

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 3334

(SENATE AUTHORS: LOUREY)

DATE	D-PG	OFFICIAL STATUS
03/30/2016	5377	Introduction and first reading Referred to Judiciary
04/11/2016	5788a	Comm report: To pass as amended and re-refer to Finance Joint rule 2.03, referred to Rules and Administration

1.1 A bill for an act

1.2 relating to the judiciary; providing criminal penalties; modifying provisions

1.3 for medical cannabis program, children and family services, direct care

1.4 and treatment, and continuing care; establishing the Department of Human

1.5 Services Office of Special Investigations Law Enforcement Division; amending

1.6 Minnesota Statutes 2014, sections 13.3806, subdivision 22; 152.27, subdivision

1.7 2, by adding a subdivision; 152.33, by adding a subdivision; 245C.03, by adding

1.8 a subdivision; 245C.04, subdivision 1; 245C.05, subdivisions 2b, 4, 7; 245C.08,

1.9 subdivisions 2, 4; 245C.11, subdivision 3; 245C.17, subdivision 6; 245C.23,

1.10 subdivision 2; 253B.18, subdivision 4b; 253D.27, subdivision 2; 253D.28, as

1.11 amended; 253D.29, subdivisions 2, 3; 253D.30, subdivisions 3, 4, 5, 6; 253D.31;

1.12 256B.4912, by adding a subdivision; 260C.451, by adding a subdivision; 626.05,

1.13 subdivision 2; 626.556, subdivision 3e; 626.84, subdivision 1; Minnesota

1.14 Statutes 2015 Supplement, sections 260C.203; 260C.212, subdivisions 1, 14;

1.15 260C.215, subdivision 4; 260C.451, subdivision 6; 260C.521, subdivision 1;

1.16 626.556, subdivisions 2, 3c; proposing coding for new law in Minnesota Statutes,

1.17 chapters 119B; 246; 260C; 260D.

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

1.19 ARTICLE 1

1.20 CONTINUING CARE

1.21 Section 1. Minnesota Statutes 2014, section 256B.4912, is amended by adding a

1.22 subdivision to read:

1.23 Subd. 11. Annual data submission. (a) In a manner determined by the

1.24 commissioner, home and community-based services waiver providers enrolled under this

1.25 section shall submit data to the commissioner on the following:

1.26 (1) wages of workers;

1.27 (2) benefits paid;

1.28 (3) staff retention rates;

1.29 (4) amount of overtime paid;

2.1 (5) amount of travel time paid;

2.2 (6) vacancy rates; and

2.3 (7) other data elements determined by the commissioner.

2.4 (b) The commissioner may adjust reporting requirements for some individual
2.5 self-employed workers.

2.6 (c) This subdivision also applies to providers of personal care assistance services
2.7 under section 256B.0625, subdivision 19a; community first services and supports under
2.8 section 256B.85; consumer support grants under section 256.476; nursing services and
2.9 home health services under section 256B.0625, subdivision 6a; home care nursing
2.10 services under section 256B.0625, subdivision 7; intermediate care facilities for persons
2.11 with developmental disabilities under section 256B.501; and day training and habilitation
2.12 providers serving residents of intermediate care facilities for persons with developmental
2.13 disabilities under section 256B.501.

2.14 (d) This data shall be submitted annually each calendar year on a date specified
2.15 by the commissioner. The commissioner shall give providers at least 30 calendar days
2.16 to submit the data. Failure to submit the data requested may result in delays to medical
2.17 assistance reimbursement.

2.18 (e) Individually identifiable data submitted to the commissioner in this section are
2.19 considered private data on individuals, as defined by section 13.02, subdivision 12.

2.20 (f) The commissioner shall analyze data annually for workforce assessments and its
2.21 impact on service access.

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

2.23 **ARTICLE 2**

2.24 **CHILDREN AND FAMILIES**

2.25 **Section 1. [119B.127] CERTIFICATION OF LICENSE-EXEMPT CHILD CARE**

2.26 **CENTERS TO REGISTER FOR CHILD CARE ASSISTANCE PAYMENTS.**

2.27 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this

2.28 subdivision have the meanings given them.

2.29 (b) "Certified license-exempt child care center" means the commissioner's written

2.30 authorization for a child care center excluded from licensure under section 245A.03,

2.31 subdivision 2, paragraph (a), clause (5), (6), (11) to (13), (15), (18), or (26), to be

2.32 authorized to register to receive child care assistance payments (CCAP) under this chapter.

2.33 (c) "Center operator" or "program operator" means the person or organization

2.34 exercising supervision or control over the program operations, planning, and functioning.

3.1 Subd. 2. **Application for certification as a certified license-exempt child**
3.2 **care center.** (a) The certification of license-exempt programs shall be implemented
3.3 by November 1, 2017. Certification applications shall be received and processed on a
3.4 phased-in schedule as determined by the commissioner.

3.5 (b) The certification application must be submitted in a manner prescribed by the
3.6 commissioner. The commissioner shall provide application instructions and information
3.7 about the rules and requirements of other state agencies that affect the applicant. The
3.8 commissioner shall respond to the applicant within 90 days of receiving a completed
3.9 application. An application is not complete until the commissioner receives all of the
3.10 information required under section 245C.05.

3.11 (c) When the commissioner receives an application for initial certification that is
3.12 incomplete because the applicant failed to submit required documents or is deficient
3.13 because the documents submitted do not meet certification requirements, the commissioner
3.14 shall provide the applicant written notice that the application is incomplete or deficient.
3.15 In the written notice, the commissioner shall identify documents that are missing or
3.16 deficient and give the applicant 45 days to resubmit a second application that is complete.
3.17 An applicant's failure to submit a complete application after receiving notice from the
3.18 commissioner is basis for certification denial.

3.19 Subd. 2a. **Exemptions.** Programs that are exempt from licensure under section
3.20 245A.03, subdivision 2, clauses (5), (6), (11) to (13), (15), (18), and (26), must be certified
3.21 as certified license-exempt child care centers according to this section to receive child
3.22 care assistance payments under this chapter.

3.23 Subd. 3. **Commissioner's right of access.** (a) When the commissioner is
3.24 exercising the powers conferred by this chapter, whenever the program is in operation
3.25 and the information is relevant to the commissioner's inspection or investigation, the
3.26 commissioner must be given access to:

- 3.27 (1) the physical facility and grounds where the program is provided;
3.28 (2) documentation and records, including records maintained in electronic format;
3.29 (3) children served by the program; and
3.30 (4) staff and personnel records of current staff.

3.31 (b) The commissioner must be given access without prior notice and as often
3.32 as the commissioner considers necessary if the commissioner is investigating alleged
3.33 maltreatment, or a violation of laws or rules, or conducting an inspection. When
3.34 conducting inspections, the commissioner may request and shall receive assistance from
3.35 other state, county, and municipal governmental agencies and departments. The applicant

4.1 or certification holder shall allow the commissioner to photocopy, photograph, and make
4.2 audio and video recordings during an inspection at the commissioner's expense.

4.3 Subd. 4. **Monitoring and inspections.** (a) The commissioner must conduct an
4.4 on-site inspection of a certified license-exempt child care center at least annually to
4.5 determine compliance with the health, safety, and fire standards specific to certified
4.6 license-exempt child care centers.

4.7 (b) No later than November 1, 2017, the commissioner shall make publicly available
4.8 on the department's Web site the results of inspection reports for all certified centers
4.9 including the number of deaths, serious injuries, and instances of substantiated child
4.10 maltreatment that occurred in certified centers each year.

4.11 Subd. 5. **Correction order.** (a) If the applicant or certification holder failed to
4.12 comply with a law or rule, the commissioner may issue a correction order. The correction
4.13 order must state the:

4.14 (1) condition that constitutes a violation of the law or rule;

4.15 (2) specific law or rule violated; and

4.16 (3) time allowed to correct each violation.

4.17 (b) If the applicant or certification holder believes that the commissioner's correction
4.18 order is erroneous, the applicant or certification holder may ask the commissioner to
4.19 reconsider the part of the correction order that is allegedly erroneous. A request for
4.20 reconsideration must be made in writing, postmarked and sent to the commissioner within
4.21 20 calendar days after the applicant or certification holder received the correction order,
4.22 and:

4.23 (1) specify the part of the correction order that is allegedly erroneous;

4.24 (2) explain why the specified part is erroneous; and

4.25 (3) include documentation to support the allegation of error.

4.26 (c) A request for reconsideration does not stay any provision or requirement of
4.27 the correction order. The commissioner's disposition of a request for reconsideration is
4.28 final and not subject to appeal.

4.29 (d) If the commissioner finds that the applicant or certification holder failed to
4.30 correct the violation specified in the correction order, the commissioner may revoke the
4.31 certification pursuant to subdivision 6.

4.32 (e) Nothing in this section prohibits the commissioner from decertifying a center
4.33 according to subdivision 6, paragraph (a).

4.34 Subd. 6. **Decertification.** (a) The commissioner may decertify a center if a
4.35 certification holder:

4.36 (1) fails to comply with an applicable law or rule; or

(2) knowingly withheld relevant information from or gave false or misleading information to the commissioner for a certification application or the background study status of an individual.

(b) When considering decertification, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule.

(c) When a center is decertified, the center is ineligible to receive CCAP.

Subd. 7. **Staffing requirements.** During hours of operation, a certified center must have a director or designee on site who is responsible for overseeing written policies relating to the management and control of the daily activities of the program, ensuring the health and safety of program participants, and supervising staff and volunteers.

Subd. 8. **Ratios and group size.** (a) The minimally acceptable staff-to-child ratios are:

33 months old through prekindergarten 1:10

kindergarten through grade 6 1:15

grades 7 through 12 1:20

(b) For mixed groups, the ratio for the age group of the youngest child applies.

(c) For children 33 months old through prekindergarten, a maximum group size shall be no more than 20 children.

(d) For children in kindergarten through grade 6, a maximum group size shall be no more than 30 children.

(e) The maximum group size applies at all times except during meals, outdoor activities, field trips, naps and rest, and special activities such as films, guest speakers, and holiday programs.

Subd. 9. **Background study.** (a) The applicant or certification holder must submit and maintain documentation of a successfully completed background study for:

(1) each person applying for the certification;

(2) current or prospective employees or contractors of the program who shall have direct contact with a child served by the program;

(3) volunteers who shall have direct contact with a child served by the program if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (2); and

(4) a program director and all managerial staff with oversight and supervision of a certified center.

(b) To be accepted for certification, a background study on an individual in paragraph (a) must be completed under chapter 245C and result in a not disqualified determination under section 245C.14 or a disqualification that was set aside under section 245C.22.

6.1 Subd. 10. **Reporting.** (a) The certification holder must comply with the reporting
6.2 requirements for abuse and neglect specified in section 626.556.

6.3 (b) The certification holder must inform the commissioner within 24 hours of:

6.4 (1) the death of a child in the program; and

6.5 (2) any injury to a child in the program that required treatment by a physician.

6.6 Subd. 11. **Fees.** The commissioner shall consult with stakeholders to gather input
6.7 to develop an administrative fee to implement this section. By February 15, 2017,
6.8 the commissioner shall provide recommendations to the legislative committees with
6.9 jurisdiction over health and human services policy and finance.

