

CHAPTER 626

TRAINING; INVESTIGATION, APPREHENSION;  
REPORTS

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### SEARCH WARRANTS

**626.01** [Repealed, 1963 c 849 s 17]

**626.02** [Repealed, 1963 c 849 s 17]

**626.03** [Repealed, 1963 c 849 s 17]

#### **626.04 PROPERTY; SEIZURE, KEEPING, AND DISPOSAL.**

When any officer seizes, with or without warrant, any property or thing, it shall be safely kept by direction of the court as long as necessary for the purpose of being produced as evidence on any trial. After the trial the property or thing shall, unless otherwise subject to lawful detention, be returned to its owner or any other person entitled to possess it. Any property or thing seized may be destroyed or otherwise disposed of under the direction of the court. Any money found in gambling devices when seized shall be paid into the county treasury. If the gambling devices are seized by a police officer of a municipality, the money shall be paid into the treasury of the municipality.

**History:** (10540) *RL s 5199, 1929 c 177, 1963 c 849 s 16, 1983 c 359 s 111*

#### **626.05 DEFINITIONS.**

Subdivision 1 **Search warrant.** A search warrant is an order in writing, in the name of the state, signed by a court other than a court exercising probate jurisdiction, directed to a peace officer, commanding the peace officer to make a search as authorized by law and hold any item seized, subject to the order of a court.

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, constable, conservation officer, agent of the bureau of criminal apprehension, agent of the division of alcohol and gambling enforcement, University of Minnesota peace officer, or state patrol trooper as authorized by section 299D 03.

Subd. 3 **Crime.** The term "crime" as used in sections 626 04 to 626 17 includes (1) those offenses defined as crimes in section 609 02, subdivision 1, and (2) all violations of municipal ordinances for which a misdemeanor sentence may be imposed.

**History:** *1963 c 849 s 3, 1976 c 2 s 154, 1977 c 82 s 4, 1979 c 258 s 21, 1983 c 359 s 112, 1986 c 444, 1988 c 447 s 1, 1989 c 334 art 6 s 11, 1990 c 502 s 7, 1993 c 326 art 7 s 13, 1995 c 189 s 8, 1996 c 277 s 1, 1997 c 129 art 2 s 15*

#### **626.06 JURISDICTION TO ISSUE.**

Search warrants may be issued by any court, other than a court exercising probate jurisdiction, having jurisdiction in the area where the place to be searched is located.

**History:** *1963 c 849 s 4, 1983 c 359 s 113, 1995 c 189 s 8, 1996 c 277 s 1*

#### **626.07 GROUNDS FOR ISSUANCE.**

A search warrant may be issued upon any of the following grounds

- (1) The property or things were stolen or embezzled;
- (2) The property or things were used as the means of committing a crime;
- (3) The possession of the property or things constitutes a crime;
- (4) The property or things are in the possession of any person with the intent to use them as a means of committing a crime, or the property or things so intended to be used are in the

possession of another to whom they have been delivered for the purpose of concealing them or preventing their being discovered,

(5) The property or things to be seized consist of any item or constitute any evidence which tends to show a crime has been committed, or tends to show that a particular person has committed a crime

The property or things described in this section may be taken pursuant to the warrant from any place, or from any person in whose possession they may be

**History:** 1963 c 849 s 5

#### **626.08 PROBABLE CAUSE.**

A search warrant cannot be issued but upon probable cause, supported by affidavit, naming or describing the person, and particularly describing the property or thing to be seized, and particularly describing the place to be searched

**History:** 1963 c 849 s 6

#### **626.09 EXAMINATION OF PARTIES MAKING REQUEST.**

The court may, before issuing the warrant, examine on oath the person seeking the warrant and any witnesses the person may produce. It shall take the affidavits in writing, and cause them to be subscribed to by the party or parties making them

**History:** 1963 c 849 s 7, 1983 c 359 s 114, 1986 c 444

#### **626.10 AFFIDAVIT, CONTENT.**

The affidavit or affidavits must set forth the facts tending to establish the grounds of the application, or probable cause for believing that they exist

**History:** 1963 c 849 s 8

#### **626.11 ISSUANCE OF WARRANT.**

If the judge is satisfied of the existence of the grounds of the application, or that there is probable cause to believe their existence, the judge must issue a signed search warrant, naming the judge's judicial office, to a peace officer in the judge's county or to an agent of the bureau of criminal apprehension. The warrant shall direct the officer or agent to search the person or place named for the property or things specified, and to retain the property or things in the officer's or agent's custody subject to order of the court issuing the warrant

**History:** 1963 c 849 s 9, 1979 c 258 s 22, 1983 c 359 s 115, 1986 c 444

#### **626.12 APPLICANTS, NAMES ON WARRANT.**

The warrant, in addition, shall contain the names of the persons presenting affidavits in support of the application, and the grounds for its issuance

**History:** 1963 c 849 s 10

#### **626.13 SERVICE; PERSONS MAKING.**

A search warrant may in all cases be served anywhere within the issuing judge's county by any of the officers mentioned in its directions, but by no other person, except in aid of the officer on the officer's requiring it, the officer being present and acting in its execution. If the warrant is to be served by an agent of the bureau of criminal apprehension, an agent of the division of alcohol and gambling enforcement, a state patrol trooper, or a conservation officer, the agent, state patrol trooper, or conservation officer shall notify the chief of police of an organized full-time police department of the municipality or, if there is no such local chief of police, the sheriff or a deputy sheriff of the county in which service is to be made prior to execution

**History:** 1963 c 849 s 11, 1979 c 258 s 23, 1986 c 444, 1989 c 334 art 6 s 12, 1990 c 502 s 8; 1993 c 326 art 7 s 14, 1995 c 226 art 2 s 33; 1995 c 244 s 37, 1997 c 129 art 2 s 15

**626.14 TIME OF SERVICE.**

A search warrant may be served only between the hours of 7 00 a m and 8 00 p m unless the court determines on the basis of facts stated in the affidavits that a nighttime search outside those hours is necessary to prevent the loss, destruction, or removal of the objects of the search or to protect the searchers or the public. The search warrant shall state that it may be served only between the hours of 7 00 a m. and 8 00 p m unless a nighttime search outside those hours is authorized.

**History:** 1963 c 849 s 12, 1983 c 359 s 116, 1992 c 569 s 29

**626.15 EXECUTION AND RETURN OF WARRANT, TIME.**

A search warrant must be executed and returned to the court which issued it within ten days after its date. After the expiration of this time, the warrant is void unless previously executed.

**History:** 1963 c 849 s 13, 1983 c 359 s 117

**626.16 DELIVERY OF COPY OF WARRANT AND RECEIPT.**

When the officer conducts the search the officer must give a copy of the warrant and, when property or things are taken, a receipt therefor (specifying it in detail) to the person in whose possession the premises or the property or things taken were found, or, in the absence of any person, the officer must leave such copy of the warrant and receipt in the place where the property or things were found. Such delivery of a copy of the warrant shall constitute service.

**History:** 1963 c 849 s 14; 1986 c 444

**626.17 RETURN AND INVENTORY.**

The officer must immediately return the warrant to the court and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer at the foot of the inventory.

**History:** 1963 c 849 s 15, 1983 c 359 s 118

**UNLAWFUL SEARCHES AND SEIZURES****626.21 RETURN OF PROPERTY AND SUPPRESSION OF EVIDENCE.**

A person aggrieved by an unlawful search and seizure may move the district court for the district in which the property was seized or the district court having jurisdiction of the substantive offense for the return of the property and to suppress the use, as evidence, of anything so obtained on the ground that (1) the property was illegally seized, or (2) the property was illegally seized without warrant, or (3) the warrant is insufficient on its face, or (4) the property seized is not that described in the warrant, or (5) there was not probable cause for believing the existence of the grounds on which the warrant was issued, or (6) the warrant was illegally executed, or (7) the warrant was improvidently issued. The judge shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted the property shall be restored unless otherwise subject to lawful detention, and it shall not be admissible in evidence at any hearing or trial. The motion to suppress evidence may also be made in the district where the trial is to be had. The motion shall be made before trial or hearing unless opportunity therefor did not exist or the defendant was not aware of the grounds for the motion, but the court in its discretion may entertain the motion at the trial or hearing.

**History:** 1963 c 850 s 1, 1998 c 254 art 2 s 71

**626.22 MALICIOUSLY PROCURING SEARCH WARRANT; MISCONDUCT IN USE.**

Every person who shall maliciously and without probable cause procure a search warrant to be issued and executed, and every officer who, in executing a search warrant, shall willfully exceed the officer's authority, or exercise it with unnecessary severity, shall be guilty of a misdemeanor.

**History:** (10031) RL s 4846, 1986 c 444

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- 626.311 [Repealed, 1969 c 177 s 1]
- 626.312 [Repealed, 1969 c 177 s 1]
- 626.313 [Repealed, 1969 c 177 s 1]
- 626.314 [Repealed, 1969 c 177 s 1]
- 626.315 [Repealed, 1969 c 177 s 1]
- 626.316 [Repealed, 1969 c 177 s 1]
- 626.317 [Repealed, 1969 c 177 s 1]
- 626.318 [Repealed, 1969 c 177 s 1]
- 626.319 [Repealed, 1969 c 177 s 1]
- 626.32 [Obsolete]
- 626.33 [Renumbered 299C 03]
- 626.34 [Renumbered 299C 04]
- 626.35 [Renumbered 299C 05]
- 626.36 [Renumbered 299C 06]
- 626.365 [Renumbered 299C 07]
- 626.37 [Renumbered 299C 08]
- 626.38 [Renumbered 299C 09]
- 626.39 [Renumbered 299C 10]
- 626.40 [Renumbered 299C 11]
- 626.41 [Renumbered 299C 12]
- 626.42 [Renumbered 299C 13]
- 626.43 [Renumbered 299C 14]
- 626.44 [Renumbered 299C 15]
- 626.45 [Renumbered 299C 16]
- 626.46 [Repealed, Ex1959 c 34 s 12]
- 626.461 [Repealed, 1967 c 870 s 15]
- 626.462 [Repealed, 1967 c 870 s 15]
- 626.463 [Repealed, 1967 c 870 s 15]
- 626.464 [Repealed, 1967 c 870 s 15]
- 626.465 [Repealed, 1967 c 870 s 15]
- 626.466 [Repealed, 1967 c 870 s 15]
- 626.467 [Repealed, 1967 c 870 s 15]
- 626.468 [Repealed, 1967 c 870 s 15]
- 626.469 [Repealed, 1967 c 870 s 15]
- 626.47 [Renumbered 299C 17]
- 626.48 [Renumbered 299C 18]
- 626.49 [Renumbered 299C 19]

626.50 [Renumbered 299C 20]

626.51 [Renumbered 299C 21]

## REPORTS

### 626.52 REPORTING OF SUSPICIOUS WOUNDS BY HEALTH PROFESSIONALS.

Subdivision 1 **Definition.** As used in this section, "health professional" means a physician, surgeon, person authorized to engage in the practice of healing, superintendent or manager of a hospital, nurse, or pharmacist

Subd 2 **Health professionals required to report.** A health professional shall immediately report, as provided under section 626 53, to the local police department or county sheriff all bullet wounds, gunshot wounds, powder burns, or any other injury arising from, or caused by the discharge of any gun, pistol, or any other firearm, which wound the health professional is called upon to treat, dress, or bandage

A health professional shall report to the proper police authorities any wound that the reporter has reasonable cause to believe has been inflicted on a perpetrator of a crime by a dangerous weapon other than a firearm as defined under section 609.02, subdivision 6

Subd 3 **Reporting burns.** A health professional shall file a written report with the state fire marshal within 72 hours after being notified of a burn injury or wound that the professional is called upon to treat, dress, or bandage, if the victim has sustained second- or third-degree burns to five percent or more of the body, the victim has sustained burns to the upper respiratory tract or sustained laryngeal edema from inhaling superheated air, or the victim has sustained a burn injury or wound that may result in the victim's death The state fire marshal shall provide the form for the report

**History:** (9950-22a) 1935 c 165 s 1, 1963 c 489 s 1, 1965 c 759 s 1, 1985 c 288 s 1, 1986 c 444, 1988 c 548 s 1,2, 1989 c 290 art 8 s 3

### 626.53 REPORT BY TELEPHONE AND LETTER.

Subdivision 1 **Reports to sheriffs and police chiefs.** The report required by section 626.52, subdivision 2, shall be made forthwith by telephone or in person, and shall be promptly supplemented by letter, enclosed in a securely sealed, postpaid envelope, addressed to the sheriff of the county in which the wound is examined, dressed, or otherwise treated, except that, if the place in which the patient is treated for such injury or the patient's wound dressed or bandaged be in a city of the first, second, or third class, such report shall be made and transmitted as herein provided to the chief of police of such city instead of the sheriff Except as otherwise provided in subdivision 2, the office of any such sheriff and of any such chief of police shall keep the report as a confidential communication and shall not disclose the name of the person making the same, and the party making the report shall not by reason thereof be subpoenaed, examined, or forced to testify in court as a consequence of having made such a report

Subd 2 **Reports to department of health.** Upon receiving a report of a wound caused by or arising from the discharge of a firearm, the sheriff or chief of police shall forward the information contained in the report to the commissioner of health The commissioner of health shall keep the report as a confidential communication, as provided under subdivision 1 The commissioner shall maintain a statewide, computerized record system containing summary data, as defined in section 13 02, on information received under this subdivision

**History:** (9950-23) 1935 c 165 s 2, 1986 c 444, 1988 c 548 s 3, 1995 c 244 s 38

### 626.54 APPLICATION OF SECTIONS 626.52 TO 626.55.

The requirements of sections 626 52 to 626 55 shall not apply to a nurse employed in a hospital nor to a nurse regularly employed by a physician, surgeon, or other person practicing healing, where the employer has made a proper report in compliance therewith

**History:** (9950-24) 1935 c 165 s 3

**626.55 PENALTY.**

Subdivision 1 Any person who violates any provision of sections 626 52 to 626 55, other than section 626 52, subdivision 3, is guilty of a gross misdemeanor

Subd 2 Any person reporting in good faith and exercising due care shall have immunity from any liability, civil or criminal, that otherwise might result by reason of the person's actions pursuant to this section No cause of action may be brought against any person for not making a report pursuant to this section

**History:** (9950-25) 1935 c 165 s 4, 1985 c 288 s 2, 1986 c 444; 1988 c 548 s 4

**626.553 GUNSHOT WOUNDS; PEACE OFFICERS, DISCHARGING FIREARMS; INVESTIGATIONS, REPORTS.**

Subdivision 1 Upon receipt of the report required in sections 626 52 and 626 53, the sheriff or chief of police receiving the report shall determine the general cause of the wound, and upon determining that the wound was caused by an action connected with the occupation or sport of hunting or shooting the sheriff or chief of police shall immediately conduct a detailed investigation into the facts surrounding the incident or occurrence which occasioned the injury or death reported The investigating officer shall report the findings of the investigation to the commissioner of natural resources on forms provided by the commissioner for this purpose

Subd 2 Whenever a peace officer discharges a firearm in the course of duty, other than for training purposes or the killing of an animal that is sick, injured, or dangerous, notification shall be filed within 30 days of the incident by the officer's department head with the commissioner of public safety The commissioner of public safety shall forward a copy of the filing to the board of peace officer standards and training The notification shall contain information concerning the reason for and circumstances surrounding discharge of the firearm The commissioner of public safety shall file a report with the legislature by November 15 of each even-numbered year containing summary information concerning use of firearms by peace officers

**History:** 1957 c 407 s 1, 1969 c 1129 art 10 s 2, 1977 c 455 s 89, 1983 c 293 s 108, 1986 c 444, 1991 c 141 s 1

**626.5531 REPORTING OF CRIMES MOTIVATED BY BIAS.**

Subdivision 1 **Reports required.** A peace officer must report to the head of the officer's department every violation of chapter 609 or a local criminal ordinance if the officer has reason to believe, or if the victim alleges, that the offender was motivated to commit the act by the victim's race, religion, national origin, sex, age, disability, or characteristics identified as sexual orientation. The superintendent of the bureau of criminal apprehension shall adopt a reporting form to be used by law enforcement agencies in making the reports required under this section The reports must include for each incident all of the following

- (1) the date of the offense,
- (2) the location of the offense,
- (3) whether the target of the incident is a person, private property, or public property,
- (4) the crime committed,
- (5) the type of bias and information about the offender and the victim that is relevant to that bias,
- (6) any organized group involved in the incident,
- (7) the disposition of the case,
- (8) whether the determination that the offense was motivated by bias was based on the officer's reasonable belief or on the victim's allegation, and
- (9) any additional information the superintendent deems necessary for the acquisition of accurate and relevant data

Subd 2 **Use of information collected.** The head of a local law enforcement agency or state law enforcement department that employs peace officers licensed under section 626 843 must file a monthly report describing crimes reported under this section with the

department of public safety, bureau of criminal apprehension The commissioner of public safety must summarize and analyze the information received and file an annual report with the department of human rights and the legislature The commissioner may include information in the annual report concerning any additional criminal activity motivated by bias that is not covered by this section

**History:** 1988 c 643 s 1, 1989 c 261 s 9, 1992 c 571 art 15 s 12

### 626.5532 PURSUIT OF FLEEING SUSPECTS BY PEACE OFFICERS.

**Subdivision 1 Reports.** If a peace officer pursues a fleeing suspect, the officer's department head must file a notice of the incident with the commissioner of public safety within 30 days following the pursuit. A pursuit must be reported under this section if it is a pursuit by a peace officer of a motor vehicle being operated in violation of section 609.487 The notice must contain information concerning the reason for and circumstances surrounding the pursuit, including the alleged offense, the length of the pursuit in distance and time, the outcome of the pursuit, any charges filed against the suspect as a result of the pursuit, injuries and property damage resulting from the pursuit, and other information deemed relevant by the commissioner

**Subd 2 Local governments to adopt procedures and training requirements.** Each political subdivision and state law enforcement agency that employs persons licensed by the peace officer standards and training board under section 626.845 must establish written procedures to govern the conduct of peace officers who are in pursuit of a vehicle being operated in violation of section 609.487, and requirements for the training of peace officers in conducting pursuits The procedures must state how peace officers will provide assistance to a person injured during the course of a pursuit A political subdivision or agency that does not establish procedures and requirements by October 1, 1989, is subject to licensing sanctions of the peace officer standards and training board

**History:** 1988 c 712 s 17

**626.554** [Repealed, 1975 c 221 s 2]

**626.555** [Repealed, 1980 c 542 s 2]

### 626.556 REPORTING OF MALTREATMENT OF MINORS.

**Subdivision 1 Public policy.** The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through physical abuse, neglect, or sexual abuse In furtherance of this public policy, it is the intent of the legislature under this section to strengthen the family and make the home, school, and community safe for children by promoting responsible child care in all settings, and to provide, when necessary, a safe temporary or permanent home environment for physically or sexually abused or neglected children

In addition, it is the policy of this state to require the reporting of neglect, physical or sexual abuse of children in the home, school, and community settings, to provide for the voluntary reporting of abuse or neglect of children, to require the assessment and investigation of the reports, and to provide protective and counseling services in appropriate cases

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

(a) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342, 609.343, 609.344, or 609.345 Sexual abuse also includes any act which involves a minor which constitutes a violation of sections 609.321 to 609.324 or 617.246 Sexual abuse includes threatened sexual abuse

(b) "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, 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

(c) "Neglect" means failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter or medical care when reasonably able to do so, failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so, or failure to take steps to ensure that a child is educated in accordance with state law. Nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care, except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care. Neglect includes prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance. Neglect also means "medical neglect" as defined in section 260.015, subdivision 2a, clause (5).

