered by the commissioner.

22.19 (b) No state funds shall be made available or be expended by any agency or department
 22.20 of state, county, or municipal government for use by a license holder regulated under this
 22.21 chapter while a license issued under this chapter is under immediate suspension. A notice
 22.22 stating the reasons for the immediate suspension and informing the license holder of the
 22.23 right to an expedited hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to
 22.24 1400.8612, must be delivered by personal service to the address shown on the application
 22.25 or the last known address of the license holder. The license holder may appeal an order
 22.26 immediately suspending a license. The appeal of an order immediately suspending a license
 22.27 must be made in writing by certified mail ~~or~~, by personal service, or by other means expressly
 22.28 set forth in the commissioner's order. If mailed, the appeal must be postmarked and sent to
 22.29 the commissioner within five calendar days after the license holder receives notice that the
 22.30 license has been immediately suspended. If a request is made by personal service, it must
 22.31 be received by the commissioner within five calendar days after the license holder received
 22.32 the order. A license holder and any controlling individual shall discontinue operation of the
 22.33 program upon receipt of the commissioner's order to immediately suspend the license.

23.1 **EFFECTIVE DATE.** This section is effective August 1, 2017.

23.2 Sec. 7. Minnesota Statutes 2016, section 245A.07, subdivision 2a, is amended to read:

23.3 Subd. 2a. **Immediate suspension expedited hearing.** (a) Within five working days of
23.4 receipt of the license holder's timely appeal, the commissioner shall request assignment of
23.5 an administrative law judge. The request must include a proposed date, time, and place of
23.6 a hearing. A hearing must be conducted by an administrative law judge within 30 calendar
23.7 days of the request for assignment, unless an extension is requested by either party and
23.8 granted by the administrative law judge for good cause. The commissioner shall issue a
23.9 notice of hearing by certified mail or personal service at least ten working days before the
23.10 hearing. The scope of the hearing shall be limited solely to the issue of whether the temporary
23.11 immediate suspension should remain in effect pending the commissioner's final order under
23.12 section 245A.08, regarding a licensing sanction issued under subdivision 3 following the
23.13 immediate suspension. For suspensions under subdivision 2, paragraph (a), clause (1), the
23.14 burden of proof in expedited hearings under this subdivision shall be limited to the
23.15 commissioner's demonstration that reasonable cause exists to believe that the license holder's
23.16 actions or failure to comply with applicable law or rule poses, or the actions of other
23.17 individuals or conditions in the program poses an imminent risk of harm to the health, safety,
23.18 or rights of persons served by the program. "Reasonable cause" means there exist specific
23.19 articulable facts or circumstances which provide the commissioner with a reasonable
23.20 suspicion that there is an imminent risk of harm to the health, safety, or rights of persons
23.21 served by the program. When the commissioner has determined there is reasonable cause
23.22 to order the temporary immediate suspension of a license based on a violation of safe sleep
23.23 requirements, as defined in section 245A.1435, the commissioner is not required to
23.24 demonstrate that an infant died or was injured as a result of the safe sleep violations. For
23.25 suspensions under subdivision 2, paragraph (a), clause (2), the burden of proof in expedited
23.26 hearings under this subdivision shall be limited to the commissioner's demonstration by a
23.27 preponderance of evidence that, since the license was revoked, the license holder committed
23.28 additional violations of law or rule which may adversely affect the health or safety of persons
23.29 served by the program.

23.30 (b) The administrative law judge shall issue findings of fact, conclusions, and a
23.31 recommendation within ten working days from the date of hearing. The parties shall have
23.32 ten calendar days to submit exceptions to the administrative law judge's report. The record
23.33 shall close at the end of the ten-day period for submission of exceptions. The commissioner's
23.34 final order shall be issued within ten working days from the close of the record. When an
23.35 appeal of a temporary immediate suspension is withdrawn or dismissed, the commissioner

24.1 shall issue a final order affirming the temporary immediate suspension within ten calendar
 24.2 days of the commissioner's receipt of the withdrawal or dismissal. Within 90 calendar days
 24.3 after a final order affirming an immediate suspension, the commissioner shall make a
 24.4 determination regarding whether a final licensing sanction shall be issued under subdivision
 24.5 3. The license holder shall continue to be prohibited from operation of the program during
 24.6 this 90-day period.

24.7 (c) When the final order under paragraph (b) affirms an immediate suspension, and a
 24.8 final licensing sanction is issued under subdivision 3 and the license holder appeals that
 24.9 sanction, the license holder continues to be prohibited from operation of the program pending
 24.10 a final commissioner's order under section 245A.08, subdivision 5, regarding the final
 24.11 licensing sanction. For suspensions under subdivision 2, paragraph (a), clause (3), the burden
 24.12 of proof in expedited hearings under this subdivision shall be limited to the commissioner's
 24.13 demonstration by a preponderance of evidence that a criminal complaint and warrant or
 24.14 summons has been issued against the license holder that has not been dismissed, and that
 24.15 the criminal charge is an offense that involves fraud or theft against a program administered
 24.16 by the commissioner.

24.17 Sec. 8. Minnesota Statutes 2016, section 245A.07, subdivision 3, is amended to read:

24.18 Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend
 24.19 or revoke a license, or impose a fine if:

24.20 (1) a license holder fails to comply fully with applicable laws or rules including, but not
 24.21 limited to, this chapter and chapters 119B and 245C;

24.22 (2) a license holder, a controlling individual, or an individual living in the household
 24.23 where the licensed services are provided or is otherwise subject to a background study has
 24.24 a disqualification which has not been set aside under section 245C.22;

24.25 (3) a license holder knowingly withholds relevant information from or gives false or
 24.26 misleading information to the commissioner in connection with an application for a license,
 24.27 in connection with the background study status of an individual, during an investigation,
 24.28 or regarding compliance with applicable laws or rules; or

24.29 (4) ~~after July 1, 2012, and upon request by the commissioner, a license holder fails to~~
 24.30 ~~submit the information required of an applicant under section 245A.04, subdivision 1,~~
 24.31 ~~paragraph (f) or (g)~~ a license holder is prohibited from holding a license according to section
 24.32 245.095.