6.10 Subd. 12. **Health and safety requirements.** (a) A certified center must document
6.11 and follow a health and safety plan. The certification holder must ensure staff are trained
6.12 on the policies and procedures in the health and safety plan at orientation and annually
6.13 thereafter. The certification holder must provide staff with an orientation class within 90
6.14 days of the staff member beginning employment. Before the completion of orientation
6.15 class, the staff member must be supervised while providing direct care to a child. The
6.16 certification holder must document when the training was completed in the personnel
6.17 file for each person.

6.18 (b) The plan must include policies:

6.19 (1) for exclusion of sick children and infectious disease outbreak control, requiring
6.20 a program to:

6.21 (i) supervise and isolate a child from other children in the program when a child
6.22 becomes sick and immediately notify the isolated child's parent or legal guardian; and

6.23 (ii) post or give notice to the parent or legal guardian of an exposed child the
6.24 same day the program is notified of a child's contagious reportable disease specified in
6.25 Minnesota Rules, part 4605.7040, or lice, scabies, impetigo, ringworm, or chicken pox;

6.26 (2) to record current immunizations or applicable exemption for each child. By a
6.27 child's date of enrollment, certified license-exempt child care centers must maintain or have
6.28 access to a record detailing the child's current immunizations or applicable exemption;

6.29 (3) to provide staff training on reducing the risk of sudden, unexpected infant death
6.30 and abusive head trauma and document the date of the training in the personnel record
6.31 for staff, requiring:

6.32 (i) centers that care for an infant, as defined as a child who is at least six weeks old
6.33 but less than 16 months old, to document that staff and volunteers received training, in
6.34 compliance with section 245A.1435, on reducing the risk of sudden, unexpected infant
6.35 death before assisting in the care of an infant; or

(ii) a center that cares for a child through four years of age to document that staff and volunteers received training on abusive head trauma from shaking infants and young children before assisting in the care of a child through four years of age;

(4) for a certification holder who chooses to administer medicine to:

(i) obtain written permission from the child's parent or legal guardian before administering prescription medicine, diapering product, sunscreen lotion, and insect repellent;

(ii) administer nonprescription medicine, diapering product, sunscreen lotion, and insect repellent according to the manufacturer's instructions unless there are written instructions for their use by a licensed health professional;

(iii) obtain and follow written instructions, such as medicine with the child's first and last name and current prescription information on the label, from the prescribing health professional before administering prescription medicine; and

(iv) ensure all medicine:

(A) be kept in its original container with a legible label stating the child's first and last name;

(B) be given only to the child whose name is on the label;

(C) not be given after an expiration date on the label;

(D) that is unused be returned to the child's parent or legal guardian or be destroyed;

(E) administration is recorded with the child's first and last name; the name of the medication or prescription number; the date, time, and dosage; and the name and signature of the person who dispensed the medicine; and

(F) administration records are maintained in the child's record and available to the child's parent or legal guardian; and

(v) store medicines, insect repellents, and diaper rash control products according to directions on the original container;

(5) to prevent and respond to allergic reactions, requiring the certification holder to:

(i) train staff on the program's policy, at least annually;

(ii) obtain, prior to admitting a child for care, documentation of the child's allergies from the child's parent or legal guardian, including but not limited to:

(A) a description of the allergy, specific triggers, avoidance techniques, and symptoms of an allergic reaction; and

(B) procedures for responding to an allergic reaction, including medication, dosages, and a doctor's contact information;

(iii) maintain current information of a child's allergy in the child's record;

8.1 (iv) train staff and volunteers, at least annually or when changes are made to
8.2 allergy-related information in a child's record;

8.3 (v) document the date of all training in this subdivision in the personnel record
8.4 for each staff person; and

8.5 (vi) make information about a child's food allergies readily available to staff in the
8.6 area where food is prepared and served to a child with food allergies;

8.7 (6) to ensure building and physical premises safety, requiring a certification holder to:

8.8 (i) document compliance with applicable State Fire Code by providing
8.9 documentation of a fire marshal inspection completed within the previous three years by a
8.10 state fire marshal or a local fire code inspector trained by the state fire marshal;

8.11 (ii) document the process by which the center addresses physical premise
8.12 maintenance and general repairs in a timely manner;

8.13 (iii) designate indoor and outdoor space used for child care on a facility site plan and
8.14 include the primary and secondary areas used for child care by the center;

8.15 (iv) make a current health and safety plan available on site; and

8.16 (v) ensure the facility is clean with structurally sound and functional furniture and
8.17 equipment that is appropriate to the age and size of a child who uses them;

8.18 (7) for a safe environment free of hazards including, but not limited to:

8.19 (i) items such as sharp objects, medicines, plastic bags, cleaning supplies, poisonous
8.20 plants, and chemicals must be stored out of reach of children; and

8.21 (ii) safe handling and disposing of bodily fluids and other potentially infectious
8.22 fluids that requires, at a minimum, the use of gloves, disinfection of appropriate surfaces,
8.23 and fluid disposal in a securely sealed plastic bag;

8.24 (8) for transporting a child, requiring:

8.25 (i) compliance with all seat belt and child passenger restraint system requirements
8.26 under sections 169.685 and 169.686; and

8.27 (ii) the driver of the vehicle holds a valid driver's license, appropriate to the vehicle
8.28 driven;

8.29 (9) requiring first aid and cardiopulmonary resuscitation training for program staff
8.30 with direct supervision of a child, including at least one staff person who completed
8.31 first aid training and cardiopulmonary resuscitation training be present at all times at the
8.32 program, during field trips, and when transporting a child; and

8.33 (10) for reporting suspected child maltreatment according to section 626.556 and for
8.34 reporting complaints about the operation of a child care program.

8.35 Subd. 13. **Emergency preparedness plan.** (a) A certified center must have a
8.36 written emergency preparedness plan for emergencies that require evacuation, sheltering,

9.1 or other protection of children, such as in the event of fire, natural disaster, intruder, or
9.2 other threatening situations that may pose a health or safety hazard to children. The plan
9.3 must be written on a form developed by the commissioner and updated at least annually.

9.4 The plan must include:

- 9.5 (1) procedures for an evacuation, relocation, shelter-in-place, or lockdown;
- 9.6 (2) a designated relocation site and evacuation route;
- 9.7 (3) procedures for notifying a child's parent or legal guardian of the relocation
9.8 and reunification with families;
- 9.9 (4) accommodations for a child with disabilities or a chronic medical condition;
- 9.10 (5) procedures for storing a child's medically necessary medicine that facilitates easy
9.11 removal during an evacuation or relocation;
- 9.12 (6) procedures for continuing operations in the period during and after a crisis;
- 9.13 (7) procedures for communicating with local emergency management officials, law
9.14 enforcement officials, or other appropriate state or local authorities; and
- 9.15 (8) procedures for staff and volunteer emergency preparedness training and practice
9.16 drills.

9.17 (b) The certification holder must train staff at orientation and annually on the
9.18 emergency preparedness plan and document training attendance in all personnel files. The
9.19 certified center must conduct at least quarterly one evacuation drill and one shelter-in-place
9.20 drill. The drills' date and time must be documented.

9.21 (c) The certification holder must have an emergency preparedness plan available for
9.22 review upon request by the child's parent or legal guardian.

9.23 Subd. 14. **Personnel record.** The certification holder must maintain a personnel
9.24 record for each staff person at the program that must contain:

- 9.25 (1) the staff person's name, home address, telephone number, and date of birth;
- 9.26 (2) documentation that the staff person completed required orientation and annual
9.27 trainings; and
- 9.28 (3) documentation related to background studies required under subdivision 9.

9.29 Subd. 15. **School-age care program guidelines.** The commissioner shall consult
9.30 with stakeholders, at least every five years, for input related to school-age care program
9.31 guidelines.

9.32 Subd. 16. **Certification standards.** The commissioner shall regularly consult with
9.33 stakeholders for input related to implementing the standards in this section.

9.34 Subd. 17. **Parental access.** An enrolled child's parent or legal guardian may visit
9.35 the certified center any time during the hours of operation.

Sec. 2. Minnesota Statutes 2014, section 245C.03, is amended by adding a subdivision to read:

Subd. 6a. **Nonlicensed child care programs.** Beginning October 1, 2017, the commissioner shall conduct background studies on any individual required under section 119B.125 to have a background study completed under this chapter.

Sec. 3. Minnesota Statutes 2014, section 245C.04, subdivision 1, is amended to read:

Subdivision 1. **Licensed programs.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 1, at least upon application for initial license for all license types.

(b) Effective October 1, 2017, the commissioner shall conduct a background study of an individual required to be studied specified under section 245C.03, subdivision 1, who is newly affiliated with the license holder or at the time of reapplication for a license for a family child care license.

(1) The individual shall provide information required under section 245C.05, subdivision 1, paragraphs (a), (b), and (d), to the county agency.

(2) The county agency shall provide the commissioner with the information received under clause (1) to complete the background study.

(3) The background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08.

(c) The commissioner is not required to conduct a study of an individual at the time of reapplication for a license if the individual's background study was completed by the commissioner of human services and the following conditions are met:

(1) a study of the individual was conducted either at the time of initial licensure or when the individual became affiliated with the license holder;

(2) the individual has been continuously affiliated with the license holder since the last study was conducted; and

(3) the last study of the individual was conducted on or after October 1, 1995.

(d) The commissioner of human services shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with a child foster care license holder. The county or private agency shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1 and 5. The background study conducted by the commissioner of human services under this paragraph must include a review of the information required under section 245C.08, subdivisions 1, 3, and 4.

(e) The commissioner shall conduct a background study of an individual specified under section 245C.03, subdivision 1, paragraph (a), clauses (2) to (6), who is newly affiliated with an adult foster care or family adult day services and effective October 1, 2017, with a family child care license holder or a legal nonlicensed child care provider authorized under chapter 119B: (1) the county shall collect and forward to the commissioner the information required under section 245C.05, subdivision 1, paragraphs (a) and (b), and subdivision 5, paragraphs (a) ~~and~~ (b), and (d), for background studies conducted by the commissioner for all family adult day services ~~and~~ for adult foster care when the adult foster care license holder resides in the adult foster care residence, and for family child care and legal nonlicensed child care authorized under chapter 119B; (2) the license holder shall collect and forward to the commissioner the information required under section 245C.05, subdivisions 1, paragraphs (a) and (b); and 5, paragraphs (a) and (b), for background studies conducted by the commissioner for adult foster care when the license holder does not reside in the adult foster care residence; and (3) the background study conducted by the commissioner under this paragraph must include a review of the information required under section 245C.08, subdivision 1, paragraph (a), and subdivisions 3 and 4.

(f) Applicants for licensure, license holders, and other entities as provided in this chapter must submit completed background study requests to the commissioner using the electronic system known as NETStudy before individuals specified in section 245C.03, subdivision 1, begin positions allowing direct contact in any licensed program.