(d) "Physical abuse" means any physical or 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 and deprivation procedures that have not been authorized under section 245.825.

(e) "Report" means any report received by the local welfare agency, police department, or county sheriff pursuant to this section.

(f) "Facility" means a day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed pursuant to sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16.

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

(h) "Commissioner" means the commissioner of human services.

(i) "Assessment" includes authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing the risk to the child, and formulating a plan.

(j) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and visitation expeditor services.

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

(l) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury.

**Subd 3. Persons mandated to report.** (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, police department, or the county sheriff if the person is

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement, or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595 02, subdivision 1, paragraph (c)

The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency orally and in writing. The local welfare agency, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency orally and in writing. The local welfare agency, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b.

(d) Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

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

**Subd 3a Report of deprivation of parental rights or kidnapping.** A person mandated to report under subdivision 3, who knows or has reason to know of a violation of section 609 25 or 609.26, shall report the information to the local police department or the county sheriff. Receipt by a local welfare agency of a report or notification of a report of a violation of section 609 25 or 609 26 shall not be construed to invoke the duties of subdivision 10, 10a, or 10b.

**Subd 4 Immunity from liability.** (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626 5561 or assisting in an assessment under this section or under section 626 5561,

(2) any person with responsibility for performing duties under this section or supervisor employed by a local welfare agency or the commissioner complying with subdivision 10d, and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency or local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626 5561.

(b) A person who is a supervisor or person with responsibility for performing duties under this section employed by a local welfare agency or the commissioner complying with subdivisions 10 and 11 or section 626.5561 or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j).

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

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs

**Subd 4a Retaliation prohibited.** (a) An employer of any person required to make reports under subdivision 3 shall not retaliate against the person for reporting in good faith abuse or neglect pursuant to this section, or against a child with respect to whom a report is made, because of the report

(b) The employer of any person required to report under subdivision 3 who retaliates against the person because of a report of abuse or neglect is liable to that person for actual damages and, in addition, a penalty up to \$10,000

(c) There shall be a rebuttable presumption that any adverse action within 90 days of a report is retaliatory. For purposes of this paragraph, the term "adverse action" refers to action taken by an employer of a person required to report under subdivision 3 which is involved in a report against the person making the report or the child with respect to whom the report was made because of the report, and includes, but is not limited to.

(1) discharge, suspension, termination, or transfer from the facility, institution, school, or agency,

(2) discharge from or termination of employment,

(3) demotion or reduction in remuneration for services, or

(4) restriction or prohibition of access to the facility, institution, school, agency, or persons affiliated with it

**Subd 5 Malicious and reckless reports.** Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees

**Subd 6 Failure to report.** A person mandated by this section to report who knows or has reason to believe that a child is neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor. A parent, guardian, or caretaker who knows or reasonably should know that the child's health is in serious danger and who fails to report as required by subdivision 2, paragraph (c), is guilty of a gross misdemeanor if the child suffers substantial or great bodily harm because of the lack of medical care. If the child dies because of the lack of medical care, the person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both. The provision in section 609.378, subdivision 1, paragraph (a), clause (1), providing that a parent, guardian, or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report under this subdivision

**Subd 6a Failure to notify.** If a local welfare agency receives a report under subdivision 3, paragraph (a) or (b) and fails to notify the local police department or county sheriff as required by subdivision 3, paragraph (a) or (b), the person within the agency who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees. If a local police department or a county sheriff receives a report under subdivision 3, paragraph (a) or (b) and fails to notify the local welfare agency as required by subdivision 3, paragraph (a) or (b), the person within the police department or county sheriff's office who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees

**Subd 7 Report.** An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff or local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and ex-

tent of the abuse or neglect and the name and address of the reporter. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department shall be forwarded immediately to the local police department or the county sheriff.

A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

**Subd 8 Evidence not privileged.** No evidence relating to the neglect or abuse of a child or to any prior incidents of neglect or abuse involving any of the same persons accused of neglect or abuse shall be excluded in any proceeding arising out of the alleged neglect or physical or sexual abuse on the grounds of privilege set forth in section 595.02, subdivision 1, paragraph (a), (d), or (g).

**Subd 9 Mandatory reporting to a medical examiner or coroner.** When a person required to report under the provisions of subdivision 3 knows or has reason to believe a child has died as a result of neglect or physical or sexual abuse, the person shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department, or county sheriff. Medical examiners or coroners shall notify the local welfare agency or police department or county sheriff in instances in which they believe that the child has died as a result of neglect or physical or sexual abuse. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local welfare agency. If the child was receiving services or treatment for mental illness, mental retardation or a related condition, chemical dependency, or emotional disturbance from an agency, facility, or program as defined in section 245.91, the medical examiner or coroner shall also notify and report findings to the ombudsman established under sections 245.91 to 245.97.

**Subd 10 Duties of local welfare agency and local law enforcement agency upon receipt of a report.** (a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97.

(c) Authority of the local welfare agency responsible for assessing the child abuse or neglect report and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside

the presence of the alleged offender or parent, legal custodian, guardian, or school official. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 49.02 of the Minnesota rules of procedure for juvenile courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare or local law enforcement agency determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded. Until that time, the local welfare or law enforcement agency shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

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

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

(g) The commissioner, the ombudsman for mental health and mental retardation, the local welfare agencies responsible for investigating reports, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the

individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings

(h) The local welfare agency shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report, the child allegedly being maltreated; the alleged offender, the child's caretaker, and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency may make a determination of no maltreatment early in an assessment, and close the case and retain immunity, if the collected information shows no basis for a full assessment or investigation.

Information relevant to the assessment or investigation must be asked for, and may include.

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation,

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

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child, (ii) prior medical records relating to the alleged maltreatment or the care of the child and an interview with the treating professionals, and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

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

Nothing in this paragraph precludes the local welfare agency from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11.

(1) In the initial stages of an assessment or investigation, the local welfare agency shall conduct a face-to-face observation of the child reported to be maltreated and a face-to-face interview of the alleged offender. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) The local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. The following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources, and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

**Subd. 10a Abuse outside family unit.** If the report alleges neglect, physical abuse, or sexual abuse by a person responsible for the child's care functioning outside the family unit in a setting other than a facility as defined in subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect. The local welfare agency shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

**Subd. 10b Duties of commissioner; neglect or abuse in facility.** (a) The commissioner shall immediately investigate if the report alleges that

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, or sexually abused by an individual in that facility, or has been so neglected or abused by an individual in that facility within the three years preceding the report, or

(2) a child was neglected, physically abused, or sexually abused by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report

The commissioner shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians

(b) Prior to any interview, the commissioner or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j).

(d) Except for foster care and family child care, the commissioner has the primary responsibility for the investigations and notifications required under subdivisions 10d and 10f for reports that allege maltreatment related to the care provided by or in facilities licensed by the commissioner. The commissioner may request assistance from the local social service agency.

**Subd 10c Duties of local social service agency upon receipt of a report of medical neglect.** If the report alleges medical neglect as defined in section 260.015, subdivision 2a, clause (5), the local welfare agency shall, in addition to its other duties under this section, immediately consult with designated hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration, and medication are being provided, and shall immediately secure an independent medical review of the infant's medical charts and records and, if necessary, seek a court order for an independent medical examination of the infant. If the review or examination leads to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by initiating legal proceedings under section 260.131 and by filing an expedited motion to prevent the withholding of medically indicated treatment.

**Subd 10d Notification of neglect or abuse in facility.** (a) When a report is received that alleges neglect, physical abuse, or sexual abuse of a child while in the care of a facility required to be licensed pursuant to chapter 245A, the commissioner or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, or sexually abused: the name of the facility; the fact that a report alleging neglect, physical abuse, or sexual abuse of a child in the facility has been received, the nature of the alleged neglect, physical abuse, or sexual abuse, that the agency is conducting an investigation, any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, or sexual abuse has occurred. In determining whether to exercise this authority, the commissioner or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, or sexual abuse, the number of children allegedly neglected, physically abused, or

sexually abused, the number of alleged perpetrators, and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner or local welfare agency has completed its investigation, every parent, guardian, or legal custodian notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, or sexual abuse, the investigator's name, a summary of the investigation findings, a statement whether maltreatment was found, and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. The commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility if maltreatment is determined to exist.

**Subd 10e Determinations.** Upon the conclusion of every assessment or investigation it conducts, the local welfare agency shall make two determinations: first, whether maltreatment has occurred, and second, whether child protective services are needed. When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible for the maltreatment using the mitigating factors in paragraph (d). Determinations under this subdivision must be made based on a preponderance of the evidence.

(a) For the purposes of this subdivision, "maltreatment" means any of the following acts or omissions committed by a person responsible for the child's care:

- (1) physical abuse as defined in subdivision 2, paragraph (d),
- (2) neglect as defined in subdivision 2, paragraph (c),
- (3) sexual abuse as defined in subdivision 2, paragraph (a), or
- (4) mental injury as defined in subdivision 2, paragraph (k).

(b) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(c) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(d) When determining whether the facility or individual is the responsible party for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive, however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care,

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion, and

(3) whether the facility or individual followed professional standards in exercising professional judgment.



(e) The commissioner shall work with the maltreatment of minors advisory committee established under Laws 1997, chapter 203, to make recommendations to further specify the kinds of acts or omissions that constitute physical abuse, neglect, sexual abuse, or mental injury. The commissioner shall submit the recommendation and any legislation needed by January 15, 1999. Individual counties may implement more detailed definitions or criteria that indicate which allegations to investigate, as long as a county's policies are consistent with the definitions in the statutes and rules and are approved by the county board. Each local welfare agency shall periodically inform mandated reporters under subdivision 3 who work in the county of the definitions of maltreatment in the statutes and rules and any additional definitions or criteria that have been approved by the county board.

**Subd 10f Notice of determinations.** Within ten working days of the conclusion of an assessment, the local welfare agency shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal rights under this section.

**Subd 10g Interstate data exchange.** All reports and records created, collected, or maintained under this section by a local social service agency or law enforcement agency may be disclosed to a local social service or other child welfare agency of another state when the agency certifies that:

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

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

The local social service agency or law enforcement agency in this state shall keep a record of all records or reports disclosed pursuant to this subdivision and of any agency to which the records or reports are disclosed. If in any case records or reports are disclosed before a determination is made under subdivision 10e, or a disposition of any criminal proceedings is reached, the local social service agency or law enforcement agency in this state shall forward the determination or disposition to any agency that has received any report or record under this subdivision.

**Subd. 10h Child abuse data; release to family court services.** The responsible authority or its designee of a local welfare agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under this section to a court services agency if:

(1) the court services agency has an active case involving a common client or clients who are the subject of the data, and

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

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

**Subd 10i Administrative reconsideration of final determination of maltreatment.**  
(a) An individual or facility that the commissioner or a local social service agency determines has maltreated a child, or the child's designee, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment.

(b) If the investigating agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services a written request for a hearing under that section

(c) If, as a result of the reconsideration, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f

**Subd 10j Release of data to mandated reporters.** A local social service or child protection agency may provide relevant private data on individuals obtained under this section to mandated reporters who have an ongoing responsibility for the health, education, or welfare of a child affected by the data. The commissioner shall consult with the maltreatment of minors advisory committee to develop criteria for determining which records may be shared with mandated reporters under this subdivision

**Subd 10k Release of certain investigative records to other counties.** Records maintained under subdivision 11c, paragraph (a), may be shared with another local welfare agency that requests the information because it is conducting an investigation under this section of the subject of the records

**Subd 11 Records.** (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13 82, subdivisions 5, 5a, and 5b, apply to law enforcement data other than the reports. The local social services agency shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13 04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure

(b) Upon request of the legislative auditor, data on individuals maintained under this section must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data in accordance with chapter 13

**Subd 11a Disclosure of information not required in certain cases.** When interviewing a minor under subdivision 10, an individual does not include the parent or guardian of the minor for purposes of section 13 04, subdivision 2, when the parent or guardian is the alleged perpetrator of the abuse or neglect

**Subd. 11b Data received from law enforcement.** Active law enforcement investigative data received by a local welfare agency under this section are confidential data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals

Subd 11c **Welfare, court services agency, and school records maintained.** Notwithstanding sections 138 163 and 138 17, records maintained or records derived from reports of abuse by local welfare agencies, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority

(a) If upon assessment or investigation there is no determination of maltreatment or the need for child protective services, the records must be maintained for a period of four years. Records under this paragraph may not be used for employment, background checks, or purposes other than to assist in future risk and safety assessments

(b) All records relating to reports which, upon assessment or investigation, indicate either maltreatment or a need for child protective services shall be maintained for at least ten years after the date of the final entry in the case record

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

(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision

Subd 11d **Disclosure in child fatality or near fatality cases.** (a) The definitions in this paragraph apply to this section

(1) "Child fatality" means the death of a child from suspected abuse, neglect, or maltreatment.

(2) "Near fatality" means a case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment

(3) "Findings and information" means a written summary described in paragraph (c) of actions taken or services rendered by a local social services agency following receipt of a report

(b) Notwithstanding any other provision of law and subject to this subdivision, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if

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

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

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

(1) the dates, outcomes, and results of any actions taken or services rendered,

(2) the results of any review of the state child mortality review panel, a local child mortality review panel, a local community child protection team, or any public agency, and

(3) confirmation of the receipt of all reports, accepted or not accepted, by the local welfare agency for assessment of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of the basis for the agency's determination

(d) Nothing in this subdivision authorizes access to the private data in the custody of a local social services agency, or the disclosure to the public of the records or content of any psychiatric, psychological, or therapeutic evaluations, or the disclosure of information that would reveal the identities of persons who provided information related to suspected abuse, neglect, or maltreatment of the child.

(e) A person whose request is denied may apply to the appropriate court for an order compelling disclosure of all or part of the findings and information of the public agency. The

application must set forth, with reasonable particularity, factors supporting the application. The court has jurisdiction to issue these orders. Actions under this section must be set down for immediate hearing, and subsequent proceedings in those actions must be given priority by the appellate courts.

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

**Subd 12 Duties of facility operators.** Any operator, employee, or volunteer worker at any facility who intentionally neglects, physically abuses, or sexually abuses any child in the care of that facility may be charged with a violation of section 609 255, 609 377, or 609 378. Any operator of a facility who knowingly permits conditions to exist which result in neglect, physical abuse, or sexual abuse of a child in the care of that facility may be charged with a violation of section 609 378.

**Subd 13** [Repealed, 1988 c 625 s 9]

**Subd 14 Conflict of interest.** (a) A potential conflict of interest related to assisting in an assessment under this section resulting in a direct or shared financial interest with a child abuse and neglect treatment provider or resulting from a personal or family relationship with a party in the investigation must be considered by the local welfare agency in an effort to prevent unethical relationships.

(b) A person who conducts an assessment under this section or section 626 5561 may not have

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

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

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

**Subd 15 Auditing.** The commissioner of human services shall regularly audit for accuracy the data reported by counties on maltreatment of minors.