25.1 A license holder who has had a license issued under this chapter suspended, revoked,
25.2 or has been ordered to pay a fine must be given notice of the action by certified mail or
25.3 personal service. If mailed, the notice must be mailed to the address shown on the application
25.4 or the last known address of the license holder. The notice must state the reasons the license
25.5 was suspended, revoked, or a fine was ordered.

25.6 (b) If the license was suspended or revoked, the notice must inform the license holder
25.7 of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts
25.8 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking
25.9 a license. The appeal of an order suspending or revoking a license must be made in writing
25.10 by certified mail or personal service. If mailed, the appeal must be postmarked and sent to
25.11 the commissioner within ten calendar days after the license holder receives notice that the
25.12 license has been suspended or revoked. If a request is made by personal service, it must be
25.13 received by the commissioner within ten calendar days after the license holder received the
25.14 order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a
25.15 timely appeal of an order suspending or revoking a license, the license holder may continue
25.16 to operate the program as provided in section 245A.04, subdivision 7, paragraphs ~~(g)~~ (f)
25.17 and ~~(h)~~ (g), until the commissioner issues a final order on the suspension or revocation.

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

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

25.33 (3) A license holder shall promptly notify the commissioner of human services, in writing,
25.34 when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the
25.35 commissioner determines that a violation has not been corrected as indicated by the order

26.1 to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify
26.2 the license holder by certified mail or personal service that a second fine has been assessed.
26.3 The license holder may appeal the second fine as provided under this subdivision.

26.4 (4) Fines shall be assessed as follows: the license holder shall forfeit \$1,000 for each
26.5 determination of maltreatment of a child under section 626.556 or the maltreatment of a
26.6 vulnerable adult under section 626.557 for which the license holder is determined responsible
26.7 for the maltreatment under section 626.556, subdivision 10e, paragraph (i), or 626.557,
26.8 subdivision 9c, paragraph (c); the license holder shall forfeit \$200 for each occurrence of
26.9 a violation of law or rule governing matters of health, safety, or supervision, including but
26.10 not limited to the provision of adequate staff-to-child or adult ratios, and failure to comply
26.11 with background study requirements under chapter 245C; and the license holder shall forfeit
26.12 \$100 for each occurrence of a violation of law or rule other than those subject to a \$1,000
26.13 or \$200 fine above. For purposes of this section, "occurrence" means each violation identified
26.14 in the commissioner's fine order. Fines assessed against a license holder that holds a license
26.15 to provide home and community-based services, as identified in section 245D.03, subdivision
26.16 1, and a community residential setting or day services facility license under chapter 245D
26.17 where the services are provided, may be assessed against both licenses for the same
26.18 occurrence, but the combined amount of the fines shall not exceed the amount specified in
26.19 this clause for that occurrence.

26.20 (5) When a fine has been assessed, the license holder may not avoid payment by closing,
26.21 selling, or otherwise transferring the licensed program to a third party. In such an event, the
26.22 license holder will be personally liable for payment. In the case of a corporation, each
26.23 controlling individual is personally and jointly liable for payment.

26.24 (d) Except for background study violations involving the failure to comply with an order
26.25 to immediately remove an individual or an order to provide continuous, direct supervision,
26.26 the commissioner shall not issue a fine under paragraph (c) relating to a background study
26.27 violation to a license holder who self-corrects a background study violation before the
26.28 commissioner discovers the violation. A license holder who has previously exercised the
26.29 provisions of this paragraph to avoid a fine for a background study violation may not avoid
26.30 a fine for a subsequent background study violation unless at least 365 days have passed
26.31 since the license holder self-corrected the earlier background study violation.

26.32 **EFFECTIVE DATE.** This section is effective August 1, 2017.

27.1 Sec. 9. Minnesota Statutes 2016, section 245A.08, subdivision 3, is amended to read:

27.2 Subd. 3. **Burden of proof.** (a) At a hearing regarding a licensing sanction under section
27.3 245A.07, including consolidated hearings under subdivision 2a, the commissioner may
27.4 demonstrate reasonable cause for action taken by submitting statements, reports, or affidavits
27.5 to substantiate the allegations that the license holder failed to comply fully with applicable
27.6 law or rule. If the commissioner demonstrates that reasonable cause existed, the burden of
27.7 proof shifts to the license holder to demonstrate by a preponderance of the evidence that
27.8 the license holder was in full compliance with those laws or rules that the commissioner
27.9 alleges the license holder violated, at the time that the commissioner alleges the violations
27.10 of law or rules occurred.

27.11 (b) At a hearing on denial of an application for a license or to convert a provisional
27.12 license issued under section 245A.045 into a license, the applicant bears the burden of proof
27.13 to demonstrate by a preponderance of the evidence that the appellant has complied fully
27.14 with this chapter and other applicable law or rule and that the application should be approved
27.15 and a license granted.

27.16 **EFFECTIVE DATE.** This section is effective August 1, 2017.

27.17 Sec. 10. Minnesota Statutes 2016, section 245C.02, subdivision 5, is amended to read:

27.18 Subd. 5. **Background study.** "Background study" means the review of records conducted
27.19 by the commissioner to determine whether a subject is disqualified from direct contact with
27.20 persons served by a program and, where specifically provided in statutes, whether a subject
27.21 is disqualified from having access to persons served by a program. If required by law, the
27.22 background study must include a national criminal history record check.