(g) For an individual who is not on the entity's active roster, the entity must initiate a new background study through NETStudy when:

(1) an individual returns to a position requiring a background study following an absence of 120 or more consecutive days; or

(2) a program that discontinued providing licensed direct contact services for 120 or more consecutive days begins to provide direct contact licensed services again.

The license holder shall maintain a copy of the notification provided to the commissioner under this paragraph in the program's files. If the individual's disqualification was previously set aside for the license holder's program and the new background study results in no new information that indicates the individual may pose a risk of harm to persons receiving services from the license holder, the previous set-aside shall remain in effect.

(h) For purposes of this section, a physician licensed under chapter 147 is considered to be continuously affiliated upon the license holder's receipt from the commissioner of health or human services of the physician's background study results.

12.1 (i) For purposes of family child care, a substitute caregiver must receive repeat
12.2 background studies at the time of each license renewal.

12.3 (j) A repeat background study at the time of license renewal is not required if the
12.4 substitute caregiver's background study was completed by the commissioner on or after
12.5 October 1, 2017, and the substitute caregiver is on the license holder's active roster
12.6 in NETStudy 2.0.

12.7 Sec. 4. Minnesota Statutes 2014, section 245C.05, subdivision 2b, is amended to read:

12.8 Subd. 2b. **County agency to collect and forward information to commissioner.**

12.9 (a) For background studies related to all family adult day services and to adult foster care
12.10 when the adult foster care license holder resides in the adult foster care residence, the
12.11 county agency must collect the information required under subdivision 1 and forward it to
12.12 the commissioner.

12.13 (b) Effective October 1, 2017, for background studies related to family child care
12.14 and legal nonlicensed child care authorized under chapter 119B, the county agency must
12.15 collect the information required under subdivision 1 and provide it to the commissioner.

12.16 Sec. 5. Minnesota Statutes 2014, section 245C.05, subdivision 4, is amended to read:

12.17 Subd. 4. **Electronic transmission.** (a) For background studies conducted by the
12.18 Department of Human Services, the commissioner shall implement a secure system for the
12.19 electronic transmission of:

12.20 (1) background study information to the commissioner;

12.21 (2) background study results to the license holder;

12.22 (3) background study results to county and private agencies for background studies
12.23 conducted by the commissioner for child foster care; and

12.24 (4) background study results to county agencies for background studies conducted by
12.25 the commissioner for adult foster care and family adult day services and, effective October
12.26 1, 2017, family child care and legal nonlicensed child care authorized under chapter 119B.

12.27 (b) Unless the commissioner has granted a hardship variance under paragraph (c),
12.28 a license holder or an applicant must use the electronic transmission system known
12.29 as NETStudy or NETStudy 2.0 to submit all requests for background studies to the
12.30 commissioner as required by this chapter.

12.31 (c) A license holder or applicant whose program is located in an area in which
12.32 high-speed Internet is inaccessible may request the commissioner to grant a variance to
12.33 the electronic transmission requirement.

13.1 Sec. 6. Minnesota Statutes 2014, section 245C.05, subdivision 7, is amended to read:

13.2 Subd. 7. **Probation officer and corrections agent.** (a) A probation officer or
13.3 corrections agent shall notify the commissioner of an individual's conviction if the
13.4 individual:

13.5 (1) has been affiliated with a program or facility regulated by the Department of
13.6 Human Services or Department of Health, a facility serving children or youth licensed by
13.7 the Department of Corrections, or any type of home care agency or provider of personal
13.8 care assistance services within the preceding year; and

13.9 (2) has been convicted of a crime constituting a disqualification under section
13.10 245C.14.

13.11 (b) For the purpose of this subdivision, "conviction" has the meaning given it
13.12 in section 609.02, subdivision 5.

13.13 (c) The commissioner, in consultation with the commissioner of corrections, shall
13.14 develop forms and information necessary to implement this subdivision and shall provide
13.15 the forms and information to the commissioner of corrections for distribution to local
13.16 probation officers and corrections agents.

13.17 (d) The commissioner shall inform individuals subject to a background study that
13.18 criminal convictions for disqualifying crimes ~~will~~ shall be reported to the commissioner
13.19 by the corrections system.

13.20 (e) A probation officer, corrections agent, or corrections agency is not civilly or
13.21 criminally liable for disclosing or failing to disclose the information required by this
13.22 subdivision.

13.23 (f) Upon receipt of disqualifying information, the commissioner shall provide the
13.24 notice required under section 245C.17, as appropriate, to agencies on record as having
13.25 initiated a background study or making a request for documentation of the background
13.26 study status of the individual.

13.27 (g) This subdivision does not apply to family child care programs for individuals
13.28 whose background study was completed in NETStudy 2.0.

13.29 Sec. 7. Minnesota Statutes 2014, section 245C.08, subdivision 2, is amended to read:

13.30 Subd. 2. **Background studies conducted by a county agency for family child care.**

13.31 (a) Prior to the implementation of NETStudy 2.0, for a background study studies conducted
13.32 by a county agency for family child care services, the commissioner shall review:

13.33 (1) information from the county agency's record of substantiated maltreatment
13.34 of adults and the maltreatment of minors;

13.35 (2) information from juvenile courts as required in subdivision 4 for:

14.1 (i) individuals listed in section 245C.03, subdivision 1, paragraph (a), who are ages
14.2 13 through 23 living in the household where the licensed services will be provided; and

14.3 (ii) any other individual listed under section 245C.03, subdivision 1, when there
14.4 is reasonable cause; and

14.5 (3) information from the Bureau of Criminal Apprehension.

14.6 (b) If the individual has resided in the county for less than five years, the study shall
14.7 include the records specified under paragraph (a) for the previous county or counties of
14.8 residence for the past five years.

14.9 (c) Notwithstanding expungement by a court, the county agency may consider
14.10 information obtained under paragraph (a), clause (3), unless the commissioner received
14.11 notice of the petition for expungement and the court order for expungement is directed
14.12 specifically to the commissioner.

14.13 Sec. 8. Minnesota Statutes 2014, section 245C.08, subdivision 4, is amended to read:

14.14 Subd. 4. **Juvenile court records.** (a) For a background study conducted by the
14.15 Department of Human Services, the commissioner shall review records from the juvenile
14.16 courts for an individual studied under section 245C.03, subdivision 1, paragraph (a), when
14.17 the commissioner has reasonable cause.

14.18 (b) For a background study conducted by a county agency for family child care prior
14.19 to the implementation of NETStudy 2.0, the commissioner shall review records from the
14.20 juvenile courts for individuals listed in section 245C.03, subdivision 1, who are ages 13
14.21 through 23 living in the household where the licensed services will be provided. The
14.22 commissioner shall also review records from juvenile courts for any other individual listed
14.23 under section 245C.03, subdivision 1, when the commissioner has reasonable cause.

14.24 (c) The juvenile courts shall help with the study by giving the commissioner existing
14.25 juvenile court records relating to delinquency proceedings held on individuals described in
14.26 section 245C.03, subdivision 1, paragraph (a), when requested pursuant to this subdivision.

14.27 (d) For purposes of this chapter, a finding that a delinquency petition is proven in
14.28 juvenile court shall be considered a conviction in state district court.

14.29 (e) Juvenile courts shall provide orders of involuntary and voluntary termination of
14.30 parental rights under section 260C.301 to the commissioner upon request for purposes of
14.31 conducting a background study under this chapter.

14.32 Sec. 9. Minnesota Statutes 2014, section 245C.11, subdivision 3, is amended to read:

14.33 Subd. 3. **Criminal history data.** County agencies shall have access to the criminal
14.34 history data in the same manner as county licensing agencies under this chapter for

15.1 purposes of background studies completed prior to the implementation of NETStudy 2.0
15.2 by county agencies on legal nonlicensed child care providers to determine eligibility
15.3 for child care funds under chapter 119B.

15.4 Sec. 10. Minnesota Statutes 2014, section 245C.17, subdivision 6, is amended to read:

15.5 Subd. 6. **Notice to county agency.** For studies on individuals related to a license to
15.6 provide adult foster care and family adult day services and, effective October 1, 2017,
15.7 family child care and legal nonlicensed child care authorized under chapter 119B, the
15.8 commissioner shall also provide a notice of the background study results to the county
15.9 agency that initiated the background study.

15.10 Sec. 11. Minnesota Statutes 2014, section 245C.23, subdivision 2, is amended to read:

15.11 Subd. 2. **Commissioner's notice of disqualification that is not set aside.** (a) The
15.12 commissioner shall notify the license holder of the disqualification and order the license
15.13 holder to immediately remove the individual from any position allowing direct contact
15.14 with persons receiving services from the license holder if:

15.15 (1) the individual studied does not submit a timely request for reconsideration
15.16 under section 245C.21;

15.17 (2) the individual submits a timely request for reconsideration, but the commissioner
15.18 does not set aside the disqualification for that license holder under section 245C.22, unless
15.19 the individual has a right to request a hearing under section 245C.27, 245C.28, or 256.045;

15.20 (3) an individual who has a right to request a hearing under sections 245C.27 and
15.21 256.045, or 245C.28 and chapter 14 for a disqualification that has not been set aside, does
15.22 not request a hearing within the specified time; or

15.23 (4) an individual submitted a timely request for a hearing under sections 245C.27
15.24 and 256.045, or 245C.28 and chapter 14, but the commissioner does not set aside the
15.25 disqualification under section 245A.08, subdivision 5, or 256.045.

15.26 (b) If the commissioner does not set aside the disqualification under section 245C.22,
15.27 and the license holder was previously ordered under section 245C.17 to immediately
15.28 remove the disqualified individual from direct contact with persons receiving services or
15.29 to ensure that the individual is under continuous, direct supervision when providing direct
15.30 contact services, the order remains in effect pending the outcome of a hearing under
15.31 sections 245C.27 and 256.045, or 245C.28 and chapter 14.

15.32 (c) If the commissioner does not set aside the disqualification under section 245C.22,
15.33 and the license holder was not previously ordered under section 245C.17 to immediately
15.34 remove the disqualified individual from direct contact with persons receiving services or

to ensure that the individual is under continuous direct supervision when providing direct contact services, the commissioner shall order the individual to remain under continuous direct supervision pending the outcome of a hearing under sections 245C.27 and 256.045, or 245C.28 and chapter 14.

(d) For background studies related to child foster care, the commissioner shall also notify the county or private agency that initiated the study of the results of the reconsideration.

(e) For background studies related to family child care, adult foster care, and family adult day services, the commissioner shall also notify the county that initiated the study of the results of the reconsideration.

Sec. 12. Minnesota Statutes 2015 Supplement, section 260C.203, is amended to read:

260C.203 ADMINISTRATIVE OR COURT REVIEW OF PLACEMENTS.

(a) Unless the court is conducting the reviews required under section 260C.202, there shall be an administrative review of the out-of-home placement plan of each child placed in foster care no later than 180 days after the initial placement of the child in foster care and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The out-of-home placement plan must be monitored and updated at each administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.141, subdivision 2; 260C.193; 260C.201, subdivision 1; 260C.202; 260C.204; 260C.317; or 260D.06 shall satisfy the requirement for the review so long as the other requirements of this section are met.