**History:** 1975 c 221 s 1, 1977 c 130 s 9, 1977 c 212 s 2,3, 1978 c 755 s 1-9, 1979 c 143 s 1, 1979 c 255 s 7, 1980 c 509 s 50,181, 1981 c 240 s 2, 1981 c 273 s 12; 1981 c 311 s 39; 1Sp1981 c 4 art 1 s 15, 1982 c 393 s 1,2, 1982 c 545 s 24, 1982 c 636 s 1-4, 1983 c 217 s 8, 1983 c 229 s 1,2, 1983 c 345 s 13-19; 1984 c 484 s 3, 1984 c 573 s 10; 1984 c 577 s 1-6, 1984 c 588 s 12, 1984 c 654 art 5 s 58, 1984 c 655 art 2 s 14 subd 1, 1985 c 266 s 5-15; 1985 c 283 s 2-4, 1985 c 286 s 19,20, 1985 c 293 s 3-5, 1986 c 351 s 19,20, 1986 c 380 s 3, 1986 c 444, 1986 c 469 s 2, 1Sp1986 c 3 art 1 s 77, 1987 c 91 s 1-3; 1987 c 110 s 12, 1987 c 135 s 1-3, 1987 c 211 s 1, 1987 c 333 s 22, 1987 c 352 s 9,10, 1988 c 543 s 11,12; 1988 c 625 s 2-8, 1988 c 662 s 4, 1989 c 177 s 2,3, 1989 c 209 art 2 s 1, 1989 c 282 art 2 s 200,201; 1989 c 290 art 5 s 4, 1990 c 426 art 1 s 55, 1990 c 542 s 20-26, 1991 c 181 s 1, 1991 c 319 s 24,25, 1993 c 13 art 1 s 50, 1993 c 296 s 3, 1993 c 306 s 18,19; 1993 c 326 art 6 s 23, 1993 c 351 s 37,38, 1994 c 434 s 8-10, 1994 c 631 s 31, 1994 c 636 art 2 s 57-59, art 4 s 30, 1995 c 187 s 1-7, 1995 c 229 art 4 s 20, 1997 c 203 art 5 s 25-30; 1997 c 245 art 2 s 8; 1Sp1997 c 3 s 44, 3Sp1997 c 3 s 10, 1998 c 406 art 1 s 36,37, art 4 s 2-7, 1998 c 407 art 9 s 35; 1Sp1998 c 3 s 25

## 626.5561 REPORTING OF PRENATAL EXPOSURE TO CONTROLLED SUBSTANCES.

**Subdivision 1 Reports required.** A person mandated to report under section 626 556, subdivision 3, shall immediately report to the local welfare agency if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy. Any person may make a voluntary report if the person knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy. An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the local wel-

fare agency Any report shall be of sufficient content to identify the pregnant woman, the nature and extent of the use, if known, and the name and address of the reporter

Subd 2 **Local welfare agency.** If the report alleges a pregnant woman's use of a controlled substance for a nonmedical purpose, the local welfare agency shall immediately conduct an appropriate assessment and offer services indicated under the circumstances Services offered may include, but are not limited to, a referral for chemical dependency assessment, a referral for chemical dependency treatment if recommended, and a referral for prenatal care The local welfare agency may also take any appropriate action under chapter 253B, including seeking an emergency admission under section 253B 05 The local welfare agency shall seek an emergency admission under section 253B 05 if the pregnant woman refuses recommended voluntary services or fails recommended treatment

Subd 3 **Related provisions.** Reports under this section are governed by section 626 556, subdivisions 4, 4a, 5, 6, 8, and 11

Subd 4 **Controlled substances.** For purposes of this section and section 626 5562, "controlled substance" means a controlled substance listed in section 253B 02, subdivision 2

Subd 5 **Immunity.** (a) A person making a voluntary or mandated report under subdivision 1 or assisting in an assessment under subdivision 2 is immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith

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

**History:** 1989 c 290 art 5 s 5, 1990 c 542 s 27-30

## 626.5562 TOXICOLOGY TESTS REQUIRED.

Subdivision 1 **Test; report.** A physician shall administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within eight hours after delivery to determine whether there is evidence that she has ingested a controlled substance, if the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose If the test results are positive, the physician shall report the results under section 626.5561 A negative test result does not eliminate the obligation to report under section 626 5561, if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose

Subd 2 **Newborns.** A physician shall administer to each newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance, if the physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose during the pregnancy. If the test results are positive, the physician shall report the results as neglect under section 626 556 A negative test result does not eliminate the obligation to report under section 626 556 if other medical evidence of prenatal exposure to a controlled substance is present

Subd 3 **Report to department of health.** Physicians shall report to the department of health the results of tests performed under subdivisions 1 and 2 A report shall be made on the certificate of live birth medical supplement or the report of fetal death medical supplement filed on or after February 1, 1991 The reports are medical data under section 13 42

Subd 4 **Immunity from liability.** Any physician or other medical personnel administering a toxicology test to determine the presence of a controlled substance in a pregnant woman, in a woman within eight hours after delivery, or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test, if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with an established protocol and reasonable medical practice

Subd 5 **Reliability of tests.** A positive test result reported under this section must be obtained from a confirmatory test performed by a drug testing laboratory which meets the requirements of section 181 953, and must be performed according to the requirements for

performance of confirmatory tests imposed by the licensing, accreditation, or certification program listed in section 181 953, subdivision 1, in which the laboratory participates

**History:** 1989 c 290 art 5 s 6, 1990 c 542 s 31–33, 1991 c 36 s 4, 1991 c 60 s 10

### 626.5563 REPORTING PRENATAL EXPOSURE TO ALCOHOL ABUSE.

Subdivision 1 **Definition.** For purposes of this section, “abuse of alcohol” means:

(1) the person has required detoxification for alcohol intoxication during the pregnancy, or

(2) the person is found to have a possible alcohol problem through the use of a validated alcohol screening test approved by the commissioner of human services.

Subd 2 **Report permitted.** (a) If a person mandated to report under section 626 556, subdivision 3, knows or has reason to believe that a woman is pregnant and has knowingly abused alcohol after she knows of the pregnancy, the person may

(1) arrange for a chemical use assessment conducted according to rules adopted by the commissioner of human services under section 254A 03, subdivision 3, and confirm that the recommendations indicated by the assessment are followed, or

(2) immediately report to the local welfare agency or maternal child substance abuse project

(b) If the woman is referred for a chemical use assessment under paragraph (a), clause (1), and fails to obtain an assessment or refuses to comply with the recommendations of the assessment, a report must be made to the local welfare agency or maternal child substance abuse project providing services to the area where the woman resides

(c) Any adult household member may make a voluntary report if the person knows or has reason to believe that a woman in the household is pregnant and has abused alcohol during the pregnancy

(d) A report shall be of sufficient content to identify the pregnant woman, the nature and extent of the abuse of alcohol, any health risk associated with the abuse of alcohol, if known, and the name and address of the reporter

Subd 3 **Local welfare agency.** (a) A local welfare agency receiving a report under subdivision 2 shall, within five working days, conduct an appropriate assessment and offer services indicated under the circumstances. The local welfare agency may meet this requirement by referral to a local maternal child substance abuse project

(b) Services offered must include a chemical use assessment conducted according to rules adopted by the commissioner of human services under section 254A 03, subdivision 3. If the chemical use assessment indicates that the woman is in need of chemical dependency treatment, the local welfare agency must arrange for provision of the indicated level of chemical dependency care

(c) If the woman refuses to comply with the recommendations of the chemical use assessment or is found by a maternal child substance abuse project to be continuing the abuse of alcohol, the noncompliance must be reported to the local welfare agency. The local welfare agency shall report the disposition of all cases of noncompliance to the commissioner of human services

Subd 4 **Immunity.** A person making a report under subdivision 2 or assisting in an assessment under subdivision 3 is immune from civil or criminal liability if the person acted in good faith in making the report. If a person mandated to report under section 626 556, subdivision 3, does not make a report under subdivision 2, that person is not subject to the penalties of section 626 556, subdivision 6, for failure to report. No civil, criminal, or administrative proceeding may be instituted against a person for not making a report under subdivision 2

Subd 5 **Data on reporters.** Data on persons making reports under this section are confidential data on individuals as defined in section 13 02

**History:** 1998 c 361 s 2

**626.5565 RELATIVE CARE AGREEMENT.**

Subdivision 1 **Definitions.** (a) For purposes of this section, "relative" means an adult who is a stepparent, grandparent, brother, sister, uncle, aunt, or other extended family member of the minor by blood, marriage, or adoption

For an Indian child, "relative" includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of law or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1903

(b) For purposes of this section, "relative care" means one or more of the following respite care, a monitoring agreement, a designated caregiver agreement under chapter 257A, access to information about a child, the right to make decisions about a child's residence, education, religious training, or health care, a custody consent decree under section 257 0215, or joint or sole legal or physical custody of a child

(c) For purposes of this section, "relative care agreement" means an agreement regarding the care of a child that has been reached by the parents and interested relatives of the child after the parents and interested relatives have participated in a facilitated relative care conference under this section

Subd 2 **Relative care conference.** If, upon assessment of a report of neglect or physical or sexual abuse under section 626 556, a local social service agency determines that child protective services are needed, the local social service agency may proceed under this section if it appears from the circumstances of the individual case that a relative care agreement may be in the best interests of the child. The local social service agency may select a facilitator to convene a relative care conference. A facilitator must be certified under chapter 494

Written notice of the conference must be provided to the parents and to all relatives who have expressed an interest in participating or have been identified by other relatives. The notice must state that the purpose of the conference is to provide an opportunity for the parents and relatives to reach an agreement regarding the care of the child and explain the forms of relative care listed in subdivision 1. The notice must also inform the parents and relatives of the potential consequences and range of options if they do not enter into a relative care agreement that is in the best interests of the child and that the local service agency may intervene with protective services or determine that the child should be placed out of the home

The local social service agency shall participate in a relative care conference for the purposes of protecting the child's best interests but may not be a party to a relative care agreement reached by the parents and any participating relatives. A relative care agreement remains in effect unless it expires by its own terms or a parent or a relative who is a party to the agreement seeks to modify or end the agreement. If a relative care agreement results in a transfer of physical custody under section 257 0215 or chapter 518, a parent who seeks to have the child returned to the home of the parent without the consent of the relative with whom the child is staying shall file a motion with the court that approved the custody consent decree or ordered the transfer of custody under chapter 518. The parent has the burden of establishing that

- (1) the conditions that led to the transfer of physical custody have been corrected, and
- (2) the parent has demonstrated the ability to care for and provide a stable home for the child

**History:** 1997 c 65 s 5; 1997 c 112 s 8

**626.557 REPORTING OF MALTREATMENT OF VULNERABLE ADULTS.**

Subdivision 1 **Public policy.** The legislature declares that the public policy of this state is to protect adults who, because of physical or mental disability or dependency on institutional services, are particularly vulnerable to maltreatment; to assist in providing safe environments for vulnerable adults, and to provide safe institutional or residential services, community-based services, or living environments for vulnerable adults who have been maltreated

In addition, it is the policy of this state to require the reporting of suspected maltreatment of vulnerable adults, to provide for the voluntary reporting of maltreatment of vulner-

able adults, to require the investigation of the reports, and to provide protective and counseling services in appropriate cases

Subd 2 [Repealed, 1995 c 229 art 1 s 24]

Subd 3 **Timing of report.** (a) A mandated reporter who has reason to believe that a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained shall immediately report the information to the common entry point. If an individual is a vulnerable adult solely because the individual is admitted to a facility, a mandated reporter is not required to report suspected maltreatment of the individual that occurred prior to admission, unless:

(1) the individual was admitted to the facility from another facility and the reporter has reason to believe the vulnerable adult was maltreated in the previous facility, or

(2) the reporter knows or has reason to believe that the individual is a vulnerable adult as defined in section 626 5572, subdivision 21, clause (4)

(b) A person not required to report under the provisions of this section may voluntarily report as described above

(c) Nothing in this section requires a report of known or suspected maltreatment, if the reporter knows or has reason to know that a report has been made to the common entry point.

(d) Nothing in this section shall preclude a reporter from also reporting to a law enforcement agency

Subd 3a **Report not required.** The following events are not required to be reported under this section

(a) A circumstance where federal law specifically prohibits a person from disclosing patient identifying information in connection with a report of suspected maltreatment, unless the vulnerable adult, or the vulnerable adult's guardian, conservator, or legal representative, has consented to disclosure in a manner which conforms to federal requirements. Facilities whose patients or residents are covered by such a federal law shall seek consent to the disclosure of suspected maltreatment from each patient or resident, or a guardian, conservator, or legal representative, upon the patient's or resident's admission to the facility. Persons who are prohibited by federal law from reporting an incident of suspected maltreatment shall immediately seek consent to make a report.

(b) Verbal or physical aggression occurring between patients, residents, or clients of a facility, or self-abusive behavior by these persons does not constitute abuse unless the behavior causes serious harm. The operator of the facility or a designee shall record incidents of aggression and self-abusive behavior to facilitate review by licensing agencies and county and local welfare agencies

(c) Accidents as defined in section 626 5572, subdivision 3

(d) Events occurring in a facility that result from an individual's single mistake, as defined in section 626 5572, subdivision 17, paragraph (c), clause (4)

(e) Nothing in this section shall be construed to require a report of financial exploitation, as defined in section 626.5572, subdivision 9, solely on the basis of the transfer of money or property by gift or as compensation for services rendered.

Subd 4 **Reporting.** A mandated reporter shall immediately make an oral report to the common entry point. Use of a telecommunications device for the deaf or other similar device shall be considered an oral report. The common entry point may not require written reports. To the extent possible, the report must be of sufficient content to identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected maltreatment. A mandated reporter may disclose not public data, as defined in section 13 02, and medical records under section 144 335, to the extent necessary to comply with this subdivision

Subd. 4a. **Internal reporting of maltreatment.** (a) Each facility shall establish and enforce an ongoing written procedure in compliance with applicable licensing rules to ensure that all cases of suspected maltreatment are reported. If a facility has an internal reporting procedure, a mandated reporter may meet the reporting requirements of this section by re-



porting internally. However, the facility remains responsible for complying with the immediate reporting requirements of this section.

(b) A facility with an internal reporting procedure that receives an internal report by a mandated reporter shall give the mandated reporter a written notice stating whether the facility has reported the incident to the common entry point. The written notice must be provided within two working days and in a manner that protects the confidentiality of the reporter.

(c) The written response to the mandated reporter shall note that if the mandated reporter is not satisfied with the action taken by the facility on whether to report the incident to the common entry point, then the mandated reporter may report externally.

(d) A facility may not prohibit a mandated reporter from reporting externally, and a facility is prohibited from retaliating against a mandated reporter who reports an incident to the common entry point in good faith. The written notice by the facility must inform the mandated reporter of this protection from retaliatory measures by the facility against the mandated reporter for reporting externally.

**Subd 5 Immunity; protection for reporters.** (a) A person who makes a good faith report is immune from any civil or criminal liability that might otherwise result from making the report, or from participating in the investigation, or for failure to comply fully with the reporting obligation under section 609.234 or 626.557, subdivision 7.

(b) A person employed by a lead agency or a state licensing agency who is conducting or supervising an investigation or enforcing the law in compliance with this section or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is acting in good faith and exercising due care.

(c) A person who knows or has reason to know a report has been made to a common entry point and who in good faith participates in an investigation of alleged maltreatment is immune from civil or criminal liability that otherwise might result from making the report, or from failure to comply with the reporting obligation or from participating in the investigation.

(d) The identity of any reporter may not be disclosed, except as provided in subdivision 12b.

**Subd 6 Falsified reports.** A person or facility who intentionally makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the reported facility, person or persons and for punitive damages up to \$10,000 and attorney's fees.

**Subd 7 Failure to report.** A mandated reporter who negligently or intentionally fails to report is liable for damages caused by the failure. Nothing in this subdivision imposes vicarious liability for the acts or omissions of others.

**Subd 8 Evidence not privileged.** No evidence regarding the maltreatment of the vulnerable adult shall be excluded in any proceeding arising out of the alleged maltreatment on the grounds of lack of competency under section 595.02.

**Subd 9 Common entry point designation.** (a) Each county board shall designate a common entry point for reports of suspected maltreatment. Two or more county boards may jointly designate a single common entry point.

The common entry point is the unit responsible for receiving the report of suspected maltreatment under this section.

(b) The common entry point must be available 24 hours per day to take calls from reporters of suspected maltreatment.

The common entry point shall use a standard intake form that includes

- (1) the time and date of the report,
- (2) the name, address, and telephone number of the person reporting,
- (3) the time, date, and location of the incident,
- (4) the names of the persons involved, including but not limited to, perpetrators, alleged victims, and witnesses,
- (5) whether there was a risk of imminent danger to the alleged victim,

- (6) a description of the suspected maltreatment,
  - (7) the disability, if any, of the alleged victim;
  - (8) the relationship of the alleged perpetrator to the alleged victim;
  - (9) whether a facility was involved and, if so, which agency licenses the facility,
  - (10) any action taken by the common entry point,
  - (11) whether law enforcement has been notified;
  - (12) whether the reporter wishes to receive notification of the initial and final reports,
- and

(13) if the report is from a facility with an internal reporting procedure, the name, mailing address, and telephone number of the person who initiated the report internally

(c) The common entry point is not required to complete each item on the form prior to dispatching the report to the appropriate investigative agency

(d) The common entry point shall immediately report to a law enforcement agency any incident in which there is reason to believe a crime has been committed

(e) If a report is initially made to a law enforcement agency or a lead agency, those agencies shall take the report on the appropriate common entry point intake forms and immediately forward a copy to the common entry point.

(f) The common entry point staff must receive training on how to screen and dispatch reports efficiently and in accordance with this section

(g) When a centralized database is available, the common entry point has access to the centralized database and must log the reports in on the database

**Subd 9a Evaluation and referral of reports made to a common entry point unit.** The common entry point must screen the reports of alleged or suspected maltreatment for immediate risk and make all necessary referrals as follows:

(1) if the common entry point determines that there is an immediate need for adult protective services, the common entry point agency shall immediately notify the appropriate county agency,

(2) if the report contains suspected criminal activity against a vulnerable adult, the common entry point shall immediately notify the appropriate law enforcement agency,

(3) if the report references alleged or suspected maltreatment and there is no immediate need for adult protective services, the common entry point shall notify the appropriate lead agency as soon as possible, but in any event no longer than two working days,

(4) if the report does not reference alleged or suspected maltreatment, the common entry point may determine whether the information will be referred, and

(5) if the report contains information about a suspicious death, the common entry point shall immediately notify the appropriate law enforcement agencies and the ombudsman established under section 245 92. Law enforcement agencies shall coordinate with the local medical examiner and the ombudsman as provided by law

**Subd 9b Response to reports.** Law enforcement is the primary agency to conduct investigations of any incident in which there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately. Each lead agency shall complete the investigative process for reports within its jurisdiction. Any other lead agency, county, adult protective agency, licensed facility, or law enforcement agency shall cooperate and may assist another agency upon request within the limits of its resources and expertise and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). The lead agency shall obtain the results of any investigation conducted by law enforcement officials. The lead agency has the right to enter facilities and inspect and copy records as part of investigations. The lead agency has access to not public data, as defined in section 13 02, and medical records under section 144 335, that are maintained by facilities to the extent necessary to conduct its investigation. Each lead agency shall develop guidelines for prioritizing reports for investigation.

Subd 9c **Lead agency; notifications, dispositions, and determinations.** (a) Upon request of the reporter, the lead agency shall notify the reporter that it has received the report, and provide information on the initial disposition of the report within five business days of receipt of the report, provided that the notification will not endanger the vulnerable adult or hamper the investigation.

(b) Upon conclusion of every investigation it conducts, the lead agency shall make a final disposition as defined in section 626.5572, subdivision 8

(c) When determining whether the facility or individual is the responsible party for substantiated maltreatment, the lead agency shall consider at least the following mitigating factors

(1) whether the actions of the facility or the individual caregivers were in accordance with, and followed the terms of, an erroneous physician order, prescription, resident care plan, or directive This is not a mitigating factor when the facility or caregiver is responsible for the issuance of the erroneous order, prescription, plan, or directive or knows or should have known of the errors and took no reasonable measures to correct the defect before administering care,

(2) the comparative responsibility between the facility, other caregivers, and requirements placed upon the employee, including but not limited to, the facility's compliance with related regulatory standards and factors such as the adequacy of facility policies and procedures, the adequacy of facility training, the adequacy of an individual's participation in the training, the adequacy of caregiver supervision, the adequacy of facility staffing levels, and a consideration of the scope of the individual employee's authority, and

(3) whether the facility or individual followed professional standards in exercising professional judgment

(d) The lead agency shall complete its final disposition within 60 calendar days If the lead agency is unable to complete its final disposition within 60 calendar days, the lead agency shall notify the following persons provided that the notification will not endanger the vulnerable adult or hamper the investigation (1) the vulnerable adult or the vulnerable adult's legal guardian, when known, if the lead agency knows them to be aware of the investigation and (2) the facility, where applicable The notice shall contain the reason for the delay and the projected completion date If the lead agency is unable to complete its final disposition by a subsequent projected completion date, the lead agency shall again notify the vulnerable adult or the vulnerable adult's legal guardian, when known if the lead agency knows them to be aware of the investigation, and the facility, where applicable, of the reason for the delay and the revised projected completion date provided that the notification will not endanger the vulnerable adult or hamper the investigation A lead agency's inability to complete the final disposition within 60 calendar days or by any projected completion date does not invalidate the final disposition

(e) Within ten calendar days of completing the final disposition, the lead agency shall provide a copy of the public investigation memorandum under subdivision 12b, paragraph (b), clause (1), when required to be completed under this section, to the following persons: (1) the vulnerable adult, or the vulnerable adult's legal guardian, if known unless the lead agency knows that the notification would endanger the well-being of the vulnerable adult, (2) the reporter, if the reporter requested notification when making the report, provided this notification would not endanger the well-being of the vulnerable adult, (3) the alleged perpetrator, if known, (4) the facility, and (5) the ombudsman for older Minnesotans, or the ombudsman for mental health and mental retardation, as appropriate

(f) The lead agency shall notify the vulnerable adult who is the subject of the report or the vulnerable adult's legal guardian, if known, and any person or facility determined to have maltreated a vulnerable adult, of their appeal rights under this section

(g) The lead agency shall routinely provide investigation memoranda for substantiated reports to the appropriate licensing boards These reports must include the names of substantiated perpetrators The lead agency may not provide investigative memoranda for inconclusive or false reports to the appropriate licensing boards unless the lead agency's investigation gives reason to believe that there may have been a violation of the applicable professional practice laws If the investigation memorandum is provided to a licensing board, the subject

of the investigation memorandum shall be notified and receive a summary of the investigative findings

(h) In order to avoid duplication, licensing boards shall consider the findings of the lead agency in their investigations if they choose to investigate. This does not preclude licensing boards from considering other information.