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

27.24 Sec. 11. Minnesota Statutes 2016, section 245C.02, is amended by adding a subdivision
27.25 to read:

27.26 Subd. 5a. **National criminal history record check.** "National criminal history record
27.27 check" means a check of records maintained by the Federal Bureau of Investigation through
27.28 submission of fingerprints through the Minnesota Bureau of Criminal Apprehension to the
27.29 Federal Bureau of Investigation, when specifically required by law.

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

28.1 Sec. 12. Minnesota Statutes 2016, section 245C.02, is amended by adding a subdivision
28.2 to read:

28.3 Subd. 5b. **National criminal records repository.** For purposes of background studies
28.4 conducted under this chapter, "national criminal records repository" refers to the Federal
28.5 Bureau of Investigation.

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

28.7 Sec. 13. Minnesota Statutes 2016, section 245C.02, subdivision 13b, is amended to read:

28.8 Subd. 13b. **NETStudy 2.0.** "NETStudy 2.0" means the commissioner's system that
28.9 replaces both NETStudy and the department's internal background study processing system.
28.10 NETStudy 2.0 is designed to enhance protection of children and vulnerable adults by
28.11 improving the accuracy of background studies through fingerprint-based criminal record
28.12 checks and expanding the background studies to include a review of information from the
28.13 Minnesota Court Information System and ~~the national crime information database~~ a national
28.14 criminal history record check. NETStudy 2.0 is also designed to increase efficiencies in and
28.15 the speed of the hiring process by:

28.16 (1) providing access to and updates from public Web-based data related to employment
28.17 eligibility;

28.18 (2) decreasing the need for repeat studies through electronic updates of background
28.19 study subjects' criminal records;

28.20 (3) supporting identity verification using subjects' Social Security numbers and
28.21 photographs;

28.22 (4) using electronic employer notifications; and

28.23 (5) issuing immediate verification of subjects' eligibility to provide services as more
28.24 studies are completed under the NETStudy 2.0 system.

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

28.26 Sec. 14. Minnesota Statutes 2016, section 245C.05, subdivision 1, is amended to read:

28.27 Subdivision 1. **Individual studied.** (a) The individual who is the subject of the
28.28 background study must provide the applicant, license holder, or other entity under section
28.29 245C.04 with sufficient information to ensure an accurate study, including:

28.30 (1) the individual's first, middle, and last name and all other names by which the
28.31 individual has been known;

- 29.1 (2) current home address, city, and state of residence;
- 29.2 (3) current zip code;
- 29.3 (4) sex;
- 29.4 (5) date of birth;
- 29.5 (6) driver's license number or state identification number; and
- 29.6 (7) upon implementation of NETStudy 2.0, the home address, city, county, and state of
- 29.7 residence for the past five years.

29.8 (b) Every subject of a background study conducted or initiated by counties or private

29.9 agencies under this chapter must also provide the home address, city, county, and state of

29.10 residence for the past five years.

29.11 (c) Every subject of a background study related to private agency adoptions or related

29.12 to child foster care licensed through a private agency, who is 18 years of age or older, shall

29.13 also provide the commissioner a signed consent for the release of any information received

29.14 ~~from national crime information databases~~ following a national criminal history record

29.15 check to the private agency that initiated the background study.

29.16 (d) The subject of a background study shall provide fingerprints and a photograph as

29.17 required in subdivision 5.

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

29.19 Sec. 15. Minnesota Statutes 2016, section 245C.05, subdivision 5, is amended to read:

29.20 Subd. 5. **Fingerprints and photograph.** (a) Before the implementation of NETStudy

29.21 2.0, except as provided in paragraph (c), for any background study completed under this

29.22 chapter, when the commissioner has reasonable cause to believe that further pertinent

29.23 information may exist on the subject of the background study, the subject shall provide the

29.24 commissioner with a set of classifiable fingerprints obtained from an authorized agency for

29.25 a national criminal history record check.

29.26 (b) Before the implementation of NETStudy 2.0, for purposes of requiring fingerprints

29.27 for a national criminal history record check, the commissioner has reasonable cause when,

29.28 but not limited to, the:

29.29 (1) information from the Bureau of Criminal Apprehension indicates that the subject is

29.30 a multistate offender;

30.1 (2) information from the Bureau of Criminal Apprehension indicates that multistate
30.2 offender status is undetermined; or

30.3 (3) commissioner has received a report from the subject or a third party indicating that
30.4 the subject has a criminal history in a jurisdiction other than Minnesota.

30.5 (c) Notwithstanding paragraph (d), for background studies conducted by the commissioner
30.6 for child foster care, adoptions, or a transfer of permanent legal and physical custody of a
30.7 child, the subject of the background study, who is 18 years of age or older, shall provide
30.8 the commissioner with a set of classifiable fingerprints obtained from an authorized agency
30.9 for a national criminal history record check.

30.10 (d) For background studies initiated on or after the implementation of NETStudy 2.0,
30.11 every subject of a background study must provide the commissioner with a set of the
30.12 background study subject's classifiable fingerprints and photograph. The photograph and
30.13 fingerprints must be recorded at the same time by the commissioner's authorized fingerprint
30.14 collection vendor and sent to the commissioner through the commissioner's secure data
30.15 system described in section 245C.32, subdivision 1a, paragraph (b). The fingerprints shall
30.16 not be retained by the Department of Public Safety, Bureau of Criminal Apprehension, or
30.17 the commissioner, but will be retained by the Federal Bureau of Investigation. The
30.18 commissioner's authorized fingerprint collection vendor shall, for purposes of verifying the
30.19 identity of the background study subject, be able to view the identifying information entered
30.20 into NETStudy 2.0 by the entity that initiated the background study, but shall not retain the
30.21 subject's fingerprints, photograph, or information from NETStudy 2.0. The authorized
30.22 fingerprint collection vendor shall retain no more than the name and date and time the
30.23 subject's fingerprints were recorded and sent, only as necessary for auditing and billing
30.24 activities.