(c) As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

(1) the safety, permanency needs, and well-being of the child;

(2) the continuing necessity for and appropriateness of the placement;

17.1 (3) the extent of compliance with the out-of-home placement plan;

17.2 (4) the extent of progress that has been made toward alleviating or mitigating the
17.3 causes necessitating placement in foster care;

17.4 (5) the projected date by which the child may be returned to and safely maintained in
17.5 the home or placed permanently away from the care of the parent or parents or guardian; and

17.6 (6) the appropriateness of the services provided to the child.

17.7 (d) When a child is age 14 or older;

17.8 (1) in addition to any administrative review conducted by the responsible social
17.9 services agency, at the in-court review required under section 260C.317, subdivision
17.10 3, clause (3), or 260C.515, subdivision 5 or 6, the court shall review the independent
17.11 living plan required under section 260C.212, subdivision 1, paragraph (c), clause (12),
17.12 and the provision of services to the child related to the well-being of the child as the
17.13 child prepares to leave foster care. The review shall include the actual plans related to
17.14 each item in the plan necessary to the child's future safety and well-being when the child
17.15 is no longer in foster care; and

17.16 ~~(e) At the court review required under paragraph (d) for a child age 14 or older,~~
17.17 ~~the following procedures apply:~~

17.18 ~~(1) six months before the child is expected to be discharged from foster care, the~~
17.19 ~~responsible social services agency shall give the written notice required under section~~
17.20 ~~260C.451, subdivision 1, regarding the right to continued access to services for certain~~
17.21 ~~children in foster care past age 18 and of the right to appeal a denial of social services~~
17.22 ~~under section 256.045. The agency shall file a copy of the notice, including the right to~~
17.23 ~~appeal a denial of social services, with the court. If the agency does not file the notice by~~
17.24 ~~the time the child is age 17-1/2, the court shall require the agency to give it;~~

17.25 (2) consistent with the requirements of the independent living plan, the court shall
17.26 review progress toward or accomplishment of the following goals:

17.27 (i) the child has obtained a high school diploma or its equivalent;

17.28 (ii) the child has completed a driver's education course or has demonstrated the
17.29 ability to use public transportation in the child's community;

17.30 (iii) the child is employed or enrolled in postsecondary education;

17.31 (iv) the child has applied for and obtained postsecondary education financial aid for
17.32 which the child is eligible;

17.33 (v) the child has health care coverage and health care providers to meet the child's
17.34 physical and mental health needs;

17.35 (vi) the child has applied for and obtained disability income assistance for which
17.36 the child is eligible;

(vii) the child has obtained affordable housing with necessary supports, which does not include a homeless shelter;

(viii) the child has saved sufficient funds to pay for the first month's rent and a damage deposit;

(ix) the child has an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;

(x) the child, if male, has registered for the Selective Service; and

(xi) the child has a permanent connection to a caring adult; and.

~~(3) the court shall ensure that the responsible agency in conjunction with the placement provider assists the child in obtaining the following documents prior to the child's leaving foster care: a Social Security card; the child's birth certificate; a state identification card or driver's license, tribal enrollment identification card, green card, or school visa; the child's school, medical, and dental records; a contact list of the child's medical, dental, and mental health providers; and contact information for the child's siblings, if the siblings are in foster care.~~

~~(f) For a child who will be discharged from foster care at age 18 or older, the responsible social services agency is required to develop a personalized transition plan as directed by the youth. The transition plan must be developed during the 90-day period immediately prior to the expected date of discharge. The transition plan must be as detailed as the child may elect and include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services. The agency shall ensure that the youth receives, at no cost to the youth, a copy of the youth's consumer credit report as defined in section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report. The plan must include information on the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in these decisions and the child does not have, or does not want, a relative who would otherwise be authorized to make these decisions. The plan must provide the child with the option to execute a health care directive as provided under chapter 145C. The agency shall also provide the youth with appropriate contact information if the youth needs more information or needs help dealing with a crisis situation through age 21.~~

Sec. 13. Minnesota Statutes 2015 Supplement, section 260C.212, subdivision 1, is amended to read:

Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in foster care by court order or a

voluntary placement agreement between the responsible social services agency and the child's parent pursuant to section 260C.227 or chapter 260D.

(b) An out-of-home placement plan means a written document which is prepared by the responsible social services agency jointly with the parent or parents or guardian of the child and in consultation with the child's guardian ad litem, the child's tribe, if the child is an Indian child, the child's foster parent or representative of the foster care facility, and, where appropriate, the child. When a child is age 14 or older, the child may include two other individuals on the team preparing the child's out-of-home placement plan. The child may select one member of the case planning team to be designated as the child's adviser and to advocate with respect to the application of the reasonable and prudent parenting standards. The responsible social services agency may reject an individual selected by the child if the agency has good cause to believe that the individual would not act in the best interest of the child. For a child in voluntary foster care for treatment under chapter 260D, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. For a child 18 years of age or older, the responsible social services agency shall involve the child and the child's parents as appropriate. As appropriate, the plan shall be:

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

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

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

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

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

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

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

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

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

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

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 26b or 27, and siblings of the child if the siblings are not placed together in foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in foster care;

(6) when a child cannot return to or be in the care of either parent, documentation of steps to finalize adoption as the permanency plan for the child through reasonable efforts to place the child for adoption. At a minimum, the documentation must include consideration of whether adoption is in the best interests of the child, child-specific recruitment efforts such as relative search and the use of state, regional, and national adoption exchanges to facilitate orderly and timely placements in and outside of the state. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

(7) when a child cannot return to or be in the care of either parent, documentation of steps to finalize the transfer of permanent legal and physical custody to a relative as the permanency plan for the child. This documentation must support the requirements of the kinship placement agreement under section 256N.22 and must include the reasonable efforts used to determine that it is not appropriate for the child to return home or be adopted, and reasons why permanent placement with a relative through a Northstar kinship assistance arrangement is in the child's best interest; how the child meets the eligibility requirements for Northstar kinship assistance payments; agency efforts to discuss adoption with the child's relative foster parent and reasons why the relative foster parent chose not to pursue adoption, if applicable; and agency efforts to discuss with the child's parent or

21.1 parents the permanent transfer of permanent legal and physical custody or the reasons
21.2 why these efforts were not made;

21.3 (8) efforts to ensure the child's educational stability while in foster care, ~~including~~
21.4 for a child who attained the minimum age for compulsory school attendance under state
21.5 law and is enrolled full time in elementary or secondary school, or instructed in elementary
21.6 or secondary education at home, or instructed in an independent study elementary or
21.7 secondary program, or incapable of attending school on a full-time basis due to a medical
21.8 condition that is documented and supported by regularly updated information in the child's
21.9 case plan. Educational stability efforts include:

21.10 (i) efforts to ensure that the child remains in the same school in which the child was
21.11 enrolled prior to placement or upon the child's move from one placement to another,
21.12 including efforts to work with the local education authorities to ensure the child's
21.13 educational stability and attendance; or

21.14 (ii) if it is not in the child's best interest to remain in the same school that the child
21.15 was enrolled in prior to placement or move from one placement to another, efforts to
21.16 ensure immediate and appropriate enrollment for the child in a new school;

21.17 (9) the educational records of the child including the most recent information
21.18 available regarding:

21.19 (i) the names and addresses of the child's educational providers;

21.20 (ii) the child's grade level performance;

21.21 (iii) the child's school record;

21.22 (iv) a statement about how the child's placement in foster care takes into account
21.23 proximity to the school in which the child is enrolled at the time of placement; and

21.24 (v) any other relevant educational information;

21.25 (10) the efforts by the ~~local~~ responsible social services agency to ensure the oversight
21.26 and continuity of health care services for the foster child, including:

21.27 (i) the plan to schedule the child's initial health screens;

21.28 (ii) how the child's known medical problems and identified needs from the screens,
21.29 including any known communicable diseases, as defined in section 144.4172, subdivision
21.30 2, ~~will~~ shall be monitored and treated while the child is in foster care;

21.31 (iii) how the child's medical information ~~will~~ shall be updated and shared, including
21.32 the child's immunizations;

21.33 (iv) who is responsible to coordinate and respond to the child's health care needs,
21.34 including the role of the parent, the agency, and the foster parent;

21.35 (v) who is responsible for oversight of the child's prescription medications;

22.1 (vi) how physicians or other appropriate medical and nonmedical professionals ~~will~~
22.2 shall be consulted and involved in assessing the health and well-being of the child and
22.3 determine the appropriate medical treatment for the child; and

22.4 (vii) the responsibility to ensure that the child has access to medical care through
22.5 either medical insurance or medical assistance;

22.6 (11) the health records of the child including information available regarding:

22.7 (i) the names and addresses of the child's health care and dental care providers;

22.8 (ii) a record of the child's immunizations;

22.9 (iii) the child's known medical problems, including any known communicable
22.10 diseases as defined in section 144.4172, subdivision 2;

22.11 (iv) the child's medications; and

22.12 (v) any other relevant health care information such as the child's eligibility for
22.13 medical insurance or medical assistance;

22.14 (12) an independent living plan for a child ~~age 14 years of age or older, developed in~~
22.15 consultation with the child. The child may select one member of the case planning team to
22.16 be designated as the child's adviser and to advocate with respect to the application of the
22.17 reasonable and prudent parenting standards in subdivision 14. The plan should include,
22.18 but not be limited to, the following objectives:

22.19 (i) educational, vocational, or employment planning;

22.20 (ii) health care planning and medical coverage;

22.21 (iii) transportation including, where appropriate, assisting the child in obtaining a
22.22 driver's license;

22.23 (iv) money management, including the responsibility of the responsible social
22.24 services agency to ensure that the youth child annually receives, at no cost to the youth
22.25 child, a consumer report as defined under section 13C.001 and assistance in interpreting
22.26 and resolving any inaccuracies in the report;

22.27 (v) planning for housing;

22.28 (vi) social and recreational skills;

22.29 (vii) establishing and maintaining connections with the child's family and
22.30 community; and

22.31 (viii) regular opportunities to engage in age-appropriate or developmentally
22.32 appropriate activities typical for the child's age group, taking into consideration the
22.33 capacities of the individual child; ~~and~~

22.34 (13) for a child in voluntary foster care for treatment under chapter 260D, diagnostic
22.35 and assessment information, specific services relating to meeting the mental health care
22.36 needs of the child, and treatment outcomes; and

(14) for a child 14 years of age or older, a signed acknowledgment that describes the child's rights regarding education, health care, visitation, safety and protection from exploitation, and court participation; receipt of the documents identified in section 260C.45; and receipt of an annual credit report. The acknowledgment shall state that the rights were explained in an age-appropriate manner to the child.

(d) The parent or parents or guardian and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social services agency in preparation of the case plan.

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

Upon discharge from foster care, the parent, adoptive parent, or permanent legal and physical custodian, as appropriate, and the child, if appropriate, must be provided with a current copy of the child's health and education record.