(i) The lead agency must provide to the commissioner of human services its final dispositions, including the names of all substantiated perpetrators. The commissioner of human services shall establish records to retain the names of substantiated perpetrators.

**Subd. 9d Administrative reconsideration of final disposition.** Any individual or facility which a lead agency determines has maltreated a vulnerable adult, or the vulnerable adult or vulnerable adult's designee, regardless of the lead agency's determination, who contests the lead agency's final disposition of an allegation of maltreatment, may request the lead agency to reconsider its final disposition. The request for reconsideration must be submitted in writing to the lead agency within 15 calendar days after receipt of notice of final disposition.

If the lead agency denies the request or fails to act upon the request within 15 calendar days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute.

If, as a result of the reconsideration, the lead agency changes the final disposition, it shall notify the parties specified in subdivision 9c, paragraph (d).

**Subd. 9e Education requirements.** (a) The commissioners of health, human services, and public safety shall cooperate in the development of a joint program for education of lead agency investigators in the appropriate techniques for investigation of complaints of maltreatment. This program must be developed by July 1, 1996. The program must include but need not be limited to the following areas: (1) information collection and preservation, (2) analysis of facts, (3) levels of evidence, (4) conclusions based on evidence; (5) interviewing skills, including specialized training to interview people with unique needs, (6) report writing, (7) coordination and referral to other necessary agencies such as law enforcement and judicial agencies, (8) human relations and cultural diversity, (9) the dynamics of adult abuse and neglect within family systems and the appropriate methods for interviewing relatives in the course of the assessment or investigation, (10) the protective social services that are available to protect alleged victims from further abuse, neglect, or financial exploitation; (11) the methods by which lead agency investigators and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts, and (12) data practices laws and procedures, including provisions for sharing data.

(b) The commissioners of health, human services, and public safety shall offer at least annual education to others on the requirements of this section, on how this section is implemented, and investigation techniques.

(c) The commissioner of human services, in coordination with the commissioner of public safety shall provide training for the common entry point staff as required in this subdivision and the program courses described in this subdivision, at least four times per year. At a minimum, the training shall be held twice annually in the seven-county metropolitan area and twice annually outside the seven-county metropolitan area. The commissioners shall give priority in the program areas cited in paragraph (a) to persons currently performing assessments and investigations pursuant to this section.

(d) The commissioner of public safety shall notify in writing law enforcement personnel of any new requirements under this section. The commissioner of public safety shall conduct regional training for law enforcement personnel regarding their responsibility under this section.

(e) Each lead agency investigator must complete the education program specified by this subdivision within the first 12 months of work as a lead agency investigator.

A lead agency investigator employed when these requirements take effect must complete the program within the first year after training is available or as soon as training is available.

All lead agency investigators having responsibility for investigation duties under this section must receive a minimum of eight hours of continuing education or in-service training each year specific to their duties under this section

Subd 10 **Duties of county social service agency.** (a) Upon receipt of a report from the common entry point staff, the county social service agency shall immediately assess and offer emergency and continuing protective social services for purposes of preventing further maltreatment and for safeguarding the welfare of the maltreated vulnerable adult. In cases of suspected sexual abuse, the county social service agency shall immediately arrange for and make available to the vulnerable adult appropriate medical examination and treatment. When necessary in order to protect the vulnerable adult from further harm, the county social service agency shall seek authority to remove the vulnerable adult from the situation in which the maltreatment occurred. The county social service agency may also investigate to determine whether the conditions which resulted in the reported maltreatment place other vulnerable adults in jeopardy of being maltreated and offer protective social services that are called for by its determination.

(b) County social service agencies may enter facilities and inspect and copy records as part of an investigation. The county social service agency has access to not public data, as defined in section 13.02, and medical records under section 144 335, that are maintained by facilities to the extent necessary to conduct its investigation. The inquiry is not limited to the written records of the facility, but may include every other available source of information.

(c) When necessary in order to protect a vulnerable adult from serious harm, the county social service agency shall immediately intervene on behalf of that adult to help the family, vulnerable adult, or other interested person by seeking any of the following:

(1) a restraining order or a court order for removal of the perpetrator from the residence of the vulnerable adult pursuant to section 518B 01,

(2) the appointment of a guardian or conservator pursuant to sections 525.539 to 525 6198, or guardianship or conservatorship pursuant to chapter 252A,

(3) replacement of a guardian or conservator suspected of maltreatment and appointment of a suitable person as guardian or conservator, pursuant to sections 525 539 to 525 6198, or

(4) a referral to the prosecuting attorney for possible criminal prosecution of the perpetrator under chapter 609.

The expenses of legal intervention must be paid by the county in the case of indigent persons, under section 525 703 and chapter 563.

In proceedings under sections 525 539 to 525 6198, if a suitable relative or other person is not available to petition for guardianship or conservatorship, a county employee shall present the petition with representation by the county attorney. The county shall contract with or arrange for a suitable person or organization to provide ongoing guardianship services. If the county presents evidence to the court exercising probate jurisdiction that it has made a diligent effort and no other suitable person can be found, a county employee may serve as guardian or conservator. The county shall not retaliate against the employee for any action taken on behalf of the ward or conservatee even if the action is adverse to the county's interest. Any person retaliated against in violation of this subdivision shall have a cause of action against the county and shall be entitled to reasonable attorney fees and costs of the action if the action is upheld by the court.

Subd. 10a [Repealed, 1995 c 229 art 1 s 24]

Subd 11. [Repealed, 1995 c 229 art 1 s 24]

Subd. 11a [Repealed, 1995 c 229 art 1 s 24]

Subd 12 [Repealed, 1995 c 229 art 1 s 24]

Subd 12a [Repealed, 1983 c 273 s 8]

Subd 12b **Data management.** (a) **County data.** In performing any of the duties of this section as a lead agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13 46. Notwithstanding section 13 46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are

private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall destroy data three calendar years after date of receipt.

(b) **Lead agency data.** The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

(i) the name of the facility investigated,

(ii) a statement of the nature of the alleged maltreatment,

(iii) pertinent information obtained from medical or other records reviewed,

(iv) the identity of the investigator,

(v) a summary of the investigation's findings;

(vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made,

(vii) a statement of any action taken by the facility,

(viii) a statement of any action taken by the lead agency, and

(ix) when a lead agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

(i) the name of the vulnerable adult,

(ii) the identity of the individual alleged to be the perpetrator,

(iii) the identity of the individual substantiated as the perpetrator, and

(iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) **Identity of reporter.** The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) **Destruction of data.** Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be destroyed under the following schedule:

(1) data from reports determined to be false, two years after the finding was made,

(2) data from reports determined to be inconclusive, four years after the finding was made,

(3) data from reports determined to be substantiated, seven years after the finding was made, and

(4) data from reports which were not investigated by a lead agency and for which there is no final disposition, two years from the date of the report.

(e) **Summary of reports.** The commissioners of health and human services shall each annually prepare a summary of the number and type of reports of alleged maltreatment involving licensed facilities reported under this section.

(f) **Record retention policy.** Each lead agency must have a record retention policy

(g) **Exchange of information.** Lead agencies, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13 02, if the agency or authority requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section

(h) **Completion time.** Each lead agency shall keep records of the length of time it takes to complete its investigations

(i) **Notification of other affected parties.** A lead agency may notify other affected parties and their authorized representative if the agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility

(j) **Federal requirements.** Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements

Subd 13 [Repealed, 1995 c 229 art 1 s 24]

Subd 14 **Abuse prevention plans.** (a) Each facility, except home health agencies and personal care attendant services providers, shall establish and enforce an ongoing written abuse prevention plan. The plan shall contain an assessment of the physical plant, its environment, and its population identifying factors which may encourage or permit abuse, and a statement of specific measures to be taken to minimize the risk of abuse. The plan shall comply with any rules governing the plan promulgated by the licensing agency

(b) Each facility, including a home health care agency and personal care attendant services providers, shall develop an individual abuse prevention plan for each vulnerable adult residing there or receiving services from them. The plan shall contain an individualized assessment of the person's susceptibility to abuse, and a statement of the specific measures to be taken to minimize the risk of abuse to that person. For the purposes of this clause, the term "abuse" includes self-abuse

Subd 15 [Repealed, 1995 c 229 art 1 s 24]

Subd 16 **Implementation authority.** (a) By September 1, 1995, the attorney general and the commissioners of health and human services, in coordination with representatives of other entities that receive or investigate maltreatment reports, shall develop the common report form described in subdivision 9. The form may be used by mandated reporters, county social service agencies, law enforcement entities, licensing agencies, or ombudsman offices

(b) The commissioners of health and human services shall as soon as possible promulgate rules necessary to implement the requirements of this section

(c) By December 31, 1995, the commissioners of health, human services, and public safety shall develop criteria for the design of a statewide database utilizing data collected on the common intake form of the common entry point. The statewide database must be accessible to all entities required to conduct investigations under this section, and must be accessible to ombudsman and advocacy programs

(d) By September 1, 1995, each lead agency shall develop the guidelines required in subdivision 9b

Subd 17 **Retaliation prohibited.** (a) A facility or person shall not retaliate against any person who reports in good faith suspected maltreatment pursuant to this section, or against a vulnerable adult with respect to whom a report is made, because of the report.

(b) In addition to any remedies allowed under sections 181 931 to 181 935, any facility or person which retaliates against any person because of a report of suspected maltreatment is liable to that person for actual damages, punitive damages up to \$10,000, and attorney's fees

(c) There shall be a rebuttable presumption that any adverse action, as defined below, within 90 days of a report, is retaliatory. For purposes of this clause, the term "adverse action"

refers to action taken by a facility or person involved in a report against the person making the report or the person with respect to whom the report was made because of the report, and includes, but is not limited to

- (1) discharge or transfer from the facility,
- (2) discharge from or termination of employment,
- (3) demotion or reduction in remuneration for services,
- (4) restriction or prohibition of access to the facility or its residents; or
- (5) any restriction of rights set forth in section 144 651

Subd 18 **Outreach.** The commissioner of human services shall maintain an aggressive program to educate those required to report, as well as the general public, about the requirements of this section using a variety of media. The commissioner of human services shall print and make available the form developed under subdivision 9

Subd 19 [Repealed, 1995 c 229 art 1 s 24]

**History:** 1980 c 542 s 1, 1981 c 311 s 39, 1982 c 393 s 3,4, 1982 c 424 s 130, 1982 c 545 s 24, 1982 c 636 s 5,6, 1983 c 273 s 1-7, 1984 c 640 s 32; 1984 c 654 art 5 s 58, 1985 c 150 s 1-6, 1985 c 293 s 6,7, 1Sp1985 c 14 art 9 s 75, 1986 c 444, 1987 c 110 s 3, 1987 c 211 s 2, 1987 c 352 s 11, 1987 c 378 s 17, 1987 c 384 art 2 s 1, 1988 c 543 s 13, 1989 c 209 art 2 s 1, 1991 c 181 s 2, 1994 c 483 s 1, 1994 c 636 art 2 s 60-62; 1Sp1994 c 1 art 2 s 34, 1995 c 189 s 8; 1995 c 229 art 1 s 1-21, 1996 c 277 s 1, 1996 c 305 art 2 s 66

#### 626.5571 MULTIDISCIPLINARY ADULT PROTECTION TEAM.

Subdivision 1 **Establishment of the team.** A county may establish a multidisciplinary adult protection team comprised of the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, and representatives of health care. In addition, representatives of mental health or other appropriate human service agencies and adult advocate groups may be added to the adult protection team

Subd 2 **Duties of team.** A multidisciplinary adult protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency to better enable the agency to carry out its adult protection functions under section 626 557 and the Community Social Services Act, and to meet the community's needs for adult protection services. Case consultation may be performed by a committee of the team composed of the team members representing social services, law enforcement, the county attorney, health care, and persons directly involved in an individual case as determined by the case consultation committee. Case consultation is a case review process that results in recommendations about services to be provided to the identified adult and family

Subd 3 **Information sharing.** The local welfare agency may make available to members of the team for case consultation all records collected and maintained by the agency under section 626 557 and in connection with case consultation. Any member of the case consultation committee may share data, acquired in the member's professional capacity, with the committee to assist the committee in its function. Members prohibited from disclosing patient identifying information because of federal or state law shall seek consent from each patient or resident, or a guardian, conservator or legal representative, for the disclosure of appropriate data to the case consultation committee

**History:** 1988 c 575 s 1

#### 626.5572 DEFINITIONS.

Subdivision 1 **Scope.** For the purpose of section 626 557, the following terms have the meanings given them, unless otherwise specified

Subd 2 **Abuse.** "Abuse" means

(a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of

- (1) assault in the first through fifth degrees as defined in sections 609 221 to 609 224,



- (2) the use of drugs to injure or facilitate crime as defined in section 609 235,
- (3) the solicitation, inducement, and promotion of prostitution as defined in section 609 322, and
- (4) criminal sexual conduct in the first through fifth degrees as defined in sections 609 342 to 609 3451

A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction

(b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following

(1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult,

(2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening;

(3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult, and

(4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245 825

(c) Any sexual contact or penetration as defined in section 609 341, between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility

(d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another

(e) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144 651, 144A 44, chapter 145B, 145C or 252A, or section 253B 03 or 525 539 to 525 6199, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation This paragraph does not enlarge or diminish rights otherwise held under law by

(1) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct, or

(2) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct

(f) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult

(g) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with

(1) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship, or

(2) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship

Subd 3 **Accident.** "Accident" means a sudden, unforeseen, and unexpected occurrence or event which

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

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

Subd 4 **Caregiver.** "Caregiver" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement

Subd 5 **Common entry point.** "Common entry point" means the entity designated by each county responsible for receiving reports under section 626 557

Subd 6 **Facility.** (a) "Facility" means a hospital or other entity required to be licensed under sections 144 50 to 144 58, a nursing home required to be licensed to serve adults under section 144A 02, a residential or nonresidential facility required to be licensed to serve adults under sections 245A 01 to 245A 16, a home care provider licensed or required to be licensed under section 144A 46, or a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B 04, subdivision 16, 256B 0625, subdivision 19a, and 256B 0627

(b) For home care providers and personal care attendants, the term "facility" refers to the provider or person or organization that exclusively offers, provides, or arranges for personal care services, and does not refer to the client's home or other location at which services are rendered

Subd 7 **False.** "False" means a preponderance of the evidence shows that an act that meets the definition of maltreatment did not occur

Subd 8 **Final disposition.** "Final disposition" is the determination of an investigation by a lead agency that a report of maltreatment under Laws 1995, chapter 229, is substantiated, inconclusive, false, or that no determination will be made. When a lead agency determination has substantiated maltreatment, the final disposition also identifies, if known, which individual or individuals were responsible for the substantiated maltreatment, and whether a facility was responsible for the substantiated maltreatment.

Subd 9 **Financial exploitation.** "Financial exploitation" means

(a) In breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144 6501, a person

(1) engages in unauthorized expenditure of funds entrusted to the actor by the vulnerable adult which results or is likely to result in detriment to the vulnerable adult, or

(2) fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct or supervision for the vulnerable adult, and the failure results or is likely to result in detriment to the vulnerable adult

(b) In the absence of legal authority a person

(1) willfully uses, withholds, or disposes of funds or property of a vulnerable adult;

(2) obtains for the actor or another the performance of services by a third person for the wrongful profit or advantage of the actor or another to the detriment of the vulnerable adult,

(3) acquires possession or control of, or an interest in, funds or property of a vulnerable adult through the use of undue influence, harassment, duress, deception, or fraud, or

(4) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another

(c) Nothing in this definition requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law

Subd 10 **Immediately.** "Immediately" means as soon as possible, but no longer than 24 hours from the time initial knowledge that the incident occurred has been received

Subd 11 **Inconclusive.** "Inconclusive" means there is less than a preponderance of evidence to show that maltreatment did or did not occur

Subd 12 **Initial disposition.** "Initial disposition" is the lead agency's determination of whether the report will be assigned for further investigation.

Subd 13 **Lead agency.** "Lead agency" is the primary administrative agency responsible for investigating reports made under section 626 557

(a) The department of health is the lead agency for the facilities which are licensed or are required to be licensed as hospitals, home care providers, nursing homes, residential care homes, or boarding care homes

(b) The department of human services is the lead agency for the programs licensed or required to be licensed as adult day care, adult foster care, programs for people with developmental disabilities, mental health programs, chemical health programs, or personal care provider organizations

(c) The county social service agency or its designee is the lead agency for all other reports

Subd 14 **Legal authority.** "Legal authority" includes, but is not limited to: (1) a fiduciary obligation recognized elsewhere in law, including pertinent regulations; (2) a contractual obligation, or (3) documented consent by a competent person

Subd 15 **Maltreatment.** "Maltreatment" means abuse as defined in subdivision 2, neglect as defined in subdivision 17, or financial exploitation as defined in subdivision 9

Subd 16 **Mandated reporter.** "Mandated reporter" means a professional or professional's delegate while engaged in (1) social services, (2) law enforcement, (3) education; (4) the care of vulnerable adults, (5) any of the occupations referred to in section 214 01, subdivision 2, (6) an employee of a rehabilitation facility certified by the commissioner of jobs and training for vocational rehabilitation, (7) an employee or person providing services in a facility as defined in subdivision 6, or (8) a person that performs the duties of the medical examiner or coroner

Subd 17 **Neglect.** "Neglect" means

(a) The failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is

(1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult, and

(2) which is not the result of an accident or therapeutic conduct.