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

30.26 Sec. 16. Minnesota Statutes 2016, section 245C.08, subdivision 1, is amended to read:

30.27 Subdivision 1. **Background studies conducted by Department of Human Services.**

30.28 (a) For a background study conducted by the Department of Human Services, the
30.29 commissioner shall review:

30.30 (1) information related to names of substantiated perpetrators of maltreatment of
30.31 vulnerable adults that has been received by the commissioner as required under section
30.32 626.557, subdivision 9c, paragraph (j);

31.1 (2) the commissioner's records relating to the maltreatment of minors in licensed
31.2 programs, and from findings of maltreatment of minors as indicated through the social
31.3 service information system;

31.4 (3) information from juvenile courts as required in subdivision 4 for individuals listed
31.5 in section 245C.03, subdivision 1, paragraph (a), when there is reasonable cause;

31.6 (4) information from the Bureau of Criminal Apprehension, including information
31.7 regarding a background study subject's registration in Minnesota as a predatory offender
31.8 under section 243.166;

31.9 (5) except as provided in clause (6), information ~~from the national crime information~~
31.10 ~~system~~ received as a result of a national criminal history record check when the commissioner
31.11 has reasonable cause as defined under section 245C.05, subdivision 5, or as required under
31.12 section 144.057, subdivision 1, clause (2); and

31.13 (6) for a background study related to a child foster care application for licensure, a
31.14 transfer of permanent legal and physical custody of a child under sections 260C.503 to
31.15 260C.515, or adoptions, the commissioner shall also review:

31.16 (i) information from the child abuse and neglect registry for any state in which the
31.17 background study subject has resided for the past five years; and

31.18 (ii) ~~information from national crime information databases~~, when the background study
31.19 subject is 18 years of age or older, information received from a national criminal history
31.20 record check.

31.21 (b) Notwithstanding expungement by a court, the commissioner may consider information
31.22 obtained under paragraph (a), clauses (3) and (4), unless the commissioner received notice
31.23 of the petition for expungement and the court order for expungement is directed specifically
31.24 to the commissioner.

31.25 (c) The commissioner shall also review criminal case information received according
31.26 to section 245C.04, subdivision 4a, from the Minnesota court information system that relates
31.27 to individuals who have already been studied under this chapter and who remain affiliated
31.28 with the agency that initiated the background study.

31.29 (d) When the commissioner has reasonable cause to believe that the identity of a
31.30 background study subject is uncertain, the commissioner may require the subject to provide
31.31 a set of classifiable fingerprints for purposes of completing a fingerprint-based record check
31.32 with the Bureau of Criminal Apprehension. Fingerprints collected under this paragraph

32.1 shall not be saved by the commissioner after they have been used to verify the identity of
 32.2 the background study subject against the particular criminal record in question.

32.3 (e) The commissioner may inform the entity that initiated a background study under
 32.4 NETStudy 2.0 of the status of processing of the subject's fingerprints.

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

32.6 Sec. 17. Minnesota Statutes 2016, section 245C.08, subdivision 3, is amended to read:

32.7 Subd. 3. **Arrest and investigative information.** (a) For any background study completed
 32.8 under this section, if the commissioner has reasonable cause to believe the information is
 32.9 pertinent to the disqualification of an individual, the commissioner also may review arrest
 32.10 and investigative information from:

32.11 (1) the Bureau of Criminal Apprehension;

32.12 (2) the commissioner of health;

32.13 (3) a county attorney;

32.14 (4) a county sheriff;

32.15 (5) a county agency;

32.16 (6) a local chief of police;

32.17 (7) other states;

32.18 (8) the courts;

32.19 (9) the Federal Bureau of Investigation received by the commissioner following a national
 32.20 criminal history record check;

32.21 (10) the National Criminal Records Repository; and

32.22 (11) criminal records from other states.

32.23 (b) The commissioner is not required to conduct more than one review of a subject's
 32.24 records from the Federal Bureau of Investigation if a ~~review of the subject's criminal history~~
 32.25 ~~with the Federal Bureau of Investigation~~ national criminal history record check has already
 32.26 been completed by the commissioner and there has been no break in the subject's affiliation
 32.27 with the license holder who initiated the background study.

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

33.1 Sec. 18. Minnesota Statutes 2016, section 245C.12, is amended to read:

33.2 **245C.12 BACKGROUND STUDY; TRIBAL ORGANIZATIONS.**

33.3 (a) For the purposes of background studies completed by tribal organizations performing
33.4 licensing activities otherwise required of the commissioner under this chapter, after obtaining
33.5 consent from the background study subject, tribal licensing agencies shall have access to
33.6 criminal history data in the same manner as county licensing agencies and private licensing
33.7 agencies under this chapter.

33.8 (b) Tribal organizations may contract with the commissioner to obtain background study
33.9 data on individuals under tribal jurisdiction related to adoptions according to section 245C.34.
33.10 Tribal organizations may also contract with the commissioner to obtain background study
33.11 data on individuals under tribal jurisdiction related to child foster care according to section
33.12 245C.34.