Sec. 14. Minnesota Statutes 2015 Supplement, section 260C.212, subdivision 14, is amended to read:

Subd. 14. **Support age-appropriate and developmentally appropriate activities for foster children.** (a) Responsible social services agencies and licensed child-placing agencies shall support a foster child's emotional and developmental growth by permitting the child to participate in activities or events that are generally accepted as suitable for children of the same chronological age or are developmentally appropriate for the child. "Developmentally appropriate" means based on a child's cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group. Foster parents and residential facility staff are permitted to allow foster children to participate in extracurricular, social, or cultural activities that are typical for the child's age by applying reasonable and prudent parenting standards.

(b) "Reasonable and prudent parenting" means the standards are characterized by careful and sensible parenting decisions that maintain the child's health and safety, cultural, religious, and are made in the child's tribal values, and best interest interests while encouraging the child's emotional and developmental growth.

(c) The commissioner shall provide guidance about the childhood activities and factors a foster parent and authorized residential facility staff must consider when applying the reasonable and prudent parenting standards. The factors must include the:

(1) child's age, maturity, and developmental level;

(2) risk of activity;

(3) best interests of the child;

(4) importance of the experience in the child's emotional and developmental growth;

(5) importance of a family-like experience;

(6) behavioral history of the child; and

(7) wishes of the child's parent or legal guardian, as appropriate.

(d) A residential facility licensed under chapter 2960 must have at least one staff person present on site, who is trained on the standards according to section 260C.515, subdivision 4, and authorized to apply the reasonable and prudent parenting standards to decisions involving the approval of a foster child's participation in age and developmentally appropriate extracurricular, social, or cultural activities.

(e) The foster parent or designated staff at residential facilities demonstrating compliance with the reasonable and prudent parenting standards shall not incur civil liability if a foster child is harmed or injured because of participating in approved extracurricular, enrichment, cultural, and social activities.

Sec. 15. Minnesota Statutes 2015 Supplement, section 260C.215, subdivision 4, is amended to read:

Subd. 4. **Duties of commissioner.** The commissioner of human services shall:

(1) provide practice guidance to responsible social services agencies and licensed child-placing agencies that reflect federal and state laws and policy direction on placement of children;

(2) develop criteria for determining whether a prospective adoptive or foster family has the ability to understand and validate the child's cultural background;

(3) provide a standardized training curriculum for adoption and foster care workers and administrators who work with children. Training must address the following objectives:

(i) developing and maintaining sensitivity to all cultures;

(ii) assessing values and their cultural implications;

(iii) making individualized placement decisions that advance the best interests of a particular child under section 260C.212, subdivision 2; and

(iv) issues related to cross-cultural placement;

(4) provide a training curriculum for all prospective adoptive and foster families that prepares them to care for the needs of adoptive and foster children taking into consideration the needs of children outlined in section 260C.212, subdivision 2, paragraph (b), and, as necessary, preparation is continued after placement of the child and includes the knowledge and skills related to reasonable and prudent parenting standards for the participation of the child in age or developmentally appropriate activities, according to section 260C.212, subdivision 14;

(5) develop and provide to responsible social services agencies and licensed child-placing agencies a home study format to assess the capacities and needs of prospective adoptive and foster families. The format must address problem-solving skills; parenting skills; evaluate the degree to which the prospective family has the ability to understand and validate the child's cultural background, and other issues needed to provide sufficient information for agencies to make an individualized placement decision consistent with section 260C.212, subdivision 2. For a study of a prospective foster parent, the format must also address the capacity of the prospective foster parent to provide a safe, healthy, smoke-free home environment. If a prospective adoptive parent has also been a foster parent, any update necessary to a home study for the purpose of adoption may be completed by the licensing authority responsible for the foster parent's license. If a prospective adoptive parent with an approved adoptive home study also applies for a foster care license, the license application may be made with the same agency which provided the adoptive home study; and

(6) consult with representatives reflecting diverse populations from the councils established under sections 3.922 and 15.0145, and other state, local, and community organizations.

Sec. 16. Minnesota Statutes 2015 Supplement, section 260C.451, subdivision 6, is amended to read:

Subd. 6. **Reentering foster care and accessing services after age 18 years of age and up to 21 years of age.** (a) Upon request of an individual ~~between the ages of 18 and 21~~ who had been under the guardianship of the commissioner and who has left foster care without being adopted, the responsible social services agency which had been the commissioner's agent for purposes of the guardianship shall develop with the individual a plan to increase the individual's ability to live safely and independently using the plan requirements of section 260C.212, subdivision 1, paragraph (c), clause (12), and to assist the individual to meet one or more of the eligibility criteria in subdivision 4 if the individual wants to reenter foster care. The responsible social services agency shall

provide foster care as required to implement the plan. The responsible social services agency shall enter into a voluntary placement agreement under section 260C.229 with the individual if the plan includes foster care.

(b) Individuals who had not been under the guardianship of the commissioner of human services prior to 18 years of age ~~18 and are between the ages of 18 and 21~~ may ask to reenter foster care after age 18 and, to the extent funds are available, the responsible social services agency that had responsibility for planning for the individual before discharge from foster care may provide foster care or other services to the individual for the purpose of increasing the individual's ability to live safely and independently and to meet the eligibility criteria in subdivision 3a, if the individual:

(1) was in foster care for the six consecutive months prior to the person's 18th birthday and was not discharged home, adopted, or received into a relative's home under a transfer of permanent legal and physical custody under section 260C.515, subdivision 4; or

(2) was discharged from foster care while on runaway status after age 15.

(c) In conjunction with a qualifying and eligible individual under paragraph (b) and other appropriate persons, the responsible social services agency shall develop a specific plan related to that individual's vocational, educational, social, or maturational needs and, to the extent funds are available, provide foster care as required to implement the plan. The responsible social services agency shall enter into a voluntary placement agreement with the individual if the plan includes foster care.

(d) ~~Youth~~ A child who left foster care while under guardianship of the commissioner of human services ~~retain~~ retains eligibility for foster care for placement at any time ~~between the ages of 18 and prior to 21 years of age.~~

Sec. 17. Minnesota Statutes 2014, section 260C.451, is amended by adding a subdivision to read:

Subd. 9. Administrative or court review of placements. (a) The court shall conduct reviews at least annually to ensure the responsible social services agency is making reasonable efforts to finalize the permanency plan for the child.

(b) The court shall find that the responsible social services agency is making reasonable efforts to finalize the permanency plan for the child when the responsible social services agency:

(1) provides appropriate support to the child and foster care provider to ensure continuing stability and success in placement;

(2) works with the child to plan for transition to adulthood and assists the child in demonstrating progress in achieving related goals;

(3) works with the child to plan for independent living skills and assists the child in demonstrating progress in achieving independent living goals; and

(4) prepares the child for independence according to sections 260C.203, paragraph (d), and 260C.452, subdivision 4.

(c) The responsible social services agency must ensure that an administrative review that meets the requirements of this section and section 260C.203 is completed at least six months after each of the court's annual reviews.

Sec. 18. **[260C.452] SUCCESSFUL TRANSITION TO ADULTHOOD.**

Subdivision 1. **Scope.** This section pertains to a child who is under the guardianship of the commissioner of human services, or who has a permanency disposition of permanent custody to the agency, or who will leave foster care at 18 to 21 years of age.

Subd. 2. **Independent living plan.** When the child is 14 years of age or older, the responsible social services agency, in consultation with the child, shall complete the independent living plan according to section 260C.212, subdivision 1, paragraph (c), clause (12).

Subd. 3. **Notification.** Six months before the child is expected to be discharged from foster care, the responsible social services agency shall provide written notice regarding the right to continued access to services for certain children in foster care past 18 years of age and of the right to appeal a denial of social services under section 256.045.

Subd. 4. **Administrative or court review of placements.** (a) When the child is 14 years of age or older, the court, in consultation with the child, shall review the independent living plan according to section 260C.203, paragraph (d).

(b) The responsible social services agency shall file a copy of the notification required in subdivision 3 with the court. If the responsible social services agency does not file the notice by the time the child is 17-1/2 years of age, the court shall require the responsible social services agency to file the notice.

(c) The court shall ensure that the responsible social services agency assists the child in obtaining the following documents before the child leaves foster care: a Social Security card; an official or certified copy of the child's birth certificate; a state identification card or driver's license, tribal enrollment identification card, green card, or school visa; health insurance information; the child's school, medical, and dental records; a contact list of the child's medical, dental, and mental health providers; and contact information for the child's siblings, if the siblings are in foster care.

(d) For a child who will be discharged from foster care at 18 years of age or older, the responsible social services agency must develop a personalized transition plan as

directed by the child during the 90-day period immediately prior to the expected date of discharge. The transition plan must be as detailed as the child elects and include specific options, including but not limited to:

(1) affordable housing with necessary supports that does not include a homeless shelter;

(2) health insurance, including eligibility for medical assistance as defined in 256B.055, subdivision 17;

(3) education, including application to the Education and Training Voucher Program;

(4) local opportunities for mentors and continuing support services, including the Healthy Transitions and Homeless Prevention program, if available;

(5) workforce supports and employment services;

(6) a copy of the child's consumer credit report as defined in section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report, at no cost to the child;

(7) information on executing a health care directive under chapter 145C and on the importance of designating another individual to make health care decisions on behalf of the child if the child becomes unable to participate in decisions; and

(8) appropriate contact information through 21 years of age if the child needs information or help dealing with a crisis situation.

Subd. 5. Notice of termination of foster care. (a) When a child leaves foster care at 18 years of age or older, the responsible social services agency shall give the child written notice that foster care shall terminate 30 days from the date the notice is sent.

(b) The child or the child's guardian ad litem may file a motion asking the court to review the responsible social services agency's determination within 15 days of receiving the notice. The child shall not be discharged from foster care until the motion is heard. The responsible social services agency shall work with the child to transition out of foster care.

(c) The written notice of termination of benefits shall be on a form prescribed by the commissioner and shall give notice of the right to have the responsible social services agency's determination reviewed by the court under this section or sections 260C.203, 260C.317, and 260C.515, subdivision 5 or 6. A copy of the termination notice shall be sent to the child and the child's attorney, if any, the foster care provider, the child's guardian ad litem, and the court. The responsible social services agency is not responsible for paying foster care benefits for any period of time after the child leaves foster care.

Sec. 19. Minnesota Statutes 2015 Supplement, section 260C.521, subdivision 1, is amended to read:

29.1 Subdivision 1. **Child in permanent custody of responsible social services agency.**

29.2 (a) Court reviews of an order for permanent custody to the responsible social services
29.3 agency for placement of the child in foster care must be conducted at least yearly at an
29.4 in-court appearance hearing.

29.5 (b) The purpose of the review hearing is to ensure:

29.6 (1) the responsible social services agency made intensive, ongoing, and, as of the
29.7 date of the hearing, unsuccessful effort to return the child home or secure a placement for
29.8 the child with a fit and willing relative, custodian, or adoptive parent, and an order for
29.9 permanent custody to the responsible social services agency for placement of the child in
29.10 foster care continues to be in the best interests of the child and that no other permanency
29.11 disposition order is in the best interests of the child;

29.12 (2) that the responsible social services agency is assisting the child to build
29.13 connections to the child's family and community; ~~and~~

29.14 (3) that the responsible social services agency is appropriately planning with the
29.15 child for development of independent living skills for the child and, as appropriate, for the
29.16 orderly and successful transition to independent living adulthood that may occur if the
29.17 child continues in foster care without another permanency disposition order;

29.18 (4) the child's foster family home or child care institution is following the reasonable
29.19 and prudent parenting standards; and

29.20 (5) the child has regular, ongoing opportunities to engage in age or developmentally
29.21 appropriate activities by consulting with the child in an age-appropriate manner about the
29.22 opportunities.