(b) The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

(c) For purposes of this section, a vulnerable adult is not neglected for the sole reason that

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144 651, 144A 44, chapter 145B, 145C, or 252A, or section 253B.03, or 525 539 to 525 6199, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation, this paragraph does not enlarge or diminish rights otherwise held under law by

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct, or

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult,

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in sexual contact with (i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship, or (ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

(4) an individual makes a single mistake in the provision of therapeutic conduct to a vulnerable adult which (i) does not result in injury or harm which reasonably requires the care of a physician or mental health professional, whether or not the care was sought; (ii) is immediately reported internally by the employee or person providing services in the facility, and (iii) is sufficiently documented for review and evaluation by the facility and any applicable licensing and certification agency

(d) Nothing in this definition requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation

Subd 18 **Report.** "Report" means a statement concerning all the circumstances surrounding the alleged or suspected maltreatment, as defined in this section, of a vulnerable adult which are known to the reporter at the time the statement is made

Subd 19 **Substantiated.** "Substantiated" means a preponderance of the evidence shows that an act that meets the definition of maltreatment occurred

Subd 20 **Therapeutic conduct.** "Therapeutic conduct" means the provision of program services, health care, or other personal care services done in good faith in the interests of the vulnerable adult by (1) an individual, facility, or employee or person providing services in a facility under the rights, privileges and responsibilities conferred by state license, certification, or registration, or (2) a caregiver

Subd 21 **Vulnerable adult.** "Vulnerable adult" means any person 18 years of age or older who

(1) is a resident or inpatient of a facility,

(2) receives services at or from a facility required to be licensed to serve adults under sections 245A 01 to 245A 15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4),

(3) receives services from a home care provider required to be licensed under section 144A 46, or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B 04, subdivision 16, 256B.0625, subdivision 19a, and 256B 0627; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment

**History:** 1995 c 229 art 1 s 22

### 626.5573 NEGLIGENCE ACTIONS.

A violation of sections 626 557 to 626 5572 shall be admissible as evidence of negligence, but shall not be considered negligence per se

**History:** 1995 c 229 art-1 s 23

### 626.558 MULTIDISCIPLINARY CHILD PROTECTION TEAM.

Subdivision 1 **Establishment of the team.** A county shall establish a multidisciplinary child protection team that may include, but not be limited to, the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, repre-

representatives of health and education, representatives of mental health or other appropriate human service or community-based agencies, and parent groups. As used in this section, a "community-based agency" may include, but is not limited to, schools, social service agencies, family service and mental health collaboratives, early childhood and family education programs, Head Start, or other agencies serving children and families.

**Subd 2 Duties of team.** A multidisciplinary child protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency or other interested community-based agencies. The community-based agencies may request case consultation from the multidisciplinary child protection team regarding a child or family for whom the community-based agency is providing services. As used in this section, "case consultation" means a case review process in which recommendations are made concerning services to be provided to the identified children and family. Case consultation may be performed by a committee or subcommittee of members representing human services, including mental health and chemical dependency, law enforcement, including probation and parole, the county attorney; health care, education, community-based agencies and other necessary agencies, and persons directly involved in an individual case as designated by other members performing case consultation.

**Subd 2a Juvenile prostitution outreach program.** A multidisciplinary child protection team may assist the local welfare agency, local law enforcement agency, or an appropriate private organization in developing a program of outreach services for juveniles who are engaging in prostitution. For the purposes of this subdivision, at least one representative of a youth intervention program or, where this type of program is unavailable, one representative of a nonprofit agency serving youth in crisis, shall be appointed to and serve on the multidisciplinary child protection team in addition to the standing members of the team. These services may include counseling, medical care, short-term shelter, alternative living arrangements, and drop-in centers. The county may finance these services by means of the penalty assessment authorized by section 609.3241. A juvenile's receipt of intervention services under this subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

**Subd 3 Information sharing.** (a) The local welfare agency may make available to the case consultation committee or subcommittee, all records collected and maintained by the agency under section 626.556 and in connection with case consultation. A case consultation committee or subcommittee member may share information acquired in the member's professional capacity with the committee or subcommittee to assist in case consultation.

(b) Case consultation committee or subcommittee members must annually sign a data sharing agreement, approved by the commissioner of human services, assuring compliance with chapter 13. Not public data, as defined by section 13.02, subdivision 8a, may be shared with members appointed to the committee or subcommittee in connection with an individual case when the members have signed the data sharing agreement.

(c) All data acquired by the case consultation committee or subcommittee in exercising case consultation duties, are confidential as defined in section 13.02, subdivision 3, and shall not be disclosed except to the extent necessary to perform case consultation, and shall not be subject to subpoena or discovery.

(d) No members of a case consultation committee or subcommittee meeting shall disclose what transpired at a case consultation meeting, except to the extent necessary to carry out the case consultation plan. The proceedings and records of the case consultation meeting are not subject to discovery, and may not be introduced into evidence in any civil or criminal action against a professional or local welfare agency arising out of the matter or matters which are the subject of consideration of the case consultation meeting. Information, documents, or records otherwise available from original sources are not immune from discovery or use in any civil or criminal action merely because they were presented during a case consultation meeting. Any person who presented information before the consultation committee or subcommittee or who is a member shall not be prevented from testifying as to matters within the person's knowledge. However, in a civil or criminal proceeding a person shall not be questioned about the person's presentation of information before the case consultation

committee or subcommittee or about opinions formed as a result of the case consultation meetings

A person who violates this subdivision is subject to the civil remedies and penalties provided under chapter 13

**History:** 1981 c 150 s 1, 1986 c 444, 1986 c 448 s 8, 1987 c 135 s 4-6, 1989 c 282 art 2 s 202, 1990 c 542 s 34; 1997 c 203 art 5 s 31,32

### 626.559 SPECIALIZED TRAINING AND EDUCATION REQUIRED.

**Subdivision 1 Job classification; continuing education.** The commissioner of human services, for employees subject to the Minnesota merit system, and directors of county personnel systems, for counties not subject to the Minnesota merit system, shall establish a job classification consisting exclusively of persons with the specialized knowledge, skills, and experience required to satisfactorily perform child protection duties pursuant to section 626 556, subdivisions 10, 10a, and 10b

All child protection workers or social services staff having responsibility for child protective duties under section 626 556 shall receive 15 hours of continuing education or in-service training each year relevant to providing child protective services. The local social service agency shall maintain a record of training completed by each employee having responsibility for performing child protective duties

**Subd 1a Child protection worker foundation education.** Any individual who seeks employment as a child protection worker after the commissioner of human services has implemented the foundation training program developed under section 626.5591, subdivision 2, must complete competency-based foundation training during their first six months of employment as a child protection worker

**Subd 2 Joint training.** The commissioners of human services and public safety shall cooperate in the development of a joint program for training child abuse services professionals in the appropriate techniques for child abuse assessment and investigation. The program shall include but need not be limited to the following areas

(1) the public policy goals of the state as set forth in section 260 011 and the role of the assessment or investigation in meeting these goals,

(2) the special duties of child protection workers and law enforcement officers under section 626 556,

(3) the appropriate methods for directing and managing affiliated professionals who may be utilized in providing protective services and strengthening family ties;

(4) the appropriate methods for interviewing alleged victims of child abuse and other minors in the course of performing an assessment or an investigation,

(5) the dynamics of child abuse and neglect within family systems and the appropriate methods for interviewing parents in the course of the assessment or investigation, including training in recognizing cases in which one of the parents is a victim of domestic abuse and in need of special legal or medical services,

(6) the legal, evidentiary considerations that may be relevant to the conduct of an assessment or an investigation,

(7) the circumstances under which it is appropriate to remove the alleged abuser or the alleged victim from the home,

(8) the protective social services that are available to protect alleged victims from further abuse, to prevent child abuse and domestic abuse, and to preserve the family unit, and training in the preparation of case plans to coordinate services for the alleged child abuse victim with services for any parents who are victims of domestic abuse, and

(9) the methods by which child protection workers and law enforcement workers cooperate in conducting assessments and investigations in order to avoid duplication of efforts

**Subd. 3 Priority training.** The commissioners of human services and public safety shall provide the program courses described in subdivision 2 at convenient times and locations in the state. The commissioners shall give training priority in the program areas cited in subdivision 2 to persons currently performing assessments and investigations pursuant to section 626 556, subdivisions 10, 10a, and 10b

Subd 4 [Repealed, 1996 c 310 s 1]

Subd 5 **Revenue.** The commissioner of human services shall add the following funds to the funds appropriated under section 626 5591, subdivision 2, to develop and support training

(a) The commissioner of human services shall submit claims for federal reimbursement earned through the activities and services supported through department of human services child protection or child welfare training funds. Federal revenue earned must be used to improve and expand training services by the department. The department expenditures eligible for federal reimbursement under this section must not be made from federal funds or funds used to match other federal funds.

(b) Each year, the commissioner of human services shall withhold from funds distributed to each county under Minnesota Rules, parts 9550 0300 to 9550 0370, an amount equivalent to 1.5 percent of each county's annual title XX allocation under section 256E 07. The commissioner must use these funds to ensure decentralization of training.

(c) The federal revenue under this subdivision is available for these purposes until the funds are expended.

**History:** 1985 c 275 s 1, 1988 c 630 s 1, 1990 c 542 s 35, 1993 c 306 s 20,21, 1Sp1993 c 1 art 3 s 42, 1997 c 203 art 5 s 33

### **626.5591 CHILD PROTECTION WORKERS; TRAINING; ADVISORY COMMITTEE.**

Subdivision 1 **Definitions.** As used in this section, the following terms have the meanings given unless the specific context indicates otherwise.

(a) "Child protection agency" means an agency authorized to receive reports, conduct assessments and investigations, and make determinations pursuant to section 626 556, subdivision 10.

(b) "Child protection services" means the receipt and assessment of reports of child maltreatment and the provision of services to families and children when maltreatment has occurred or when there is risk of maltreatment. These services include (1) the assessment of risk to a child alleged to have been abused or neglected, (2) interviews of any person alleged to have abused or neglected a child and the child or children involved in the report, and interviews with persons having facts or knowledge necessary to assess the level of risk to a child and the need for protective intervention, (3) the gathering of written or evidentiary materials, (4) the recording of case findings and determinations, and (5) other actions required by section 626 556, administrative rule, or agency policy.

(c) "Competency-based training" means a course of instruction that provides both information and skills practice, which is based upon clearly stated and measurable instructional objectives, and which requires demonstration of the achievement of a particular standard of skills and knowledge for satisfactory completion.

(d) "Foundation training" means training provided to a local child protection worker after the person has begun to perform child protection duties, but before the expiration of six months of employment as a child protection worker. This foundation training must occur during the performance of job duties and must include an evaluation of the employee's application of skills and knowledge.

(e) "Advanced training" means training provided to a local child protection worker after the person has performed an initial six months of employment as a child protection worker.

Subd. 2 **Training program; development.** The commissioner of human services shall develop a program of competency-based foundation and advanced training for child protection workers if funds are appropriated to the commissioner for this purpose.

**History:** 1988 c 630 s 2, 1993 c 306 s 22

**626.5592** [Repealed, 1993 c 337 s 20]

### **626.5593 PEER REVIEW OF LOCAL AGENCY RESPONSE.**

Subdivision 1 **Establishment.** By January 1, 1991, the commissioner of human services shall establish a pilot program for peer review of local agency responses to child mal-

treatment reports made under section 626 556. The peer review program shall examine agency assessments of maltreatment reports and delivery of child protection services in at least two counties. The commissioner shall designate the local agencies to be reviewed, and shall appoint a peer review panel composed of child protection workers, as defined in section 626 559, and law enforcement personnel who are responsible for investigating reports of child maltreatment under section 626 556, subdivision 10, within the designated counties.

**Subd 2 Duties.** The peer review panel shall meet at least quarterly to review case files representative of child maltreatment reports that were investigated or assessed by the local agency. These cases shall be selected randomly from local welfare agency files by the commissioner. Not public data, as defined in section 13 02, subdivision 8, may be shared with panel members in connection with a case review.

The panel shall review each case for compliance with relevant laws, rules, agency policies, appropriateness of agency actions, and case determinations. The panel shall issue a report to the designated agencies after each meeting which includes findings regarding the agency's compliance with relevant laws, rules, policies, case practice, and any recommendations to be considered by the agency. The panel shall also issue a semiannual report concerning its activities. This semiannual report shall be available to the public, but may not include any information that is classified as not public data.

**Subd 3 Report to legislature.** By January 1, 1992, the commissioner shall report to the legislature regarding the activities of the peer review panel, compliance findings, barriers to the effective delivery of child protection services, and recommendations for the establishment of a permanent peer review system for child protection services.

**Subd 4 Funds.** The commissioner may use funds allocated for child protection services, training, and grants to pay administrative expenses associated with the peer review panel pilot program created by this section.

**History:** 1989 c 282 art 2 s 203

**626.56** [Renumbered 299C 30]

## **626.561 INTERVIEWS WITH CHILD ABUSE VICTIMS.**

**Subdivision 1 Policy.** It is the policy of this state to encourage adequate and accurate documentation of the number and content of interviews conducted with alleged child abuse victims during the course of a child abuse assessment, criminal investigation, or prosecution, and to discourage interviews that are unnecessary, duplicative; or otherwise not in the best interests of the child.

**Subd 2 Definitions.** As used in this section

(a) "child abuse" means physical or sexual abuse as defined in section 626 556, subdivision 2,

(b) "government employee" means an employee of a state or local agency, and any person acting as an agent of a state or local agency,

(c) "interview" means a statement of an alleged child abuse victim which is given or made to a government employee during the course of a child abuse assessment, criminal investigation, or prosecution, and

(d) "record" means an audio or videotape recording of an interview, or a written record of an interview.

**Subd 3. Record required.** Whenever an interview is conducted, the interviewer must make a record of the interview. The record must contain the following information:

(1) the date, time, place, and duration of the interview,

(2) the identity of the persons present at the interview; and

(3) if the record is in writing, a summary of the information obtained during the interview.

The records shall be maintained by the interviewer in accordance with applicable provisions of section 626 556, subdivision 11 and chapter 13.

**Subd 4 Guidelines on tape recording of interviews.** Every county attorney's office shall be responsible for developing written guidelines on the tape recording of interviews by



government employees who conduct child abuse assessments, criminal investigations, or prosecutions. The guidelines are public data as defined in section 13.02, subdivision 14.

**History:** 1985 c 286 s 21

#### **626.562 CHILD ABUSE PROFESSIONAL CONSULTATION TELEPHONE LINE.**

**Subdivision 1 Establishment of telephone line.** The commissioner of public safety shall contract for at least one statewide toll-free 24-hour telephone line for the purpose of providing consultative and training services for physicians, therapists, child protection workers, and other professionals involved in child protection. Services provided must include emergency and longer term consultation on individual child protection cases.

**Subd. 2 Contract authority.** The commissioner shall contract to establish the telephone service described in subdivision 1. The commissioner shall contract only with agencies that agree to match through cash or in-kind donations 30 percent of the contract amount. The commissioner shall require that these agencies submit periodic reports describing the manner in which they have performed services specified in this section.

**Subd. 3 Child abuse reporting.** A communication by telephone line established under this section by a person mandated to report abuse or neglect under section 626.556 does not satisfy the obligation to report under that section.

**History:** 1987 c 358 s 128

**626.563** [Repealed, 1996 c 310 s 1]

**626.57** [Renumbered 299C 31]

**626.58** [Renumbered 299C 32]

**626.59** [Renumbered 299C 33]

**626.60** [Renumbered 299C 34]

**626.61** [Renumbered 299C 35]

**626.62** [Renumbered 299C 36]

**626.63** Subdivision 1 [Renumbered 299C 37 subdivision 1]

Subd. 2 [Renumbered 299C 37 subd 2]

Subd. 3 [Renumbered 299C 37 subd 3]

Subd. 4 [Renumbered 299C.37 subd 4]

**626.64** [Renumbered 299C.38]

### **UNIFORM ACT ON FRESH PURSUIT**

#### **626.65 UNIFORM ACT ON FRESH PURSUIT; RECIPROCAL.**

Any member of a duly organized state, county, or municipal peace unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest the person on the ground that the person is believed to have committed a felony in such other state, shall have the same authority to arrest and hold such person in custody, as has any member of any duly organized state, county, or municipal peace unit of this state, to arrest and hold in custody a person on the ground that the person is believed to have committed a felony in this state, provided, the rights extended by this section shall be extended only to those states granting these same rights to peace officers of this state who may be in fresh pursuit of suspected criminals in such reciprocating states.

**History:** (10547-1) 1939 c 64 s 1, 1986 c 444

#### **626.66 ARREST; HEARING.**

If an arrest is made in this state by an officer of another state in accordance with the provisions of section 626.65, the officer shall, without unnecessary delay, take the person ar-

rested before a judge of the county in which the arrest was made. The judge shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the judge determines that the arrest was lawful, the judge shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state, or admit the person arrested to bail for such purpose. If the judge determines that the arrest was unlawful, the judge shall discharge the person arrested.

**History:** (10547-2) 1939 c 64 s 2; 1983 c 359 s 119, 1986 c 444

#### **626.67 CONSTRUCTION OF SECTION 626.65.**

Section 626 65 shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

**History:** (10547-3) 1939 c 64 s 3

#### **626.68 STATE INCLUDES DISTRICT OF COLUMBIA.**

For the purpose of sections 626 65 to 626 69, the word "state" includes the District of Columbia.

**History:** (10547-4) 1939 c 64 s 4

#### **626.69 FRESH PURSUIT.**

The term "fresh pursuit," as used in sections 626 65 to 626 69, includes fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit, as used therein, shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

**History:** (10547-5) 1939 c 64 s 5

#### **626.70 CITATION, UNIFORM ACT ON FRESH PURSUIT.**

Sections 626 65 to 626 70 may be cited as the Uniform Act on Fresh Pursuit.

**History:** (10547-8) 1939 c 64 s 8

#### **626.71 FRESH PURSUIT IN NONFELONY SITUATIONS.**

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

(1) "Fresh pursuit" means fresh pursuit as defined by the common law and includes the pursuit of a person who has committed or is reasonably believed to have committed a violation in the presence of the peace officer. Fresh pursuit does not necessarily imply instant pursuit, but pursuit without unreasonable delay,

(2) "Peace officer" means a member of a duly organized state, county, or municipal law enforcement unit, and

(3) "Violation" includes gross misdemeanors, misdemeanors, and traffic violations.