33.13 (c) For the purposes of background studies completed to comply with a tribal
33.14 organization's licensing requirements for individuals affiliated with a tribally licensed nursing
33.15 facility, the commissioner shall obtain criminal history data from the ~~National Criminal~~
33.16 ~~Records Repository~~ national criminal history record check in accordance with section
33.17 245C.32.

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

33.19 Sec. 19. Minnesota Statutes 2016, section 245C.32, subdivision 1a, is amended to read:

33.20 Subd. 1a. **NETStudy 2.0 system.** (a) The commissioner shall design, develop, and test
33.21 the NETStudy 2.0 system and implement it no later than September 1, 2015.

33.22 (b) The NETStudy 2.0 system developed and implemented by the commissioner shall
33.23 incorporate and meet all applicable data security standards and policies required by the
33.24 Federal Bureau of Investigation (FBI), Department of Public Safety, Bureau of Criminal
33.25 Apprehension, and the Office of MN.IT Services. The system shall meet all required
33.26 standards for encryption of data at the database level as well as encryption of data that
33.27 travels electronically among agencies initiating background studies, the commissioner's
33.28 authorized fingerprint collection vendor, the commissioner, the Bureau of Criminal
33.29 Apprehension, and in cases involving national criminal history record checks, the FBI.

33.30 (c) The data system developed and implemented by the commissioner shall incorporate
33.31 a system of data security that allows the commissioner to control access to the data field
33.32 level by the commissioner's employees. The commissioner shall establish that employees

34.1 have access to the minimum amount of private data on any individual as is necessary to
34.2 perform their duties under this chapter.

34.3 (d) The commissioner shall oversee regular quality and compliance audits of the
34.4 authorized fingerprint collection vendor.

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

34.6 Sec. 20. Minnesota Statutes 2016, section 245C.32, subdivision 2, is amended to read:

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

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

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

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

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

34.20 (d) The commissioner shall recover the cost of obtaining background study data required
34.21 under section 524.5-118 through a fee of \$50 per study for an individual who has not lived
34.22 outside Minnesota for the past ten years, and a fee of \$100 for an individual who has resided
34.23 outside of Minnesota for any period during the ten years preceding the background study.
34.24 The commissioner shall recover, from the individual, any additional fees charged by other
34.25 states' licensing agencies that are associated with these data requests. Fees under subdivision
34.26 3 also apply when ~~criminal history data from the National Criminal Records Repository is~~
34.27 ~~required~~, as required by law, the background study includes a national criminal history
34.28 record check.

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

35.1 Sec. 21. Minnesota Statutes 2016, section 245C.32, subdivision 3, is amended to read:

35.2 Subd. 3. **National records search.** (a) When specifically required by statute, the
 35.3 ~~commissioner shall also obtain criminal history data from the National Criminal Records~~
 35.4 ~~Repository~~ background study shall include a national criminal history record check.

35.5 (b) To obtain criminal history data from the ~~National Criminal Records Repository~~,
 35.6 Federal Bureau of Investigation, the commissioner shall require classifiable fingerprints of
 35.7 the data subject and must submit these fingerprint requests through the Bureau of Criminal
 35.8 Apprehension.

35.9 (c) The commissioner may require the background study subject to submit fingerprint
 35.10 images electronically. The commissioner may not require electronic fingerprint images until
 35.11 the electronic recording and transfer system is available for noncriminal justice purposes
 35.12 and the necessary equipment is in use in the law enforcement agency in the background
 35.13 study subject's local community.

35.14 (d) The commissioner may recover the cost of obtaining ~~and providing~~ criminal history
 35.15 ~~data from the National Criminal Records Repository~~, including a national criminal history
 35.16 record check, by charging the individual or entity requesting the study a fee of no more than
 35.17 \$30 per study. The fees collected under this subdivision are appropriated to the commissioner
 35.18 for the purpose of ~~obtaining criminal history data from the National Criminal Records~~
 35.19 ~~Repository~~ a national criminal history record check.

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

35.21 Sec. 22. Minnesota Statutes 2016, section 245C.33, subdivision 4, is amended to read:

35.22 Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review the
 35.23 following information regarding the background study subject:

35.24 (1) the information under section 245C.08, subdivisions 1, 3, and 4;

35.25 (2) information from the child abuse and neglect registry for any state in which the
 35.26 subject has resided for the past five years; and

35.27 (3) information ~~from national crime information databases~~ received following a national
 35.28 criminal history record check, when required under section 245C.08.

35.29 (b) The commissioner shall provide any information collected under this subdivision to
 35.30 the county or private agency that initiated the background study. The commissioner shall
 35.31 also provide the agency:

36.1 (1) notice whether the information collected shows that the subject of the background
36.2 study has a conviction listed in United States Code, title 42, section 671(a)(20)(A); and

36.3 (2) for background studies conducted under subdivision 1, paragraph (a), the date of all
36.4 adoption-related background studies completed on the subject by the commissioner after
36.5 June 30, 2007, and the name of the county or private agency that initiated the adoption-related
36.6 background study.

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

36.8 Sec. 23. Minnesota Statutes 2016, section 245C.34, subdivision 4, is amended to read:

36.9 Subd. 4. **Information commissioner reviews.** (a) The commissioner shall review the
36.10 following information regarding the background study subject:

36.11 (1) the information under section 245C.08, subdivisions 1, 3, and 4;

36.12 (2) information from the child abuse and neglect registry for any state in which the
36.13 subject has resided for the past five years; and

36.14 (3) information from ~~national crime information databases~~ a national criminal history
36.15 record check, when required under section 245C.08.

36.16 (b) The commissioner shall provide any information collected under this subdivision to
36.17 the tribal organization that initiated the background study. The commissioner shall indicate
36.18 if the information collected shows that the subject of the background study has a conviction
36.19 listed in United States Code, title 42, section 671(a)(20)(A).