29.23 (c) The court must review the child's out-of-home placement plan and the reasonable
29.24 efforts of the responsible social services agency to finalize an alternative permanent plan
29.25 for the child including the responsible social services agency's efforts to:

29.26 (1) ensure that permanent custody to the responsible social services agency with
29.27 placement of the child in foster care continues to be the most appropriate legal arrangement
29.28 for meeting the child's need for permanency and stability ~~or, if not, to identify and attempt~~
29.29 ~~to finalize another permanency disposition order under this chapter that would better serve~~
29.30 ~~the child's needs and best interests;~~ by reviewing the compelling reasons it continues not
29.31 to be in the best interest of the child to:

29.32 (i) return home;

29.33 (ii) be placed for adoption; or

29.34 (iii) be placed with a fit and willing relative through an order for permanent legal
29.35 and physical custody under section 260C.515, subdivision 4;

29.36 (2) identify a specific foster home for the child, if one has not already been identified;

(3) support continued placement of the child in the identified home, if one has been identified;

(4) ensure appropriate services are provided to address the physical health, mental health, and educational needs of the child during the period of foster care and also ensure appropriate services or assistance to maintain relationships with appropriate family members and the child's community; and

(5) plan for the child's independence upon the child's leaving foster care living as required under section 260C.212, subdivision 1.

(d) The court may find that the responsible social services agency has made reasonable efforts to finalize the permanent plan for the child when:

(1) the responsible social services agency has made reasonable efforts to identify a more legally permanent home for the child than is provided by an order for permanent custody to the agency for placement in foster care;

(2) the child has been asked about the child's desired permanency outcome; and

(3) the responsible social services agency's engagement of the child in planning for ~~independent living~~ a successful transition to adulthood is reasonable and appropriate.

Sec. 20. **[260D.14] SUCCESSFUL TRANSITION TO ADULTHOOD FOR CHILDREN IN VOLUNTARY PLACEMENT.**

Subdivision 1. **Case planning.** When the child is 14 years of age or older, the responsible social services agency shall ensure a child in foster care under this chapter is provided with the case plan requirements in section 260C.212, subdivisions 1 and 14.

Subd. 2. **Notification.** The responsible social services agency shall provide written notice of the right to continued access to services for certain children in foster care past 18 years of age under section 260C.452, subdivision 3, and of the right to appeal a denial of social services under section 256.045. The notice must be provided to the child six months before the child's 18th birthday.

Subd. 3. **Administrative or court reviews.** When the child is 17 years of age or older, the administrative review or court hearing must include a review of the responsible social services agency's support for the child's successful transition to adulthood as required in section 260C.452, subdivision 4.

Sec. 21. Minnesota Statutes 2015 Supplement, section 626.556, subdivision 2, is amended to read:

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

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

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

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

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

31.9 (c) "Facility" means:

31.10 (1) a licensed or unlicensed day care facility, residential facility, agency, hospital,
31.11 sanitarium, or other facility or institution required to be licensed under sections 144.50 to
31.12 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245D;

31.13 (2) a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter
31.14 124E; or

31.15 (3) a nonlicensed personal care provider organization as defined in section
31.16 256B.0625, subdivision 19a.

31.17 (d) "Family assessment" means a comprehensive assessment of child safety, risk of
31.18 subsequent child maltreatment, and family strengths and needs that is applied to a child
31.19 maltreatment report that does not allege sexual abuse or substantial child endangerment.
31.20 Family assessment does not include a determination as to whether child maltreatment
31.21 occurred but does determine the need for services to address the safety of family members
31.22 and the risk of subsequent maltreatment.

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

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

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

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

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

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

32.12 (4) failure to ensure that the child is educated as defined in sections 120A.22 and
32.13 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's
32.14 child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

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

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

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

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

32.33 (9) emotional harm from a pattern of behavior which contributes to impaired
32.34 emotional functioning of the child which may be demonstrated by a substantial and
32.35 observable effect in the child's behavior, emotional response, or cognition that is not

within the normal range for the child's age and stage of development, with due regard to the child's culture.

(h) "Nonmaltreatment mistake" means:

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

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

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

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

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

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

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

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

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

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as

34.1 allowed by section 121A.582. Actions which are not reasonable and moderate include, but
34.2 are not limited to, any of the following:

- 34.3 (1) throwing, kicking, burning, biting, or cutting a child;
- 34.4 (2) striking a child with a closed fist;
- 34.5 (3) shaking a child under age three;
- 34.6 (4) striking or other actions which result in any nonaccidental injury to a child
34.7 under 18 months of age;
- 34.8 (5) unreasonable interference with a child's breathing;
- 34.9 (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- 34.10 (7) striking a child under age one on the face or head;
- 34.11 (8) striking a child who is at least age one but under age four on the face or head,
34.12 which results in an injury;
- 34.13 (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled
34.14 substances which were not prescribed for the child by a practitioner, in order to control or
34.15 punish the child; or other substances that substantially affect the child's behavior, motor
34.16 coordination, or judgment or that results in sickness or internal injury, or subjects the
34.17 child to medical procedures that would be unnecessary if the child were not exposed
34.18 to the substances;
- 34.19 (10) unreasonable physical confinement or restraint not permitted under section
34.20 609.379, including but not limited to tying, caging, or chaining; or
- 34.21 (11) in a school facility or school zone, an act by a person responsible for the child's
34.22 care that is a violation under section 121A.58.

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

34.26 (m) "Report" means any communication received by the local welfare agency,
34.27 police department, county sheriff, or agency responsible for child protection pursuant to
34.28 this section that describes neglect or physical or sexual abuse of a child and contains
34.29 sufficient content to identify the child and any person believed to be responsible for the
34.30 neglect or abuse, if known.

34.31 (n) "Sexual abuse" means the subjection of a child by a person responsible for the
34.32 child's care, by a person who has a significant relationship to the child, as defined in
34.33 section 609.341, or by a person in a position of authority, as defined in section 609.341,
34.34 subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual
34.35 conduct in the first degree), 609.343 (criminal sexual conduct in the second degree),
34.36 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in

the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Effective May 29, 2017, sexual abuse includes a child who is identified as a victim of sex trafficking regardless of who is the alleged perpetrator. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

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

- (1) egregious harm as defined in section 260C.007, subdivision 14;
- (2) abandonment under section 260C.301, subdivision 2;
- (3) neglect as defined in paragraph (g), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;
- (5) manslaughter in the first or second degree under section 609.20 or 609.205;
- (6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (7) solicitation, inducement, and promotion of prostitution under section 609.322;
- (8) criminal sexual conduct under sections 609.342 to 609.3451;
- (9) solicitation of children to engage in sexual conduct under section 609.352;
- (10) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
- (11) use of a minor in sexual performance under section 617.246; or
- (12) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.503, subdivision 2.

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

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

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

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

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

A child is the subject of a report of threatened injury when the responsible social services agency receives birth match data under paragraph (q) from the Department of Human Services.

(q) Upon receiving data under section 144.225, subdivision 2b, contained in a birth record or recognition of parentage identifying a child who is subject to threatened injury under paragraph (p), the Department of Human Services shall send the data to the responsible social services agency. The data is known as "birth match" data. Unless the responsible social services agency has already begun an investigation or assessment of the report due to the birth of the child or execution of the recognition of parentage and the parent's previous history with child protection, the agency shall accept the birth match data as a report under this section. The agency may use either a family assessment or investigation to determine whether the child is safe. All of the provisions of this section apply. If the child is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is determined not to be safe, the agency and the county attorney shall take appropriate action as required under section 260C.503, subdivision 2.

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

Sec. 22. Minnesota Statutes 2015 Supplement, section 626.556, subdivision 3c, is amended to read:

Subd. 3c. **Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.** (a)

The ~~county~~ local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, legally ~~unlicensed~~ nonlicensed child care, juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county, and reports involving children served by an ~~unlicensed~~ a nonlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.

(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in certified centers under chapter 119B and in facilities licensed under chapters 245A and 245D, except for child foster care and family child care.

(c) The Department of Health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58 and 144A.46.

Sec. 23. Minnesota Statutes 2014, section 626.556, subdivision 3e, is amended to read:

Subd. 3e. **Agency responsible for assessing or investigating reports of sexual abuse.** The local welfare agency is the agency responsible for investigating allegations of sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual functioning within the family unit as a person responsible for the child's care, or a person with a significant relationship to the child if that person resides in the child's household. Effective May 29, 2017, the local welfare agency is also responsible for investigating when a child is identified as a victim of sex trafficking.

ARTICLE 3

HEALTH DEPARTMENT

Section 1. Minnesota Statutes 2014, section 13.3806, subdivision 22, is amended to read:

Subd. 22. **Medical use of cannabis data.** Data collected under the registry program authorized under sections 152.22 to 152.37 are governed by sections 152.25, subdivision 1; 152.27, subdivision 8; 152.28, subdivision 2; and 152.37, subdivision 3.

Sec. 2. Minnesota Statutes 2014, section 152.27, subdivision 2, is amended to read:

Subd. 2. **Commissioner duties.** (a) The commissioner shall:

(1) give notice of the program to health care practitioners in the state who are eligible to serve as health care practitioners and explain the purposes and requirements of the program;

(2) allow each health care practitioner who meets or agrees to meet the program's requirements and who requests to participate, to be included in the registry program to collect data for the patient registry;

(3) allow each health care practitioner who meets the requirements of subdivision 8, and who requests access for a permissible purpose, to have limited access to a patient's registry information;

~~(3)~~ (4) provide explanatory information and assistance to each health care practitioner in understanding the nature of therapeutic use of medical cannabis within program requirements;

~~(4)~~ (5) create and provide a certification to be used by a health care practitioner for the practitioner to certify whether a patient has been diagnosed with a qualifying medical condition and include in the certification an option for the practitioner to certify whether the patient, in the health care practitioner's medical opinion, is developmentally or physically disabled and, as a result of that disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility;

~~(5)~~ (6) supervise the participation of the health care practitioner in conducting patient treatment and health records reporting in a manner that ensures stringent security and record-keeping requirements and that prevents the unauthorized release of private data on individuals as defined by section 13.02;

~~(6)~~ (7) develop safety criteria for patients with a qualifying medical condition as a requirement of the patient's participation in the program, to prevent the patient from undertaking any task under the influence of medical cannabis that would constitute negligence or professional malpractice on the part of the patient; and

~~(7)~~ (8) conduct research and studies based on data from health records submitted to the registry program and submit reports on intermediate or final research results to the legislature and major scientific journals. The commissioner may contract with a third party to complete the requirements of this clause. Any reports submitted must comply with section 152.28, subdivision 2.