Subd 2 **Fresh pursuit authority.** A peace officer of another state who enters this state while on duty and in fresh pursuit, and who continues in fresh pursuit, of a person in order to arrest the person for a violation committed in the peace officer's presence, has the same authority to arrest and hold the person in custody as has any peace officer of this state if reciprocal fresh pursuit authority for that type of violation is extended to Minnesota peace officers by the pursuing officer's state.

**History:** 1990 c 449 s 2

#### **626.72 PEACE OFFICERS; TRANSPORTATION FOR LAW ENFORCEMENT PURPOSES.**

A peace officer, as defined in section 609 487, subdivision 2, clause (2), who enters this state to perform an assigned duty of transporting persons in legal custody for law enforce-

ment purposes has the same authority to transport persons in legal custody as any member of any duly organized state, county, or municipal law enforcement unit of this state if a reciprocal right to transport persons in legal custody is extended to Minnesota peace officers by the peace officer's state or local jurisdiction

**History:** 1990 c 449 s 3

### PEACE OFFICER DAMAGE COMPENSATION

#### 626.74 COMPENSATION FOR DAMAGE CAUSED BY PEACE OFFICERS IN PERFORMING LAW ENFORCEMENT DUTIES.

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

(1) "just compensation" means the compensation owed to an innocent third party under the state constitution by a Minnesota local government unit due to property damage caused by a peace officer in the course of executing a search warrant or apprehending a criminal suspect, and

(2) "peace officer" has the meaning given in section 626.84

Subd 2 **Responsible government unit; execution of search warrant.** If just compensation is owed for damage caused in the execution of a search warrant or the apprehension of a criminal suspect, the Minnesota local government unit employing the peace officer who sought issuance of the warrant or initiated the apprehension is responsible for paying the compensation. Except as otherwise provided in this subdivision, if the search warrant is executed or the apprehension is accomplished by a peace officer from another Minnesota local government unit in aid of the officer originating the warrant or initiating the apprehension, the responsibility for paying just compensation remains with the Minnesota local government unit employing the officer who originated the warrant or initiated the apprehension. In the event the property damage is caused by the negligence of a peace officer, the Minnesota local government unit employing that peace officer is responsible for paying just compensation

**History:** 1998 c 367 art 11 s 20

### PEACE OFFICERS; ASSISTING OTHER OFFICERS

#### 626.76 RULES AND REGULATIONS; AIDING OTHER OFFICERS; EXCHANGE PROGRAMS.

Subdivision 1 Any appointive or elective agency or office of peace officers as defined in subdivision 3 may establish rules or regulations and enter into agreements with other agencies and offices for

(1) assisting other peace officers in the line of their duty and within the course of their employment, and

(2) exchanging the agency's peace officers with peace officers of another agency or office on a temporary basis. Additionally, the agency or office may establish rules and regulations for assisting probation, parole, and supervised release agents who are supervising probationers, parolees, or supervised releasees in the geographic area within the agency's or office's jurisdiction

Subd 2 (a) When a peace officer gives assistance to another peace officer, or to a parole, probation, or supervised release agent, within the scope of the rules or regulations of the peace officer's appointive or elected agency or office, any such assistance shall be within the line of duty and course of employment of the officer rendering the assistance

(b) When a peace officer acts on behalf of another agency or office within the scope of an exchange agreement entered into under subdivision 1, the officer's actions are within the officer's line of duty and course of employment to the same extent as if the officer had acted on behalf of the officer's employing agency

Subd 3 For the purposes of this section, "peace officer" means any member of a police department, state patrol, game warden service, sheriff's office, or any other law enforcement agency, the members of which have, by law, the power of arrest

Subd 4 This section shall in no way be construed as extending or enlarging the duties or authority of any peace officer or any other law enforcement agent as defined in subdivision 3 except as provided in this section

**History:** 1959 c 374 s 1, 1981 c 37 s 2, 1986 c 444; 1994 c 636 art 4 s 31

### PEACE OFFICER; ADJOINING STATES

#### 626.77 PEACE OFFICERS FROM ADJOINING STATES.

Subdivision 1 **Arrest authority.** A peace officer of a state adjoining Minnesota has the same authority to arrest and hold an individual in custody as has any peace officer of this state if all of the following circumstances are present

(1) the officer enters this state while on duty and authorized by a request for assistance by a peace officer of this state,

(2) while in this state, the officer acts under the direction of the peace officer to whom the officer is rendering assistance,

(3) while in this state, the officer acts in accordance with the rules and regulations of the officer's own appointive or elective authority, and

(4) upon effecting an arrest, the officer surrenders custody of the arrested individual to a peace officer of this state without unnecessary delay

Subd 2 **Tort liability; indemnification.** A peace officer from an adjoining state who responds to a request for assistance and who acts in accordance with subdivision 1 is serving in the regular line of duty as fully as though the service was within the officer's jurisdiction. For the purposes of section 3 736 and chapter 466, the officer is deemed to be an employee of the elective or appointive agency of the peace officer requesting assistance

**History:** 1994 c 441 s 1

**626.80** [Renumbered 299C 45]

**626.81** [Renumbered 299C 46]

**626.82** [Renumbered 299C 47]

**626.83** [Renumbered 299C 48]

### PEACE OFFICER TRAINING

#### 626.84 DEFINITIONS AND SCOPE.

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 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, and metropolitan transit police officers

(d) "Constable" has the meaning assigned to it in section 367 40

(e) "Deputy constable" has the meaning assigned to it in section 367 40

(f) "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. The limitation on the average number of hours in which the

services of a part-time peace officer may be utilized shall not apply to a part-time peace officer who has formally notified the board pursuant to rules adopted by the board of the part-time peace officer's intention to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to sections 626.843, subdivision 1, clause (g), and 626.845, subdivision 1, clause (g)

(g) "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. 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.

(h) "Law enforcement agency" means 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.

(i) "Professional peace officer education" means a post-secondary degree program, or a nondegree program for persons who already have a college degree, that is offered by a college or university in Minnesota, designed for persons seeking licensure as a peace officer, and approved by the board.

**Subd 2 Scope.** Notwithstanding sections 12.03, subdivision 4, 12.25, or any other law to the contrary, no individual employed or acting as an agent of any political subdivision shall be authorized to carry a firearm when on duty unless the individual has been licensed under sections 626.84 to 626.863. Nothing herein shall be construed as requiring licensure of a security guard as that term is defined in section 626.88, subdivision 1, clause (c).

**History:** 1977 c 433 s 1, 1978 c 681 s 8, 1979 c 282 s 1, 1980 c 578 s 2, 1981 c 37 s 2, 1981 c 310 s 1, 1986 c 444, 1987 c 334 s 4, 1989 c 334 art 6 s 13; 1991 c 356 art 6 s 1, 1997 c 129 art 2 s 15, 1997 c 149 s 4

#### **626.841 BOARD; MEMBERS.**

The board of peace officer standards and training shall be composed of the following 15 members:

(a) Two members to be appointed by the governor from among the county sheriffs in Minnesota,

(b) Four members to be appointed by the governor from among peace officers in Minnesota municipalities, at least two of whom shall be chiefs of police,

(c) Two members to be appointed by the governor from among peace officers, at least one of whom shall be a member of the Minnesota state patrol association,

(d) The superintendent of the Minnesota bureau of criminal apprehension or a designee,

(e) Two members appointed by the governor from among peace officers, or former peace officers, who are currently employed on a full-time basis in a professional peace officer education program,

(f) Two members to be appointed by the governor, one member to be appointed from among administrators of Minnesota colleges or universities that offer professional peace officer education, and one member to be appointed from among the elected city officials in statutory or home rule charter cities of under 5,000 population outside the metropolitan area, as defined in section 473.121, subdivision 2,

(g) Two members appointed by the governor from among the general public.

A chair shall be appointed by the governor from among the members. In making appointments the governor shall strive to achieve representation from among the geographic areas of the state.

**History:** 1967 c 870 s 1, 1969 c 108 s 1; 1977 c 433 s 2, 1979 c 282 s 2, 1981 c 310 s 2, 1986 c 444; 1987 c 358 s 129, 1995 c 226 art 4 s 24

#### **626.842 TERMS; MEETINGS; COMPENSATION; REMOVAL; VACANCIES.**

Subdivision 1 Meetings shall be called at the request of the chair or upon the written request of a majority of the members of the board.

Membership on the board shall not constitute the holding of a public office, and members of the board shall not be required to take and file oaths of office or submit a public official's bond before serving on the board

No member of the board shall be disqualified from holding any public office or employment, by reason of appointment to the board, nor shall the member forfeit any such office or employment notwithstanding any general, special, or local restriction, or ordinance, or city charter to the contrary

Subd 2 The membership terms, compensation, removal of members and the filling of vacancies for members appointed pursuant to section 626 841, clauses (a), (b), (d) and (e) on the board, the provision of staff, administrative services and office space; the review and processing of complaints, the setting of fees, and other matters relating to board operations shall be as provided in chapter 214

**History:** 1967 c 870 s 2, 1969 c 108 s 2, 1971 c 24 s 55, 1976 c 134 s 76, 1977 c 433 s 3, 1986 c 444

### 626.843 RULES, STANDARDS; EXECUTIVE DIRECTOR.

Subdivision 1 **Rules required.** The board shall adopt rules with respect to

(a) The certification of peace officer training schools, programs, or courses including training schools for the Minnesota state patrol Such schools, programs and courses shall include those administered by the state, county, school district, municipality, or joint or contractual combinations thereof, and shall include preparatory instruction in law enforcement and minimum basic training courses;

(b) Minimum courses of study, attendance requirements, and equipment and facilities to be required at each certified peace officers training school located within the state,

(c) Minimum qualifications for instructors at certified peace officer training schools located within this state,

(d) Minimum standards of physical, mental, and educational fitness which shall govern the recruitment and licensing of peace officers within the state, by any state, county, municipality, or joint or contractual combination thereof, including members of the Minnesota state patrol,

(e) Minimum standards of conduct which would affect the individual's performance of duties as a peace officer,

These standards shall be established and published The board shall review the minimum standards of conduct described in this paragraph for possible modification in 1998 and every three years after that time

(f) Minimum basic training which peace officers appointed to temporary or probationary terms shall complete before being eligible for permanent appointment, and the time within which such basic training must be completed following any such appointment to a temporary or probationary term;

(g) Minimum specialized training which part-time peace officers shall complete in order to be eligible for continued employment as a part-time peace officer or permanent employment as a peace officer, and the time within which the specialized training must be completed;

(h) Content of minimum basic training courses required of graduates of certified law enforcement training schools or programs Such courses shall not duplicate the content of certified academic or general background courses completed by a student but shall concentrate on practical skills deemed essential for a peace officer Successful completion of such a course shall be deemed satisfaction of the minimum basic training requirement,

(i) Grading, reporting, attendance and other records, and certificates of attendance or accomplishment,

(j) The procedures to be followed by a part-time peace officer for notifying the board of intent to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to clause (g), and section 626 845, subdivision 1, clause (g),

(k) The establishment and use by any political subdivision or state law enforcement agency which employs persons licensed by the board of procedures for investigation and res-

olution of allegations of misconduct by persons licensed by the board. The procedures shall be in writing and shall be established on or before October 1, 1984,

(l) The issues that must be considered by each political subdivision and state law enforcement agency that employs persons licensed by the board in establishing procedures under section 626 5532 to govern the conduct of peace officers who are in pursuit of a vehicle being operated in violation of section 609 487, and requirements for the training of peace officers in conducting pursuits. The adoption of specific procedures and requirements is within the authority of the political subdivision or agency,

(m) Supervision of part-time peace officers and requirements for documentation of hours worked by a part-time peace officer who is on active duty. These rules shall be adopted by December 31, 1993,

(n) Citizenship requirements for full-time and part-time peace officers,

(o) Driver's license requirements for full-time and part-time peace officers; and

(p) Such other matters as may be necessary consistent with sections 626 84 to 626 863. Rules promulgated by the attorney general with respect to these matters may be continued in force by resolution of the board if the board finds the rules to be consistent with sections 626 84 to 626 863.

Subd 1a [Repealed, 1988 c 563 s 8]

Subd 2 **Executive director.** An executive director shall be appointed by and serve in the unclassified service at the pleasure of the board. The executive director shall perform such duties, on behalf of the board, as the board shall prescribe. The board shall appoint such employees, agents and consultants as deemed necessary, prescribe their duties, and provide for reimbursement of their expenses. Such employees shall be in the classified service.

Subd 3 **Board authority.** The board may, in addition

(a) Recommend studies, surveys, and reports to be made by the executive director regarding the carrying out of the objectives and purposes of sections 626 841 to 626 863,

(b) Visit and inspect any peace officer training school approved by the executive director or for which application for such approval has been made,

(c) Make recommendations, from time to time, to the executive director, attorney general, and the governor regarding the carrying out of the objectives and purposes of sections 626 841 to 626 863,

(d) Perform such other acts as may be necessary or appropriate to carry out the powers and duties of the board as set forth in sections 626 841 to 626 863,

(e) Cooperate with and receive financial assistance from and join in projects or enter into contracts with the federal government or its agencies for the furtherance of the purposes of Laws 1977, chapter 433.

Subd 4 **Reporting requirements.** The board shall report to the attorney general, from time to time, and to the governor and the legislature at least biennially concerning the activities of the board.

**History:** 1967 c 870 s 3, 1973 c 507 s 45, 1974 c 478 s 1; 1977 c 433 s 4-6, 1978 c 681 s 9-11, 1981 c 37 s 2, 1981 c 310 s 3, 1983 c 269 s 3, 1986 c 444, 1988 c 712 s 18, 1989 c 209 art 2 s 1, 1992 c 571 art 15 s 13, 1995 c 226 art 4 s 25, 1997 c 7 art 1 s 169, art 2 s 65, 1997 c 239 art 8 s 31.

### 626.8431 AUTOMATIC LICENSE REVOCATION.

The license of a peace officer convicted of a felony is automatically revoked. For purposes of this section, "conviction" includes a finding of guilt, whether or not the adjudication of guilt is stayed or executed, an admission of guilt, or a no contest plea.

**History:** 1995 c 226 art 4 s 26.

626.844 [Repealed, 1977 c 433 s 16]

### 626.845 POWERS AND DUTIES.

Subdivision 1 **Powers and duties.** The board shall have the following powers and duties

(a) To certify peace officers' training schools or programs administered by state, county and municipalities located within this state in whole or in part no later than 90 days after receipt of an application for certification. The reasons for noncertification of any school or program or part thereof shall be transmitted to the school within 90 days and shall contain a detailed explanation of the reasons for which the school or program was disapproved and an explanation of what supporting material or other requirements are necessary for the board to reconsider. Disapproval of a school or program shall not preclude the reapplication for certification of the school or program,

(b) To issue certificates to schools, and to revoke such certification when necessary to maintain the objectives and purposes of sections 626 841 to 626 863;

(c) To certify, as qualified, instructors at peace officer training schools, and to issue appropriate certificates to such instructors;

(d) To license peace officers who have satisfactorily completed certified basic training programs, and passed examinations as required by the board;

(e) To cause studies and surveys to be made relating to the establishment, operation, and approval of state, county, and municipal peace officer training schools;

(f) To consult and cooperate with state, county, and municipal peace officer training schools for the development of in-service training programs for peace officers,

(g) To consult and cooperate with universities, colleges, and technical colleges for the development of specialized courses of instruction and study in the state for peace officers and part-time peace officers in police science and police administration,

(h) To consult and cooperate with other departments and agencies of the state and federal government concerned with peace officer standards and training,

(i) To perform such other acts as may be necessary and appropriate to carry out the powers and duties as set forth in the provisions of sections 626 841 to 626 863,

(j) To coordinate the provision, on a regional basis, of skills oriented basic training courses to graduates of certified law enforcement training schools or programs,

(k) To obtain criminal conviction data for persons seeking a license to be issued or possessing a license issued by the board. The board shall have authority to obtain criminal conviction data to the full extent that any other law enforcement agency, as that term is defined by state or federal law, has to obtain the data,

(l) To prepare and transmit annually to the governor a report of its activities with respect to allocation of moneys appropriated to it for peace officers training, including the name and address of each recipient of money for that purpose, the amount awarded, and the purpose of the award;

(m) To assist and cooperate with any political subdivision or state law enforcement agency which employs persons licensed by the board to establish written procedures for the investigation and resolution of allegations of misconduct of persons licensed by the board, and to enforce licensing sanctions for failure to implement such procedures, and

(n) To assist and cooperate with political subdivisions and state law enforcement agencies that employ persons licensed by the board in establishing written procedures to govern the conduct of peace officers who are in pursuit of a vehicle in violation of section 609 487, and requirements for the training of peace officers in conducting pursuits. The board may impose licensing sanctions for failure to establish pursuit procedures and training requirements by October 1, 1989

In addition, the board may maintain data received from law enforcement agencies under section 626 87, subdivision 5, provide the data to requesting law enforcement agencies who are conducting background investigations, and maintain data on applicants and licensees as part of peace officer license data. The data that may be maintained include the name of the law enforcement agency conducting the investigation and data on the candidate provided under section 626.87, subdivision 5, clauses (1) and (2)

Subd 2 [Repealed, 1988 c 563 s 8]

**History:** 1967 c 870 s 5, 1977 c 433 s 7, 1978 c 681 s 12, 1981 c 310 s 4, 1981 c 341 s 4, 1983 c 269 s 4, 1987 c 258 s 12, 1988 c 712 s 19; 1989 c 246 s 2, 1997 c 7 art 1 s 169, art 2 s 66, 1997 c 214 s 4



**626.8451 TRAINING IN IDENTIFYING AND RESPONDING TO CERTAIN CRIMES.**

Subdivision 1 **Training course; crimes motivated by bias.** The board must prepare a training course to assist peace officers in identifying and responding to crimes motivated by the victim's race, religion, national origin, sex, age, disability, or characteristics identified as sexual orientation. The course must include material to help officers distinguish bias crimes from other crimes, to help officers in understanding and assisting victims of these crimes, and to ensure that bias crimes will be accurately reported as required under section 626 5531. The course must be updated periodically as the board considers appropriate.

Subd 1a **Training course; crimes of violence.** In consultation with the crime victim and witness advisory council and the school of law enforcement, the board shall prepare a training course to assist peace officers in responding to crimes of violence and to enhance peace officer sensitivity in interacting with and assisting crime victims. For purposes of this course, harassment and stalking crimes are "crimes of violence." The course must include information about

- (1) the needs of victims of these crimes and the most effective and sensitive way to meet those needs or arrange for them to be met,
- (2) the extent and causes of crimes of violence, including physical and sexual abuse, physical violence, harassment and stalking, and neglect,
- (3) the identification of crimes of violence and patterns of violent behavior, and
- (4) culturally responsive approaches to dealing with victims and perpetrators of violence.