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

36.21 Sec. 24. Minnesota Statutes 2016, section 253D.28, subdivision 3, is amended to read:

36.22 Subd. 3. **Decision.** A majority of the judicial appeal panel shall rule upon the petition.
36.23 The panel shall consider the petition de novo. No order of the judicial appeal panel granting
36.24 a transfer, or provisional discharge, ~~or provisional discharge~~ shall be made effective sooner
36.25 than 15 days after it is issued. No order of the judicial appeal panel granting discharge shall
36.26 be made effective sooner than 30 days after it is issued. The panel may not consider petitions
36.27 for relief other than those considered by the special review board from which the appeal is
36.28 taken. The judicial appeal panel may not grant a transfer or provisional discharge on terms
36.29 or conditions that were not presented to the special review board.

37.1

ARTICLE 3

37.2

WELFARE SYSTEM DATA SHARING

37.3 Section 1. Minnesota Statutes 2016, section 13.32, is amended by adding a subdivision
37.4 to read:

37.5 Subd. 12. Access by welfare system. County personnel in the welfare system may
37.6 request access to education data in order to coordinate services for a student or family. The
37.7 request must be submitted to the chief administrative officer of the school and must include
37.8 the basis for the request and a description of the information that is requested. The chief
37.9 administrative officer must provide a copy of the request to the parent or legal guardian of
37.10 the student who is the subject of the request, along with a form the parent or legal guardian
37.11 may execute to consent to the release of specified information to the requestor. Education
37.12 data may be released under this subdivision only if the parent or legal guardian gives
37.13 informed consent to the release.

37.14 Sec. 2. Minnesota Statutes 2016, section 13.46, subdivision 1, is amended to read:

37.15 Subdivision 1. **Definitions.** As used in this section:

37.16 (a) "Individual" means an individual according to section 13.02, subdivision 8, but does
37.17 not include a vendor of services.

37.18 (b) "Program" includes all programs for which authority is vested in a component of the
37.19 welfare system according to statute or federal law, including, but not limited to, Native
37.20 American tribe programs that provide a service component of the welfare system, the aid
37.21 to families with dependent children program formerly codified in sections 256.72 to 256.87,
37.22 Minnesota family investment program, temporary assistance for needy families program,
37.23 medical assistance, general assistance, general assistance medical care formerly codified in
37.24 chapter 256D, child care assistance program, and child support collections.

37.25 (c) "Welfare system" includes the Department of Human Services, local social services
37.26 agencies, county welfare agencies, county public health agencies, county veteran services
37.27 agencies, county housing agencies, private licensing agencies, the public authority responsible
37.28 for child support enforcement, human services boards, community mental health center
37.29 boards, state hospitals, state nursing homes, the ombudsman for mental health and
37.30 developmental disabilities, Native American tribes to the extent a tribe provides a service
37.31 component of the welfare system, and persons, agencies, institutions, organizations, and
37.32 other entities under contract to any of the above agencies to the extent specified in the
37.33 contract.

38.1 (d) "Mental health data" means data on individual clients and patients of community
38.2 mental health centers, established under section 245.62, mental health divisions of counties
38.3 and other providers under contract to deliver mental health services, or the ombudsman for
38.4 mental health and developmental disabilities.

38.5 (e) "Fugitive felon" means a person who has been convicted of a felony and who has
38.6 escaped from confinement or violated the terms of probation or parole for that offense.

38.7 (f) "Private licensing agency" means an agency licensed by the commissioner of human
38.8 services under chapter 245A to perform the duties under section 245A.16.

38.9 Sec. 3. Minnesota Statutes 2016, section 13.46, subdivision 2, is amended to read:

38.10 Subd. 2. **General.** (a) Data on individuals collected, maintained, used, or disseminated
38.11 by the welfare system are private data on individuals, and shall not be disclosed except:

38.12 (1) according to section 13.05;

38.13 (2) according to court order;

38.14 (3) according to a statute specifically authorizing access to the private data;

38.15 (4) to an agent of the welfare system and an investigator acting on behalf of a county,
38.16 the state, or the federal government, including a law enforcement person or attorney in the
38.17 investigation or prosecution of a criminal, civil, or administrative proceeding relating to the
38.18 administration of a program;

38.19 (5) to personnel of the welfare system who require the data to verify an individual's
38.20 identity; determine eligibility, amount of assistance, and the need to provide services to an
38.21 individual or family across programs; coordinate services for an individual or family;
38.22 evaluate the effectiveness of programs; assess parental contribution amounts; and investigate
38.23 suspected fraud;

38.24 (6) to administer federal funds or programs;

38.25 (7) between personnel of the welfare system working in the same program;

38.26 (8) to the Department of Revenue to assess parental contribution amounts for purposes
38.27 of section 252.27, subdivision 2a, administer and evaluate tax refund or tax credit programs
38.28 and to identify individuals who may benefit from these programs. The following information
38.29 may be disclosed under this paragraph: an individual's and their dependent's names, dates
38.30 of birth, Social Security numbers, income, addresses, and other data as required, upon
38.31 request by the Department of Revenue. Disclosures by the commissioner of revenue to the
38.32 commissioner of human services for the purposes described in this clause are governed by

39.1 section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited
39.2 to, the dependent care credit under section 290.067, the Minnesota working family credit
39.3 under section 290.0671, the property tax refund and rental credit under section 290A.04,
39.4 and the Minnesota education credit under section 290.0674;

39.5 (9) between the Department of Human Services, the Department of Employment and
39.6 Economic Development, and when applicable, the Department of Education, for the following
39.7 purposes:

39.8 (i) to monitor the eligibility of the data subject for unemployment benefits, for any
39.9 employment or training program administered, supervised, or certified by that agency;

39.10 (ii) to administer any rehabilitation program or child care assistance program, whether
39.11 alone or in conjunction with the welfare system;

39.12 (iii) to monitor and evaluate the Minnesota family investment program or the child care
39.13 assistance program by exchanging data on recipients and former recipients of food support,
39.14 cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter
39.15 119B, medical programs under chapter 256B or 256L, or a medical program formerly
39.16 codified under chapter 256D; and

39.17 (iv) to analyze public assistance employment services and program utilization, cost,
39.18 effectiveness, and outcomes as implemented under the authority established in Title II,
39.19 Sections 201-204 of the Ticket to Work and Work Incentives Improvement Act of 1999.
39.20 Health records governed by sections 144.291 to 144.298 and "protected health information"
39.21 as defined in Code of Federal Regulations, title 45, section 160.103, and governed by Code
39.22 of Federal Regulations, title 45, parts 160-164, including health care claims utilization
39.23 information, must not be exchanged under this clause;

39.24 (10) to appropriate parties in connection with an emergency if knowledge of the
39.25 information is necessary to protect the health or safety of the individual or other individuals
39.26 or persons;

39.27 (11) data maintained by residential programs as defined in section 245A.02 may be
39.28 disclosed to the protection and advocacy system established in this state according to Part
39.29 C of Public Law 98-527 to protect the legal and human rights of persons with developmental
39.30 disabilities or other related conditions who live in residential facilities for these persons if
39.31 the protection and advocacy system receives a complaint by or on behalf of that person and
39.32 the person does not have a legal guardian or the state or a designee of the state is the legal
39.33 guardian of the person;

40.1 (12) to the county medical examiner or the county coroner for identifying or locating
40.2 relatives or friends of a deceased person;

40.3 (13) data on a child support obligor who makes payments to the public agency may be
40.4 disclosed to the Minnesota Office of Higher Education to the extent necessary to determine
40.5 eligibility under section 136A.121, subdivision 2, clause (5);

40.6 (14) participant Social Security numbers and names collected by the telephone assistance
40.7 program may be disclosed to the Department of Revenue to conduct an electronic data
40.8 match with the property tax refund database to determine eligibility under section 237.70,
40.9 subdivision 4a;

40.10 (15) the current address of a Minnesota family investment program participant may be
40.11 disclosed to law enforcement officers who provide the name of the participant and notify
40.12 the agency that:

40.13 (i) the participant:

40.14 (A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after
40.15 conviction, for a crime or attempt to commit a crime that is a felony under the laws of the
40.16 jurisdiction from which the individual is fleeing; or

40.17 (B) is violating a condition of probation or parole imposed under state or federal law;

40.18 (ii) the location or apprehension of the felon is within the law enforcement officer's
40.19 official duties; and

40.20 (iii) the request is made in writing and in the proper exercise of those duties;

40.21 (16) the current address of a recipient of general assistance may be disclosed to probation
40.22 officers and corrections agents who are supervising the recipient and to law enforcement
40.23 officers who are investigating the recipient in connection with a felony level offense;

40.24 (17) information obtained from food support applicant or recipient households may be
40.25 disclosed to local, state, or federal law enforcement officials, upon their written request, for
40.26 the purpose of investigating an alleged violation of the Food Stamp Act, according to Code
40.27 of Federal Regulations, title 7, section 272.1(c);

40.28 (18) the address, Social Security number, and, if available, photograph of any member
40.29 of a household receiving food support shall be made available, on request, to a local, state,
40.30 or federal law enforcement officer if the officer furnishes the agency with the name of the
40.31 member and notifies the agency that:

40.32 (i) the member:

41.1 (A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a
41.2 crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

41.3 (B) is violating a condition of probation or parole imposed under state or federal law;
41.4 or

41.5 (C) has information that is necessary for the officer to conduct an official duty related
41.6 to conduct described in subitem (A) or (B);

41.7 (ii) locating or apprehending the member is within the officer's official duties; and

41.8 (iii) the request is made in writing and in the proper exercise of the officer's official duty;

41.9 (19) the current address of a recipient of Minnesota family investment program, general
41.10 assistance, or food support may be disclosed to law enforcement officers who, in writing,
41.11 provide the name of the recipient and notify the agency that the recipient is a person required
41.12 to register under section 243.166, but is not residing at the address at which the recipient is
41.13 registered under section 243.166;

41.14 (20) certain information regarding child support obligors who are in arrears may be
41.15 made public according to section 518A.74;

41.16 (21) data on child support payments made by a child support obligor and data on the
41.17 distribution of those payments excluding identifying information on obligees may be
41.18 disclosed to all obligees to whom the obligor owes support, and data on the enforcement
41.19 actions undertaken by the public authority, the status of those actions, and data on the income
41.20 of the obligor or obligee may be disclosed to the other party;

41.21 (22) data in the work reporting system may be disclosed under section 256.998,
41.22 subdivision 7;

41.23 (23) to the Department of Education for the purpose of matching Department of Education
41.24 student data with public assistance data to determine students eligible for free and
41.25 reduced-price meals, meal supplements, and free milk according to United States Code,
41.26 title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state
41.27 funds that are distributed based on income of the student's family; and to verify receipt of
41.28 energy assistance for the telephone assistance plan;

41.29 (24) the current address and telephone number of program recipients and emergency
41.30 contacts may be released to the commissioner of health or a community health board as
41.31 defined in section 145A.02, subdivision 5, when the commissioner or community health
41.32 board has reason to believe that a program recipient is a disease case, carrier, suspect case,
41.33 or at risk of illness, and the data are necessary to locate the person;