(b) If the commissioner wishes to add a delivery method under section 152.22, subdivision 6, or a qualifying medical condition under section 152.22, subdivision 14, the commissioner must notify the chairs and ranking minority members of the legislative policy committees having jurisdiction over health and public safety of the addition and the reasons for its addition, including any written comments received by the commissioner from the

public and any guidance received from the task force on medical cannabis research, by January 15 of the year in which the commissioner wishes to make the change. The change shall be effective on August 1 of that year, unless the legislature by law provides otherwise.

Sec. 3. Minnesota Statutes 2014, section 152.27, is amended by adding a subdivision to read:

Subd. 8. Access to registry data. (a) Notwithstanding section 152.31, a health care practitioner may access a patient's registry information to the extent the information relates specifically to a current patient, to whom the health care practitioner is:

(1) prescribing or considering prescribing any controlled substance;

(2) providing emergency medical treatment for which access to the data may be necessary; or

(3) providing other medical treatment for which access to the data may be necessary and the patient has consented to access to the registry account information, and with the provision that the health care practitioner remains responsible for the use or misuse of data accessed by a delegated agent or employee.

(b) A health care practitioner who is authorized to access the patient registry under this subdivision may be registered to electronically access limited data in the medical cannabis patient registry. If the data is accessed electronically, the health care practitioner shall implement and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards that are appropriate to the user's size and complexity, and the sensitivity of the personal information obtained. The health care practitioner shall identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, or other compromise of the information and assess the sufficiency of any safeguards in place to control the risks.

(c) When requesting access based on patient consent, a health care practitioner shall warrant that the request:

(1) contains no information known to the provider to be false;

(2) accurately states the patient's desire to have health records disclosed or that there is specific authorization in law; and

(3) does not exceed any limits imposed by the patient in the consent.

(d) The commissioner shall maintain a log of all persons who access the data for at least three years and shall ensure that any health care practitioner agrees to comply with paragraph (b) before attaining access to the data.

Sec. 4. Minnesota Statutes 2014, section 152.33, is amended by adding a subdivision to read:

Subd. 7. **Improper access to registry; criminal penalty.** In addition to any other applicable penalty in law, a person who intentionally makes a false statement or misrepresentation to gain access to the patient registry under section 152.27, subdivision 8, or otherwise accesses the patient registry under false pretenses, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by payment of a fine of not more than \$1,000, or both. The penalty is in addition to any other penalties that may apply for making a false statement, misrepresentation, or unauthorized acquisition of not public data.

ARTICLE 4

DIRECT CARE AND TREATMENT

Section 1. **[246.701] ESTABLISHING OFFICE OF SPECIAL INVESTIGATIONS LAW ENFORCEMENT DIVISION.**

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

(b) "Arrest" has the meaning given in section 629.30.

(c) "Law enforcement agency" has the meaning given in section 626.84, subdivision 1, paragraph (f).

Subd. 2. **Establishing Office of Special Investigations Law Enforcement Division.** (a) The commissioner of human services may establish a law enforcement agency known as the Department of Human Services Office of Special Investigations Law Enforcement Division.

(b) The commissioner of human services may appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), to the Office of Special Investigations Law Enforcement Division.

(c) Peace officers described in paragraph (b) must meet all applicable training and licensing requirements according to chapter 626 and are subject to the Peace Officer Discipline Procedures Act in section 626.89.

Subd. 3. **Limited jurisdiction.** (a) The jurisdiction of the Office of Special Investigations Law Enforcement Division is limited to the arrest of individuals (1) who reside at a state-operated facility, and (2) are committed to the commissioner or for whom the commissioner is the legal guardian.

(b) The jurisdiction of the Office of Special Investigations Law Enforcement Division is limited to the authority to arrest when there is probable cause that an individual

41.1 described in paragraph (a) committed a crime at a state-operated facility or escaped
41.2 custody in violation of section 609.485.

41.3 (c) The Office of Special Investigations Law Enforcement Division's jurisdiction
41.4 under this section is statewide.

41.5 Subd. 4. **Liability.** Nothing in this section subjects peace officers of the Office of
41.6 Special Investigations Law Enforcement Division to civil liability actions not expressly
41.7 stated in section 3.736 or 626.89.

41.8 Sec. 2. Minnesota Statutes 2014, section 253B.18, subdivision 4b, is amended to read:

41.9 Subd. 4b. **Pass-eligible status; notification.** (a) The following patients committed
41.10 to a secure treatment facility shall not be placed on pass-eligible status unless that status
41.11 has been approved by the medical director of the secure treatment facility:

41.12 ~~(a)~~ (1) a patient who has been committed as a person who is mentally ill and
41.13 dangerous and who:

41.14 ~~(1)~~ (i) was found incompetent to proceed to trial for a felony or was found not guilty
41.15 by reason of mental illness of a felony immediately prior to the filing of the commitment
41.16 petition;

41.17 ~~(2)~~ (ii) was convicted of a felony immediately prior to or during commitment as a
41.18 person who is mentally ill and dangerous; or

41.19 ~~(3)~~ (iii) is subject to a commitment to the commissioner of corrections; and

41.20 ~~(b)~~ (2) a patient who has been committed as a psychopathic personality, a sexually
41.21 psychopathic personality, or a sexually dangerous person.

41.22 (b) At least ten days prior to a determination on the status, the medical director
41.23 shall notify the committing court, the county attorney of the county of commitment, the
41.24 designated agency, an interested person, the petitioner, and the petitioner's counsel of the
41.25 proposed status, and their right to request review by the special review board. If within
41.26 ten days of receiving notice any notified person requests review by filing a notice of
41.27 objection with the commissioner and the head of the treatment facility, a hearing shall be
41.28 held before. The special review board. judicial appeal panel shall hear review requests
41.29 for patients meeting the criteria of paragraph (a). For patients meeting the criteria of
41.30 paragraph (a), clause (1), the proposed status shall not be implemented unless it receives a
41.31 favorable recommendation by a majority of the special review board and approval by the
41.32 commissioner. For patients meeting the criteria of paragraph (a), clause (2), the proposed
41.33 status shall not be implemented unless it is approved by the judicial appeal panel. The order
41.34 of the commissioner or judicial appeal panel is appealable as provided in section 253B.19.

(c) Nothing in this subdivision shall be construed to give a patient an affirmative right to seek pass-eligible status from the ~~special review board~~ judicial appeal panel.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to all petitions for reduction in custody, appeals of revocation of transfers or provisional discharges, or requests for review of pass-eligibility status filed on or after the date of enactment.

Sec. 3. Minnesota Statutes 2014, section 253D.27, subdivision 2, is amended to read:

Subd. 2. **Filing.** A petition for a reduction in custody or an appeal of a revocation of provisional discharge may be filed by either the committed person or by the executive director and must be filed with and considered by ~~a panel of the special review board authorized under section 253B.18, subdivision 4e~~ the judicial appeal panel. A committed person may not petition the ~~special review board~~ judicial appeal panel any sooner than six months following either:

(1) the entry of judgment in the district court of the order for commitment issued under section 253D.07, subdivision 5, or upon the exhaustion of all related appeal rights in state court relating to that order, whichever is later; or

(2) any ~~recommendation of the special review board or~~ order of the judicial appeal panel, or upon the exhaustion of all appeal rights in state court, whichever is later. The executive director may petition at any time. ~~The special review board proceedings are not contested cases as defined in chapter 14.~~

EFFECTIVE DATE. This section is effective the day following final enactment and applies to all petitions for reduction in custody, appeals of revocation of transfers or provisional discharges, or requests for review of pass-eligibility status filed on or after the date of enactment.

Sec. 4. Minnesota Statutes 2014, section 253D.28, as amended by Laws 2015, chapter 65, article 2, section 3, is amended to read:

253D.28 JUDICIAL APPEAL PANEL.

~~Subdivision 1. **Rehearing and reconsideration.** (a) A person committed as a sexually dangerous person or a person with a sexual psychopathic personality under this chapter, or committed as both mentally ill and dangerous to the public under section 253B.18 and as a sexually dangerous person or a person with a sexual psychopathic personality under this chapter; the county attorney of the county from which the person was committed or the county of financial responsibility; or the commissioner may petition the~~

judicial appeal panel established under section 253B.19, subdivision 1, for a rehearing and reconsideration of a recommendation of the special review board under section 253D.27.

(b) The petition must be filed with the Supreme Court within 30 days after the recommendation is mailed by the commissioner as required in section 253D.27, subdivision 4. The hearing must be held within 180 days of the filing of the petition unless an extension is granted for good cause.

(c) If no party petitions the judicial appeal panel for a rehearing or reconsideration within 30 days, the judicial appeal panel shall either issue an order adopting the recommendations of the special review board or set the matter on for a hearing pursuant to this section.

Subd. 2. **Procedure.** (a) The Supreme Court shall refer a petition for rehearing and reconsideration reduction in custody to the chief judge of the judicial appeal panel. The chief judge shall notify the committed person, the county attorneys of the county of commitment and county of financial responsibility, the commissioner, the executive director, any interested person, and other persons the chief judge designates, of the time and place of the hearing on the petition. The notice shall be given at least 14 days prior to the date of the hearing. The hearing may be conducted by interactive video conference under General Rules of Practice, rule 131, and Minnesota Rules of Civil Commitment, rule 14.

(b) Any person may oppose the petition. The committed person, the committed person's counsel, the county attorneys of the committing county and county of financial responsibility, and the commissioner shall participate as parties to the proceeding pending before the judicial appeal panel and shall, no later than 20 days before the hearing on the petition, inform the judicial appeal panel and the opposing party in writing whether they support or oppose the petition and provide a summary of facts in support of their position.

(c) The judicial appeal panel may appoint examiners and may adjourn the hearing from time to time. It shall hear and receive all relevant testimony and evidence and make a record of all proceedings. The committed person, the committed person's counsel, and the county attorney of the committing county or the county of financial responsibility have the right to be present and may present and cross-examine all witnesses and offer a factual and legal basis in support of their positions.

(d) The petitioning party seeking discharge or provisional discharge bears the burden of going forward with the evidence, which means presenting a prima facie case with competent evidence to show that the person is entitled to the requested relief. If the petitioning party has met this burden, the party opposing discharge or provisional discharge bears the burden of proof by clear and convincing evidence that the discharge or provisional discharge should be denied.

44.1 (e) A party seeking transfer under section 253D.29 must establish by a preponderance
44.2 of the evidence that the transfer is appropriate.

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

44.10 Subd. 4. **Appeal.** A party aggrieved by an order of the judicial appeal panel may
44.11 appeal that order as provided under section 253B.19, subdivision 5.

44.12 **EFFECTIVE DATE.** This section is effective the day following final enactment
44.13 and applies to all petitions for reduction in custody, appeals of revocation of transfers or
44.14 provisional discharges, or requests for review of pass-eligibility status filed on or after the
44.15 date of enactment.

44.16 Sec. 5. Minnesota Statutes 2014, section 253D.29, subdivision 2, is amended to read:

44.17 Subd. 2. **Voluntary readmission to a secure facility.** (a) After a committed person
44.18 has been transferred out of a secure facility pursuant to subdivision 1 and with the consent
44.19 of the executive director, a committed person may voluntarily return to a secure facility
44.20 for a period of up to 60 days.