Subd 2 **Preservice training requirement.** An individual may not be licensed as a peace officer unless the individual has received the training described in subdivision 1. An individual is not eligible to take the peace officer licensing examination after August 1, 1994, unless the individual has received the training described in subdivision 1a.

Subd 3 **In-service training; board requirements.** The board must provide to chief law enforcement officers instructional materials patterned after the materials developed by the board under subdivisions 1 and 1a. These materials must meet board requirements for continuing education credit and be updated periodically as the board considers appropriate. The board must also seek funding for an educational conference to inform and sensitize chief law enforcement officers and other interested persons to the law enforcement issues associated with bias crimes and crimes of violence. If funding is obtained, the board may sponsor the educational conference on its own or with other public or private entities.

Subd 4 **In-service training; chief law enforcement officer requirements.** A chief law enforcement officer must inform all peace officers within the officer's agency of (1) the requirements of section 626 5531, (2) the availability of the instructional materials provided by the board under subdivision 3, and (3) the availability of continuing education credit for the completion of these materials. The chief law enforcement officer must also encourage these peace officers to review or complete the materials.

**History:** 1988 c 643 s 2, 1992 c 571 art 15 s 14, 1993 c 326 art 2 s 27

**626.8452 DEADLY FORCE AND FIREARMS USE; POLICIES AND INSTRUCTION REQUIRED.**

Subdivision 1 **Deadly force policy.** By January 1, 1992, the head of every local and state law enforcement agency shall establish and enforce a written policy governing the use of force, including deadly force, as defined in section 609 066, by peace officers and part-time peace officers employed by the agency. The policy must be consistent with the provisions of section 609 066, subdivision 2, and may not prohibit the use of deadly force under circumstances in which that force is justified under section 609 066, subdivision 2.

Subd 2. **Deadly force and firearms use; initial instruction.** Beginning January 1, 1992, the head of every local and state law enforcement agency shall provide instruction on the use of force, deadly force, and the use of firearms to every peace officer and part-time peace officer newly appointed by or beginning employment with the agency. This instruction must occur before the agency head issues a firearm to the officer or otherwise authorizes the

officer to carry a firearm in the course of employment. The instruction must be based on the agency's written policy required in subdivision 1 and on the instructional materials required by the board for peace officer and part-time peace officer licensure.

Subd 3 **Deadly force and firearms use; continuing instruction.** Beginning January 1, 1992, the head of every local and state law enforcement agency shall provide the instruction described in subdivision 2 to every peace officer and part-time peace officer currently employed by the agency. This instruction must be provided at least once a year.

Subd 4 **Recordkeeping required.** The head of every local and state law enforcement agency shall maintain written records of the agency's compliance with the requirements of subdivisions 2 and 3.

Subd 5 **Licensing sanctions; injunctive relief.** The board may impose licensing sanctions and seek injunctive relief under section 214.11 for failure to comply with the requirements of this section.

**History:** 1991 c 141 s 2

### **626.8453 QUALIFIED FEDERAL LAW ENFORCEMENT OFFICERS; SPECIAL STATE AND FEDERAL TASK FORCES; PEACE OFFICER AUTHORITY.**

Subdivision 1 **Definitions.** The terms defined in this subdivision apply to this section.

(a) "Duly authorized executive officer" means the law enforcement officer headquartered in Minnesota who is in charge of the activities of a federal law enforcement agency in this state.

(b) "Memorandum of understanding" is a written agreement between the governing bodies of the participating units of local government and the commissioners of the state agencies authorized to have a law enforcement agency as defined by section 626.84, subdivision 1, paragraph (h), the sheriffs of the participating counties, and the duly authorized executive officers of the participating federal law enforcement agencies that specifies the mission of the parties, the agreement's purpose, the exchange of powers, required training, the duration of the agreement, and other rights and responsibilities of the parties.

(c) "Qualified federal law enforcement officer" means an employee of the United States charged with the enforcement of the criminal laws of the United States who has successfully completed professionally recognized peace officer preemployment education which the board has found comparable to Minnesota peace officer preemployment education.

(d) "Special purpose task force" is a coalition of city, county, state, and federal law enforcement officers directed to accomplish specific state and federal law enforcement objectives.

Subd 2 **Powers of federal law enforcement officers.** A qualified federal law enforcement officer assigned to a special purpose task force created under a memorandum of understanding that has been filed with the board who is acting within the scope of the memorandum of understanding shall possess the authority of the peace officers participating in the special purpose task force under the memorandum of understanding.

Subd 3 **Federal authority preserved.** This section is not intended to limit the existing authority possessed by federal law enforcement officers.

**History:** 1992 c 449 s 1

### **626.8454 MANUAL AND POLICY FOR INVESTIGATING CASES INVOLVING CHILDREN WHO ARE MISSING AND ENDANGERED.**

Subdivision 1. **Manual.** By July 1, 1994, the superintendent of the Bureau of Criminal Apprehension shall transmit to law enforcement agencies a training and procedures manual on child abduction investigations.

Subd 2 **Model investigation policy.** By June 1, 1995, the peace officer standards and training board shall develop a model investigation policy for cases involving children who are missing and endangered as defined in section 299C.52. The model policy shall describe the procedures for the handling of cases involving children who are missing and endangered. In developing the policy, the board shall consult with representatives of the Bureau of Criminal Apprehension, Minnesota police chiefs association, Minnesota sheriff's association,

Minnesota police and peace officers association, Minnesota association of women police, Minnesota county attorneys association, a nonprofit foundation formed to combat child abuse, and two representatives of victims advocacy groups selected by the commissioner of corrections. The manual on child abduction investigation shall serve as a basis for defining the specific actions to be taken during the early investigation.

**Subd 3. Local policy.** By August 1, 1995, each chief of police and sheriff shall establish and implement a written policy governing the investigation of cases involving children who are missing and endangered as defined in section 299C 52. The policy shall be based on the model policy developed under subdivision 2. The policy shall include specific actions to be taken during the initial two-hour period.

**History:** 1994 c 636 art 4 s 32

### 626.8455 TRAINING IN COMMUNITY POLICING.

**Subdivision 1 Training course.** The board, in consultation with the Minnesota institute of community policing, shall prepare a training course to instruct peace officers in the techniques of community policing. The course must include instruction on at least the following matters:

- (1) techniques for expanding the training of peace officers to include problem-solving,
- (2) techniques for organizing community members so that they are involved and trained in community policing activities,
- (3) techniques for relating to diverse communities, and
- (4) techniques for relating to physically or mentally impaired individuals.

The course also must include training on child development issues to enable officers to respond appropriately to perceived child protection situations. The board shall update the training course periodically as it deems appropriate.

**Subd 2 Preservice training requirement.** An individual is not eligible to take the peace officer licensing examination after August 1, 1997, unless the individual has received the training described in subdivision 1.

**Subd 3 Instructional materials.** The board shall provide to chief law enforcement officers instructional materials patterned after the materials developed by the board under subdivision 1. These materials must meet board requirements for continuing education credit.

**History:** 1996 c 411 s 1

### 626.8456 TRAINING IN FIRE SCENE RESPONSE AND ARSON AWARENESS.

**Subdivision 1 Training course.** The board, in consultation with the division of fire marshal, shall prepare objectives for a training course to instruct peace officers in fire scene response and arson awareness.

**Subd 2 Preservice training requirement.** An individual is not eligible to take the peace officer licensing examination after August 1, 1998, unless the individual has received the training described in subdivision 1.

**History:** 1997 c 239 art 8 s 32

### 626.8457 PROFESSIONAL CONDUCT OF PEACE OFFICERS.

**Subdivision 1. Model policy to be developed.** By March 1, 1996, the peace officer standards and training board shall develop and distribute to all chief law enforcement officers a model policy regarding the professional conduct of peace officers. The policy must address issues regarding professional conduct not addressed by the standards of conduct under Minnesota Rules, part 6700.1600. The policy must define unprofessional conduct to include, but not be limited to, conduct prohibited by section 609.43, whether or not there has been a conviction for a violation of that section. The policy must also describe the procedures that a local law enforcement agency may follow in investigating and disciplining peace officers alleged to have behaved unprofessionally.

**Subd 2 Chief law enforcement officers; written policy required.** By July 1, 1996, all chief law enforcement officers shall establish and implement a written policy defining

unprofessional conduct and governing the investigation and disposition of cases involving alleged unprofessional conduct by peace officers. A chief law enforcement officer shall adopt a policy identical or substantially similar to the model policy developed by the board under subdivision 1.

**Subd 3 Report on alleged misconduct.** A chief law enforcement officer shall report annually to the board summary data regarding the investigation and disposition of cases involving alleged misconduct, indicating the total number of investigations, the total number by each subject matter, the number dismissed as unfounded, and the number dismissed on grounds that the allegation was unsubstantiated.

**History:** 1995 c 226 art 4 s 30

#### **626.846 ATTENDANCE, FORFEITURE OF POSITION.**

Subdivision 1. Notwithstanding any general or local law or charter to the contrary, any peace officer or part-time peace officer employed or elected on or after July 1, 1979, by any state, county, municipality or joint or contractual combination thereof of the state of Minnesota shall not be eligible for permanent appointment without being licensed by the board pursuant to sections 626 84 to 626.863

Subd 1a. [Repealed, 1980 c 578 s 12]

Subd. 2 Every peace officer or part-time peace officer who shall be appointed by any state, county, municipality or joint or contractual combination thereof of the state of Minnesota on a temporary basis or for a probationary term, shall forfeit the officer's position unless the officer has been licensed by the board pursuant to sections 626 841 to 626 863. Any other peace officer or part-time peace officer employed or elected by any state, county, municipality or joint or contractual combination thereof, may attend peace officer training courses and be licensed by the board pursuant to sections 626 84 to 626 863

Subd 3 A peace officer who has received a permanent appointment prior to July 1, 1978, shall be licensed by the board if the officer has met the requirements of sections 626 841 to 626 855 in effect on June 30, 1977 and if the officer has requested licensing by the board

Subd 3a [Repealed, 1980 c 578 s 12]

Subd 4 [Repealed, 1980 c 578 s 12]

Subd. 5 [Repealed, 1980 c 578 s 12]

Subd 6 A person seeking election to the office of sheriff must be licensed as a peace officer. A person seeking appointment to the office of sheriff, or seeking appointment to the position of chief law enforcement officer, as defined by the rules of the board, after June 30, 1987, must be licensed or eligible to be licensed as a peace officer. The person shall submit proof of peace officer licensure or eligibility as part of the application for office. A person elected or appointed to the office of sheriff or the position of chief law enforcement officer shall be licensed as a peace officer during the person's term of office or employment

**History:** 1967 c 870 s 6, 1977 c 433 s 8, 1977 c 455 s 90, 1978 c 681 s 13-18, 1980 c 578 s 3,4, 1981 c 310 s 5,6, 1986 c 444, 1987 c 358 s 130, 1994 c 636 art 4 s 33, 1997 c 7 art 1 s 169, 1997 c 147 s 78

#### **626.8461 PART-TIME PEACE OFFICERS; POLICY.**

The legislature finds and declares that it is necessary to establish minimum training requirements for part-time peace officers in certain specified areas to maximize protection of the rights and safety of the public and to minimize liability on the part of Minnesota counties and municipalities. The legislature further finds that part-time peace officers are most effectively utilized as a supplement to regular, fully trained and licensed, peace officers and does not encourage the use of part-time peace officers when needs for service would otherwise justify the use of peace officers.

**History:** 1979 c 282 s 3, 1981 c 310 s 7

#### **626.8462 COMPETENCY REQUIREMENTS.**

Part-time peace officer licensing examinations shall be designed to insure competency in the following areas reasonably achievable in courses within a total hourly maximum of 54 hours

- (a) Law of arrest, including probable cause,
- (b) Law of search and seizure,
- (c) Confessions and interrogations, oral and written,
- (d) Law and rules of evidence,
- (e) Minnesota criminal code,
- (f) Juvenile law,
- (g) General principles of criminal investigations,
- (h) Crime scene search and investigation,
- (i) Preservation and collection of crime scene evidence,
- (j) Traffic enforcement, including accident investigation

Upon request, the board shall provide to any sheriff or chief of police lesson plans and instructional materials reasonably necessary to conduct classes in the required areas of study. Nothing herein shall be construed to prohibit a requirement for more comprehensive training imposed by a local law enforcement agency.

**History:** 1979 c 282 s 5, 1981 c 310 s 8

#### **626.8463 PART-TIME PEACE OFFICERS.**

Subdivision 1 **Appointment requirements.** Any individual appointed or employed as a part-time peace officer shall provide proof to the board that the individual has:

- (1) satisfied the selection standards of the board then in effect,
- (2) successfully completed board recognized courses in first aid and firearms training, including legal limitations on the justifiable use of deadly force, and
- (3) successfully passed a board part-time peace officer licensing examination

Subd 2 **Quota.** A law enforcement agency may have no more than two part-time peace officer positions, except that the agency may have up to the number of part-time peace officer positions recognized by the board as of January 1, 1985.

**History:** 1979 c 282 s 6, 1980 c 578 s 5, 1981 c 310 s 9, 1985 c 13 s 1

#### **626.8464 NEW PART-TIME PEACE OFFICER POSITIONS.**

Except as otherwise provided in section 626.8463, any individual appointed or employed as a part-time peace officer to a position which was not filled by a part-time officer between January 1, 1978 and May 31, 1979 shall meet the training and licensing requirements of the board then in effect for full-time peace officers.

**History:** 1979 c 282 s 7, 1980 c 578 s 7, 1981 c 310 s 10

#### **626.8465 PART-TIME OFFICERS; LIMITATIONS.**

Subdivision 1 **Supervision of powers and duties.** No law enforcement agency shall utilize the services of a part-time peace officer unless the part-time peace officer exercises the part-time peace officer's powers and duties under the supervision of a licensed peace officer designated by the chief law enforcement officer. Supervision also may be via radio communications. With the consent of the county sheriff, the designated supervising officer may be a member of the county sheriff's department.

Subd 2 **Part-time peace officer license, restriction.** Any individual licensed by the board as a part-time peace officer shall be eligible for appointment or employment anywhere in the state as a part-time peace officer but not as a peace officer unless the individual meets board training and licensing requirements then in effect for peace officers.

Subd 3 **Emergency appointment.** Upon application of a law enforcement agency the board shall exempt from the provisions of Laws 1979, Chapter 282 the number of individuals necessary to secure and maintain the public safety in the case of an emergency arising from a natural disaster, civil disorder, fire, explosion, or similar catastrophic event; provided that no exemption shall be valid for a period exceeding 30 days. In the event the emergency requires an exemption immediately, the director or in case of the director's absence, the chief law enforcement officer of the municipality or township, or the sheriff of the county in which the

emergency has arisen, shall grant an exemption which shall be valid only until the board has met and approved or rejected the application, but in no event shall an exemption granted by the director, the chief law enforcement officer of the municipality or township, or a county sheriff, be valid for a period exceeding seven days

**History:** 1979 c 282 s 8, 1981 c 310 s 11,12, 1986 c 444, 1992 c 571 art 15 s 15

#### **626.8466 RESERVE OFFICERS.**

Notwithstanding any provision of this chapter or rule of the board to the contrary, no reserve officer shall be subject to mandatory training, licensing, or continuing education requirements except as may be established by the agency utilizing the services of the reserve officer

**History:** 1979 c 282 s 9

**626.8467** [Repealed, 1980 c 578 s 12]

#### **626.847 COMPULSORY PROGRAM; EXEMPTIONS.**

Nothing contained in sections 626 841 to 626 863, shall be construed to exempt any peace officer from the provisions of sections 626 841 to 626 863, or to exempt a peace officer having received the peace officer's last permanent appointment as a peace officer prior to July 1, 1967

**History:** 1967 c 870 s 7, 1977 c 433 s 9, 1978 c 681 s 19, 1986 c 444, 1997 c 7 art 1 s 169

#### **626.848 TRAINING COURSES, LOCATIONS.**

Subject to board rules, the superintendent of the bureau of criminal apprehension shall provide courses at convenient locations in the state, for training peace officers and constables in their powers and duties, and in the use of approved equipment and the latest technique for detection, identification and apprehension of criminals For this purpose, the superintendent may use the services and employees of the bureau

The superintendent shall provide training to deputy constables in the limitations on their powers and duties, the conduct of inspections, and such other matters as the board may direct Nothing herein shall be construed as establishing a mandatory training requirement for deputy constables

**History:** 1967 c 870 s 8, 1977 c 433 s 10, 1978 c 681 s 20

**626.849** [Repealed, 1987 c 358 s 132]

#### **626.85 INSTRUCTORS; DONATIONS, CONTRIBUTIONS.**

Subdivision 1. In addition to the bureau employees assigned to police training, full time or part time, the superintendent is authorized to engage such part-time instructors as the superintendent deems proper and necessary to furnish the best possible instruction in police sciences, subject to board rules and to the limitation of funds as appropriated and available for expenditure Laws 1981, chapter 210, sections 1 to 48 shall not apply to such part-time employees.