42.1 (25) to other state agencies, statewide systems, and political subdivisions of this state,
42.2 including the attorney general, and agencies of other states, interstate information networks,
42.3 federal agencies, and other entities as required by federal regulation or law for the
42.4 administration of the child support enforcement program;

42.5 (26) to personnel of public assistance programs as defined in section 256.741, for access
42.6 to the child support system database for the purpose of administration, including monitoring
42.7 and evaluation of those public assistance programs;

42.8 (27) to monitor and evaluate the Minnesota family investment program by exchanging
42.9 data between the Departments of Human Services and Education, on recipients and former
42.10 recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child
42.11 care assistance under chapter 119B, medical programs under chapter 256B or 256L, or a
42.12 medical program formerly codified under chapter 256D;

42.13 (28) to evaluate child support program performance and to identify and prevent fraud
42.14 in the child support program by exchanging data between the Department of Human Services,
42.15 Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b),
42.16 without regard to the limitation of use in paragraph (c), Department of Health, Department
42.17 of Employment and Economic Development, and other state agencies as is reasonably
42.18 necessary to perform these functions;

42.19 (29) counties operating child care assistance programs under chapter 119B may
42.20 disseminate data on program participants, applicants, and providers to the commissioner of
42.21 education;

42.22 (30) child support data on the child, the parents, and relatives of the child may be
42.23 disclosed to agencies administering programs under titles IV-B and IV-E of the Social
42.24 Security Act, as authorized by federal law; ~~or~~

42.25 (31) to a health care provider governed by sections 144.291 to 144.298, to the extent
42.26 necessary to coordinate services;

42.27 (32) to the chief administrative officer of a school to coordinate services for a student
42.28 and family; data that may be disclosed under this clause are limited to name, date of birth,
42.29 gender, and address; or

42.30 (33) to county correctional agencies to the extent necessary to coordinate services and
42.31 diversion programs; data that may be disclosed under this clause are limited to name, client
42.32 demographics, program, case status, and county worker information.

43.1 (b) Information on persons who have been treated for drug or alcohol abuse may only
43.2 be disclosed according to the requirements of Code of Federal Regulations, title 42, sections
43.3 2.1 to 2.67.

43.4 (c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16),
43.5 (17), or (18), or paragraph (b), are investigative data and are confidential or protected
43.6 nonpublic while the investigation is active. The data are private after the investigation
43.7 becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

43.8 (d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but are
43.9 not subject to the access provisions of subdivision 10, paragraph (b).

43.10 For the purposes of this subdivision, a request will be deemed to be made in writing if
43.11 made through a computer interface system.

43.12 Sec. 4. Minnesota Statutes 2016, section 13.84, subdivision 5, is amended to read:

43.13 Subd. 5. **Disclosure.** Private or confidential court services data shall not be disclosed
43.14 except:

43.15 (a) pursuant to section 13.05;

43.16 (b) pursuant to a statute specifically authorizing disclosure of court services data;

43.17 (c) with the written permission of the source of confidential data;

43.18 (d) to the court services department, parole or probation authority or state or local
43.19 correctional agency or facility having statutorily granted supervision over the individual
43.20 subject of the data, or to county personnel within the community services system;

43.21 (e) pursuant to subdivision 6;

43.22 (f) pursuant to a valid court order; or

43.23 (g) pursuant to section 611A.06, subdivision 3a.

43.24 Sec. 5. Minnesota Statutes 2016, section 626.556, subdivision 10j, is amended to read:

43.25 Subd. 10j. **Release of data to mandated reporters.** (a) A local social services or child
43.26 protection agency, or the agency responsible for assessing or investigating the report of
43.27 maltreatment or for providing child protective services, shall provide relevant private data
43.28 on individuals obtained under this section to a mandated reporter who made the report and
43.29 who has an ongoing responsibility for the health, education, or welfare of a child affected
43.30 by the data, unless the agency determines that providing the data would not be in the best

44.1 interests of the child. The agency may provide the data to other mandated reporters with
44.2 ongoing responsibility for the health, education, or welfare of the child. Mandated reporters
44.3 with ongoing responsibility for the health, education, or welfare of a child affected by the
44.4 data include the child's teachers or other appropriate school personnel, foster parents, health
44.5 care providers, respite care workers, therapists, social workers, child care providers,
44.6 residential care staff, crisis nursery staff, probation officers, and court services personnel.
44.7 Under this section, a mandated reporter need not have made the report to be considered a
44.8 person with ongoing responsibility for the health, education, or welfare of a child affected
44.9 by the data. Data provided under this section must be limited to data pertinent to the
44.10 individual's responsibility for caring for the child.

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

44.15 Sec. 6. **REPEALER.**

44.16 Minnesota Statutes 2016, section 13.468, is repealed.

APPENDIX
Article locations in SF1292-2

ARTICLE 1	CHILDREN AND FAMILIES SERVICES.....	Page.Ln 1.15
ARTICLE 2	OPERATIONS.....	Page.Ln 16.1
ARTICLE 3	WELFARE SYSTEM DATA SHARING.....	Page.Ln 37.1

13.468 DATA SHARING WITHIN COUNTIES.

County welfare, human services, corrections, public health, and veterans service units within a county may inform each other as to whether an individual or family currently is being served by the county unit, without the consent of the subject of the data. Data that may be shared are limited to the following: the name, telephone number, and last known address of the data subject; and the identification and contact information regarding personnel of the county unit responsible for working with the individual or family. If further information is necessary for the county unit to carry out its duties, each county unit may share additional data if the unit is authorized by state statute or federal law to do so or the individual gives written, informed consent.