44.21 (b) If the committed person is not returned to the facility to which the person was
44.22 originally transferred pursuant to subdivision 1 within 60 days of being readmitted to a
44.23 secure facility, the transfer is revoked and the committed person shall remain in a secure
44.24 facility. The committed person shall immediately be notified in writing of the revocation.

44.25 (c) Within 15 days of receiving notice of the revocation, the committed person may
44.26 petition the ~~special review board~~ judicial appeal panel for a review of the revocation. The
44.27 ~~special review board~~ judicial appeal panel shall review the circumstances of the revocation
44.28 and shall ~~recommend to the judicial appeal panel~~ decide whether or not the revocation
44.29 shall be upheld. The ~~special review board~~ judicial appeal panel may also ~~recommend~~
44.30 order a new transfer at the time of the revocation hearing.

44.31 (d) If the transfer has not been revoked and the committed person is to be returned
44.32 to the facility to which the committed person was originally transferred pursuant to
44.33 subdivision 1 with no substantive change to the conditions of the transfer ordered pursuant
44.34 to subdivision 1, no action by the ~~special review board~~ or judicial appeal panel is required.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to all petitions for reduction in custody, appeals of revocation of transfers or provisional discharges, or requests for review of pass-eligibility status filed on or after the date of enactment.

Sec. 6. Minnesota Statutes 2014, section 253D.29, subdivision 3, is amended to read:

Subd. 3. **Revocation.** (a) The executive director may revoke a transfer made pursuant to subdivision 1 and require a committed person to return to a secure treatment facility if:

(1) remaining in a nonsecure setting will not provide a reasonable degree of safety to the committed person or others; or

(2) the committed person has regressed in clinical progress so that the facility to which the committed person was transferred is no longer sufficient to meet the committed person's needs.

(b) Upon the revocation of the transfer, the committed person shall be immediately returned to a secure treatment facility. A report documenting reasons for revocation shall be issued by the executive director within seven days after the committed person is returned to the secure treatment facility. Advance notice to the committed person of the revocation is not required.

(c) The committed person must be provided a copy of the revocation report and informed, orally and in writing, of the rights of a committed person under this section. The revocation report shall be served upon the committed person and the committed person's counsel. The report shall outline the specific reasons for the revocation including, but not limited to, the specific facts upon which the revocation is based.

(d) If a committed person's transfer is revoked, the committed person may re-petition for transfer according to section 253D.27.

(e) Any committed person aggrieved by a transfer revocation decision may petition the ~~special review board~~ judicial appeal panel within seven days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of the revocation report for a review of the revocation. The matter shall be scheduled within 30 days. The ~~special review board~~ judicial appeal panel shall review the circumstances leading to the revocation and, after considering the factors in subdivision 1, paragraph (b), ~~shall recommend to the judicial appeal panel~~ decide whether or not the revocation shall be upheld. The ~~special review board~~ judicial appeal panel may also ~~recommend~~ order a new transfer out of a secure facility at the time of the revocation hearing.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to all petitions for reduction in custody, appeals of revocation of transfers or

46.1 provisional discharges, or requests for review of pass-eligibility status filed on or after the
46.2 date of enactment.

46.3 Sec. 7. Minnesota Statutes 2014, section 253D.30, subdivision 3, is amended to read:

46.4 Subd. 3. **Review.** A provisional discharge pursuant to this chapter shall not
46.5 automatically terminate. A full discharge shall occur only as provided in section 253D.31.
46.6 The terms of a provisional discharge continue unless the committed person requests and
46.7 is granted a change in the conditions of provisional discharge or unless the committed
46.8 person petitions the ~~special review board~~ judicial appeal panel for a full discharge and the
46.9 discharge is granted by the judicial appeal panel.

46.10 **EFFECTIVE DATE.** This section is effective the day following final enactment
46.11 and applies to all petitions for reduction in custody, appeals of revocation of transfers or
46.12 provisional discharges, or requests for review of pass-eligibility status filed on or after the
46.13 date of enactment.

46.14 Sec. 8. Minnesota Statutes 2014, section 253D.30, subdivision 4, is amended to read:

46.15 Subd. 4. **Voluntary readmission.** (a) With the consent of the executive director, a
46.16 committed person may voluntarily return to the Minnesota sex offender program from
46.17 provisional discharge for a period of up to 60 days.

46.18 (b) If the committed person is not returned to provisional discharge status within 60
46.19 days of being readmitted to the Minnesota sex offender program, the provisional discharge
46.20 is revoked. The committed person shall immediately be notified of the revocation in
46.21 writing. Within 15 days of receiving notice of the revocation, the committed person may
46.22 request a review of the matter before the ~~special review board~~ judicial appeal panel. The
46.23 ~~special review board~~ judicial appeal panel shall review the circumstances of the revocation
46.24 and, after applying the standards in subdivision 5, paragraph (a), ~~shall recommend to the~~
46.25 ~~judicial appeal panel~~ decide whether or not the revocation shall be upheld. The ~~board~~
46.26 judicial appeal panel may ~~recommend~~ order a return to provisional discharge status.

46.27 (c) If the provisional discharge has not been revoked and the committed person is to
46.28 be returned to provisional discharge, the Minnesota sex offender program is not required
46.29 to petition for a further review by the ~~special review board~~ judicial appeal panel unless the
46.30 committed person's return to the community results in substantive change to the existing
46.31 provisional discharge plan.

46.32 **EFFECTIVE DATE.** This section is effective the day following final enactment
46.33 and applies to all petitions for reduction in custody, appeals of revocation of transfers or

47.1 provisional discharges, or requests for review of pass-eligibility status filed on or after the
47.2 date of enactment.

47.3 Sec. 9. Minnesota Statutes 2014, section 253D.30, subdivision 5, is amended to read:

47.4 Subd. 5. **Revocation.** (a) The executive director may revoke a provisional discharge
47.5 if either of the following grounds exist:

47.6 (1) the committed person has departed from the conditions of the provisional
47.7 discharge plan; or

47.8 (2) the committed person is exhibiting behavior which may be dangerous to self
47.9 or others.

47.10 (b) The executive director may revoke the provisional discharge and, either orally
47.11 or in writing, order that the committed person be immediately returned to a Minnesota
47.12 sex offender program treatment facility. A report documenting reasons for revocation
47.13 shall be issued by the executive director within seven days after the committed person
47.14 is returned to the treatment facility. Advance notice to the committed person of the
47.15 revocation is not required.

47.16 (c) The committed person must be provided a copy of the revocation report and
47.17 informed, orally and in writing, of the rights of a committed person under this section.
47.18 The revocation report shall be served upon the committed person, the committed person's
47.19 counsel, and the county attorneys of the county of commitment and the county of financial
47.20 responsibility. The report shall outline the specific reasons for the revocation, including
47.21 but not limited to the specific facts upon which the revocation is based.

47.22 (d) An individual who is revoked from provisional discharge must successfully
47.23 re-petition the ~~special review board~~ and judicial appeal panel prior to being placed back
47.24 on provisional discharge.

47.25 **EFFECTIVE DATE.** This section is effective the day following final enactment
47.26 and applies to all petitions for reduction in custody, appeals of revocation of transfers or
47.27 provisional discharges, or requests for review of pass-eligibility status filed on or after the
47.28 date of enactment.

47.29 Sec. 10. Minnesota Statutes 2014, section 253D.30, subdivision 6, is amended to read:

47.30 Subd. 6. **Appeal.** Any committed person aggrieved by a revocation decision or any
47.31 interested person may petition the ~~special review board~~ judicial appeal panel within seven
47.32 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of the revocation
47.33 report for a review of the revocation. The matter shall be scheduled within 30 days. The
47.34 ~~special review board~~ judicial appeal panel shall review the circumstances leading to the

revocation and shall ~~recomm~~decide whether or not the revocation shall be upheld. The ~~special review board~~ judicial appeal panel may also ~~recomm~~order a new provisional discharge at the time of the revocation hearing.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to all petitions for reduction in custody, appeals of revocation of transfers or provisional discharges, or requests for review of pass-eligibility status filed on or after the date of enactment.

Sec. 11. Minnesota Statutes 2014, section 253D.31, is amended to read:

253D.31 DISCHARGE.

A person who is committed as a sexually dangerous person or a person with a sexual psychopathic personality shall not be discharged unless it appears to the satisfaction of the judicial appeal panel, ~~after a hearing and recommendation by a majority of the special review board,~~ that the committed person is capable of making an acceptable adjustment to open society, is no longer dangerous to the public, and is no longer in need of inpatient treatment and supervision.

In determining whether a discharge shall be recommended, the ~~special review board~~ and judicial appeal panel shall consider whether specific conditions exist to provide a reasonable degree of protection to the public and to assist the committed person in adjusting to the community. If the desired conditions do not exist, the discharge shall not be granted.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to all petitions for reduction in custody, appeals of revocation of transfers or provisional discharges, or requests for review of pass-eligibility status filed on or after the date of enactment.

Sec. 12. Minnesota Statutes 2014, section 626.05, subdivision 2, is amended to read:

Subd. 2. **Peace officer.** The term "peace officer," as used in sections 626.04 to 626.17, means a person who is licensed as a peace officer in accordance with section 626.84, subdivision 1, and who serves as a sheriff, deputy sheriff, police officer, conservation officer, agent of the Bureau of Criminal Apprehension, agent of the Division of Alcohol and Gambling Enforcement, University of Minnesota peace officer, Metropolitan Transit police officer, Minnesota Department of Corrections Fugitive Apprehension Unit member, Department of Human Services Office of Special Investigations Law Enforcement Division officers, or State Patrol trooper as authorized by section 299D.03.

Sec. 13. Minnesota Statutes 2014, section 626.84, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

(a) "Board" means the Board of Peace Officer Standards and Training.

(b) "Director" means the executive director of the board.

(c) "Peace officer" means:

(1) an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota State Patrol, agents of the Division of Alcohol and Gambling Enforcement, state conservation officers, Metropolitan Transit police officers, Department of Corrections Fugitive Apprehension Unit officers, Department of Human Services Office of Special Investigations Law Enforcement Division officers, and Department of Commerce Fraud Bureau Unit officers, and the statewide coordinator of the Violent Crime Coordinating Council; and

(2) a peace officer who is employed by a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e), and who is licensed by the board.

(d) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency.

(e) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance, and shall include reserve deputies, special deputies, mounted or unmounted patrols, and all other employees or volunteers performing reserve officer functions. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

(f) "Law enforcement agency" means:

(1) a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state; and

50.1 (2) subject to the limitations in section 626.93, a law enforcement agency of a
50.2 federally recognized tribe, as defined in United States Code, title 25, section 450b(e).

50.3 (g) "Professional peace officer education" means a postsecondary degree program,
50.4 or a nondegree program for persons who already have a college degree, that is offered by
50.5 a college or university in Minnesota, designed for persons seeking licensure as a peace
50.6 officer, and approved by the board.

APPENDIX
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