Subd 2 Any donations, contributions, grants or gifts which may be received shall be accepted without recourse to the donor, and shall become the property of the state All cash receipts shall be deposited with the state treasurer, and are hereby appropriated to the bureau in the quarter in which they were so deposited

Subd 3 Any peace officer who has been designated to serve as an instructor, researcher or member of a special project for the peace officer training board may in the discretion of the appointing authority be given up to a 12 month leave of absence with pay from the police department or agency by which employed for the purpose of serving as such instructor, researcher or member of a special project While serving in such capacity peace officers shall continue to maintain the civil service status they have attained or accrued pursuant to chapters 43A, 44 and 419 The state treasurer shall reimburse solely from federal funds available

for this purpose the respective law enforcement employers of such peace officers for all salaries and contributions such employers make during said leave of absence towards accrual of their civil service benefits, pension fund and hospitalization benefits

**History:** 1967 c 870 s 10, 1971 c 615 s 1, 1977 c 433 s 11, 1981 c 210 s 54, 1986 c 444

### **626.851 ELIGIBILITY OF OFFICERS.**

Subdivision 1 Any peace officer or part-time peace officer employed or elected by any county or municipality of the state of Minnesota shall be eligible to attend training courses as herein provided in accordance with the rules of the board

Subd. 2 Any student successfully completing a program of law enforcement instruction in a post secondary educational institution, which program has been certified by the board, and which institution has been approved by the Minnesota state department of children, families, and learning or an accredited institution of higher learning shall be eligible to attend a skills oriented basic training course as established under section 626.843. Nothing contained in sections 626.84 to 626.863 shall be construed to preclude the provision of skills oriented basic training courses by certified law enforcement schools providing such course has been certified by the board

**History:** 1967 c 870 s 11, 1973 c 565 s 1, 1976 c 52 s 1, 1977 c 433 s 12, 1978 c 681 s 21; 1980 c 578 s 6, 1981 c 310 s 13, 1Sp1995 c 3 art 16 s 13, 1997 c 7 art 1 s 169

### **626.852 TUITION; SALARY AND EXPENSES.**

Each officer when assigned to the bureau of criminal apprehension continuing education courses pursuant to rules of the board shall receive the officer's regular salary and shall be reimbursed by the governing body of the governmental unit or combination of governmental units from which elected or by which employed for the cost of meals, travel, and lodgings while in attendance at the bureau of criminal apprehension courses, not to exceed similar allowance for state employees

**History:** 1967 c 870 s 12, 1980 c 578 s 8, 1981 c 310 s 14; 1986 c 444, 1987 c 358 s 131

**626.853** [Repealed, 1978 c 681 s 22]

**626.854** [Repealed, 1977 c 433 s 16]

**626.855** [Repealed, 1996 c 310 s 1]

### **626.8555 PEACE OFFICER EDUCATION PROGRAMS.**

Metropolitan State University and Minneapolis Community College, in consultation with the board of peace officer standards and training and state and local law enforcement agencies in the seven-county metropolitan area, shall provide core law enforcement courses in an accelerated time period. The schools shall grant priority admission to students who have a bona fide offer of employment from a Minnesota law enforcement agency. These courses shall be available at the beginning of the 1995-1996 academic year and are contingent on sufficient program enrollment.

The board, Metropolitan State University, and Minneapolis Community College shall evaluate the accelerated law enforcement education program and report their findings to the 1997 legislature.

**History:** 1995 c 226 art 4 s 27

### **626.856 SCHOOL OF LAW ENFORCEMENT.**

By July 1, 1992, the state university system shall develop a school of law enforcement in the metropolitan area, as defined in section 473.121, subdivision 2, whose mission is to advance the profession of law enforcement. The school may offer professional peace officer education, graduate degree programs, and peace officer continuing education programs, and may conduct applied research.

**History:** 1991 c 356 art 6 s 2

626.857 MS 1992 [Expired]

626.86 [Repealed, 1991 c 356 art 6 s 5]

626.861 [Repealed, 1998 c 367 art 8 s 26]

### 626.862 POWERS OF LAW ENFORCEMENT OFFICERS.

Except as specifically provided by statute, only a peace officer, constable, and part-time peace officer may

(1) issue a citation in lieu of arrest or continued detention unless specifically authorized by ordinance,

(2) ask a person receiving a citation to give a written promise to appear in court, or

(3) take a person into custody as permitted by section 629.34

**History:** 1987 c 334 s 5

### 626.863 UNAUTHORIZED PRACTICE.

(a) A person who is not a peace officer, constable, or part-time peace officer is guilty of a misdemeanor if the person (1) makes a representation of being a peace officer, constable, or part-time peace officer, or (2) performs or attempts to perform an act, duty, or responsibility reserved by law for licensed peace officers, constables, and part-time peace officers

(b) The board shall designate the appropriate law enforcement agency to investigate violations of this section. The attorney general shall prosecute violations of this section

**History:** 1987 c 334 s 6

## LAW ENFORCEMENT BACKGROUND INVESTIGATIONS

### 626.87 LAW ENFORCEMENT BACKGROUND INVESTIGATIONS.

**Subdivision 1 Background investigation required.** (a) A law enforcement agency shall conduct a thorough background investigation on an applicant for employment as a licensed peace officer or an applicant for a position leading to employment as a licensed peace officer before the applicant may be employed. The background investigation must determine at a minimum whether the candidate meets the following standards

(1) standards established by the Minnesota board of peace officer standards and training; and

(2) established security standards for access to state and national computerized record and communication systems

(b) This requirement does not prevent a law enforcement agency from establishing higher standards for law enforcement employees if those standards are not contrary to applicable law

**Subd 2 Disclosure of employment information.** Upon request of a law enforcement agency, an employer shall disclose or otherwise make available for inspection employment information of an employee or former employee who is the subject of an investigation under subdivision 1. The request for disclosure of employment information must be in writing, must be accompanied by an original authorization and release signed by the employee or former employee, and must be signed by a sworn peace officer or other authorized representative of the law enforcement agency conducting the background investigation

**Subd 3 Refusal to disclose a personnel record.** If an employer refuses to disclose employment information in accordance with this section, upon request the district court may issue an ex parte order directing the disclosure of the employment information. The request must be made by a sworn peace officer from the law enforcement agency conducting the background investigation and must include a copy of the original request for disclosure made upon the employer or former employer and the authorization and release signed by the employee or former employee. The request must be signed by the peace officer requesting the order and an attorney representing the state or the political subdivision on whose behalf the background investigation is being conducted. It is not necessary for the request or the order to



be filed with the court administrator. Failure to comply with the court order subjects the person who fails to comply to civil or criminal contempt of court.

**Subd 4 Immunity from liability.** In the absence of fraud or malice, an employer is immune from civil liability for employment information released to a law enforcement agency under this section, or for any subsequent publication made by the employee or former employee of employment information released to a law enforcement agency under this section.

**Subd 5 Notice of investigation.** Upon initiation of a background investigation under this section, the law enforcement agency shall give written notice to the peace officer standards and training board of:

- (1) the candidate's full name and date of birth, and
- (2) the candidate's peace officer license number, if known.

The initiation of a background investigation does not include the submission of an application for employment. Initiation of a background investigation occurs when the law enforcement agency begins its determination of whether an applicant meets the agency's standards for employment as a law enforcement employee.

**Subd 6 Confidentiality agreements.** If employment information is subject to a confidentiality agreement between the employee or former employee and the employer, the employer shall disclose the fact that such an agreement exists. If the employee or former employee has authorized the release of employment information without regard to any previous agreement to the contrary, the employer shall also disclose the employment information in accordance with subdivision 2. If employment information is sealed or otherwise subject to a nondisclosure order by a court of competent jurisdiction, the employer shall disclose the fact that such an order exists, along with information identifying the court and court's file number.

**Subd 7 Employment information.** For purposes of this section, "employment information" means written information in connection with job applications, performance evaluations, attendance records, disciplinary actions, and eligibility for rehire.

**Subd 8 Application.** For purposes of this section, "employer" does not include an entity that is subject to chapter 13.

**History:** 1997 c 214 s 5

## UNIFORM COLORS FOR PEACE OFFICERS AND SECURITY GUARDS

### 626.88 UNIFORMS; PEACE OFFICERS, SECURITY GUARDS; COLOR.

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

(b) "Peace officer" means an employee of a political subdivision or state law enforcement agency who is licensed pursuant to sections 626.84 to 626.863 charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has full power of arrest, and shall also include Minnesota state troopers, state conservation officers, park police, constables, and University of Minnesota police officers.

(c) "Security guard" means any person who is paid a fee, wage or salary to perform one or more of the following functions:

- (1) Prevention or detection of intrusion, unauthorized entry or activity, vandalism or trespass on private property;
- (2) Prevention or detection of theft, loss, embezzlement, misappropriation, or concealment of merchandise, money, bonds, stocks, notes, or other valuable documents or papers;
- (3) Control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, to assure protection of private property;
- (4) Protection of individuals from bodily harm, or
- (5) Enforcement of policies and rules of the security guard's employer related to crime reduction insofar as such enforcement falls within the scope of security guard's duties.

The term "security guard" does not include (i) auditors, accountants, and accounting personnel performing audits or accounting functions; (ii) employees of a firm licensed pursuant to section 326.3381 whose duties are primarily administrative or clerical in nature, (iii) unarmed security personnel, (iv) personnel temporarily employed pursuant to statute or ordinance by political subdivisions to provide protective services at social functions, (v) employees of air or rail carriers

Subd 2 **Uniforms.** Uniforms for peace officers shall be of uniform colors throughout the state as provided herein Uniforms for

(a) Municipal peace officers, including University of Minnesota peace officers, constables, and peace officers assigned to patrol duties in parks, shall be blue, brown or green,

(b) Peace officers who are members of the county sheriffs' office shall be blue, brown or green,

(c) State troopers shall be maroon,

(d) Conservation officers shall be green

The uniforms of security guards may be any color other than those specified for peace officers

This subdivision shall apply to uniforms purchased subsequent to January 1, 1981

Subd 3 **Exception.** Security guards employed by the capitol complex security division of the department of public safety are not required to comply with subdivision 2

**History:** 1980 c 578 s 9, 1981 c 37 s 2, 1981 c 310 s 16, 1983 c 293 s 109, 1Sp1985 c 10 s 118, 1986 c 444, 1989 c 209 art 2 s 1, 1997 c 7 art 1 s 169

## PEACE OFFICER DISCIPLINE PROCEDURES

### 626.89 PEACE OFFICER DISCIPLINE PROCEDURES ACT.

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

(a) "Administrative hearing" means a nonjudicial hearing or arbitration authorized to recommend, approve, or order discipline

(b) "Formal statement" means the questioning of an officer in the course of obtaining a recorded, stenographic, or signed statement to be used as evidence in a disciplinary proceeding against the officer

(c) "Officer" means a licensed peace officer or part-time peace officer, as defined in section 626 84, subdivision 1, paragraphs (c) and (f), who is employed by a unit of government

Subd 2 **Applicability.** The procedures and provisions of this section apply to law enforcement agencies and government units The procedures and provisions of this section do not apply to

(1) investigations and proceedings of the Minneapolis civilian police review authority, or

(2) investigations of criminal charges against an officer

Subd 3 **Governing formal statement procedures.** The formal statement of an officer must be taken in accordance with subdivisions 4 to 10

Subd 4 **Place of formal statement.** The formal statement must be taken at a facility of the employing or investigating agency or at a place agreed to by the investigating individual and the investigated officer

Subd 5 **Complaint.** An officer's formal statement may not be taken unless there is filed with the employing or investigating agency a written complaint signed by the complainant stating the complainant's knowledge, and the officer has been given a summary of the allegations Complaints stating the signer's knowledge also may be filed by members of the law enforcement agency Before an administrative hearing is begun, the officer must be given a copy of the signed complaint

Subd 6 **Witnesses; investigative reports.** Upon request, the investigating agency or the officer shall provide the other party with a list of witnesses that the agency or officer ex-

pects to testify at the administrative hearing and the substance of the testimony. A party is entitled to copies of any witness statements in the possession of the other party and an officer is entitled to a copy of the investigating agency's investigative report, provided that any references in a witness statement or investigative report that would reveal the identity of confidential informants need not be disclosed except upon order of the person presiding over the administrative hearing for good cause shown.

**Subd 7 Sessions.** Sessions at which a formal statement is taken must be of reasonable duration and must give the officer reasonable periods for rest and personal necessities. When practicable, sessions must be held during the officer's regularly scheduled work shift. If the session is not held during the officer's regularly scheduled work shift, the officer must be paid by the employing agency at the officer's current compensation rate for time spent attending the session.

**Subd 8 Record.** A complete record of sessions at which a formal statement is taken must be made by electronic recording or otherwise. Upon written request of the officer whose statement is taken, a complete copy or transcript must be made available to the officer without charge or undue delay. The session may be tape recorded by the investigating officer and by the officer under investigation.

**Subd 9 Presence of attorney or union representative.** The officer whose formal statement is taken has the right to have an attorney or union representative of the officer's choosing present during the session. The officer may request the presence of an attorney or union representative at any time before or during the session. When a request under this subdivision is made, no formal statement may be taken until a reasonable opportunity is provided for the officer to obtain the presence of the attorney or union representative.

**Subd 10 Admissions.** Before an officer's formal statement is taken, the officer shall be advised in writing or on the record that admissions made in the course of the formal statement may be used as evidence of misconduct or as a basis for discipline.

**Subd 11 Disclosure of financial records.** No employer may require an officer to produce or disclose the officer's personal financial records except pursuant to a valid search warrant or subpoena.

**Subd 12 Release of photographs.** No law enforcement agency or governmental unit may publicly release photographs of an officer without the written permission of the officer, except that the agency or unit may display a photograph of an officer to a prospective witness as part of an agency or unit investigation, and the agency or unit may provide a photograph of an officer to the civilian police review authority for it to display to a prospective witness as part of the authority's investigation.

**Subd 13 Disciplinary letter.** No disciplinary letter or reprimand may be included in an officer's personnel record unless the officer has been given a copy of the letter or reprimand.

**Subd 14 Retaliatory action prohibited.** No officer may be discharged, disciplined, or threatened with discharge or discipline as retaliation for or solely by reason of the officer's exercise of the rights provided by this section.

**Subd 15 Rights not reduced.** The rights of officers provided by this section are in addition to and do not diminish the rights and privileges of officers that are provided under an applicable collective bargaining agreement or any other applicable law.

**Subd 16 Action for damages.** Notwithstanding section 3.736 or 466.03, a political subdivision or state agency that violates this section is liable to the officer for actual damages resulting from the violation, plus costs and reasonable attorney fees. The political subdivision or the state is deemed to have waived any immunity to a cause of action brought under this subdivision, except that the monetary limits on liability under section 3.736, subdivision 4, or 466.04 apply.

**History:** 1991 c 334 s 1

#### LAW ENFORCEMENT AUTHORITY OF MILLE LACS BAND OF CHIPPEWA INDIANS

### 626.90 LAW ENFORCEMENT AUTHORITY; TRIBAL PEACE OFFICERS.

**Subdivision 1 Definition.** As used in this section, "band" means the federally recognized Mille Lacs Band of Chippewa Indians.

Subd 2. **Law enforcement agency.** (a) The band has the powers of a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (h), if all of the requirements of clauses (1) to (4) are met

(1) the band agrees to be subject to liability for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties arising out of a law enforcement agency function conferred by this section, to the same extent as a municipality under chapter 466, and the band further agrees, notwithstanding section 16C.05, subdivision 7, to waive its sovereign immunity for purposes of claims of this liability,

(2) the band files with the board of peace officer standards and training a bond or certificate of insurance for liability coverage for the maximum amounts set forth in section 466.04,

(3) the band files with the board of peace officer standards and training a certificate of insurance for liability of its law enforcement officers, employees, and agents for lawsuits under the United States Constitution, and

(4) the band agrees to be subject to section 13.82 and any other laws of the state relating to data practices of law enforcement agencies

(b) The band shall enter into mutual aid/cooperative agreements with the Mille Lacs county sheriff under section 471.59 to define and regulate the provision of law enforcement services under this section. The agreements must define the trust property involved in the joint powers agreement

(c) The band shall have concurrent jurisdictional authority under this section with the Mille Lacs county sheriff's department only if the requirements of paragraph (a) are met and under the following circumstances

(1) over all persons in the geographical boundaries of the property held by the United States in trust for the Mille Lacs band or the Minnesota Chippewa tribe,

(2) over all Minnesota Chippewa tribal members within the boundaries of the Treaty of February 22, 1855, 10 Stat. 1165, in Mille Lacs county, Minnesota, and

(3) concurrent jurisdiction over any person who commits or attempts to commit a crime in the presence of an appointed band peace officer within the boundaries of the Treaty of February 22, 1855, 10 Stat. 1165, in Mille Lacs county, Minnesota.

Subd 3 **Peace officers.** If the band complies with the requirements set forth in subdivision 2, the band is authorized to appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), who have the same powers as peace officers employed by local units of government.

Subd. 4 **County jail.** The sheriff of the county in which the violation occurred is responsible for receiving persons arrested by peace officers appointed under subdivision 3 and acting under the authority conferred by this section

Subd 5 **Prosecuting authority.** The Mille Lacs county attorney is responsible to prosecute or initiate petitions for any person arrested, investigated, or detained by peace officers appointed under subdivision 3 and acting under the authority conferred by this section

Subd 6 **Effect on federal law.** Nothing in this section shall be construed to restrict the band's authority under federal law

Subd 7 **Construction.** This section is limited to law enforcement authority only, and nothing in this section shall affect any other jurisdictional relationships or disputes involving the band or current reservation boundaries or entitle the band as a municipality or subdivision of government to any fine or penalty revenue allocation under section 487.33

**History:** 1991 c 189 s 1, 1998 c 386 art 2 s 97

## 626.91 LAW ENFORCEMENT AUTHORITY; LOWER SIOUX INDIAN COMMUNITY PEACE OFFICERS.

Subdivision 1 **Definition.** As used in this section, "community" means the Lower Sioux Indian Community

Subd 2 **Law enforcement agency.** (a) The community has the powers of a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (h), if all of the requirements of clauses (1) to (4) are met

(1) the community agrees to be subject to liability for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties arising out of the law enforcement agency powers conferred by this section to the same extent as a municipality under chapter 466, and the community further agrees, notwithstanding section 16C 05, subdivision 7, to waive its sovereign immunity with respect to claims arising from this liability,

(2) the community files with the board of peace officer standards and training a bond or certificate of insurance for liability coverage for the maximum amounts set forth in section 466.04,

(3) the community files with the board of peace officer standards and training a certificate of insurance for liability of its law enforcement officers, employees, and agents for lawsuits under the United States Constitution, and

(4) the community agrees to be subject to section 13 82 and any other laws of the state relating to data practices of law enforcement agencies

(b) The community shall enter into an agreement under section 471 59 with the Redwood county sheriff to define and regulate the provision of law enforcement services under this section and to provide for mutual aid and cooperation. The agreement must identify and describe the trust property involved in the agreement. For purposes of entering into this agreement, the community shall be considered a "governmental unit" as that term is defined in section 471 59, subdivision 1.

**Subd. 3. Concurrent jurisdiction.** The jurisdiction of the community pursuant to this section shall be concurrent with that of the Redwood county sheriff, provided that it shall be limited to persons in the geographical boundaries of property held by the United States in trust for the community.

**Subd. 4. Peace officers.** If the community complies with the requirements set forth in subdivision 2, the community is authorized to appoint peace officers, as defined in section 626 84, subdivision 1, paragraph (c), who have the same powers as peace officers employed by the Redwood county sheriff over the persons and the geographic areas described in subdivision 3.

**Subd. 5. County jail.** The Redwood county sheriff is responsible for receiving persons arrested by peace officers appointed by the community under subdivision 4 and acting under the authority conferred by this section.

**Subd. 6. Prosecuting authority.** The Redwood county attorney is responsible for prosecuting or initiating petitions for any person arrested, investigated, or detained by peace officers appointed by the community under subdivision 4 and acting under the authority conferred by this section.

**Subd. 7. Effect on federal law.** Nothing in this section shall be construed to restrict the community's authority under federal law.

**Subd. 8. Construction.** This section is limited to law enforcement authority only, and nothing in this section shall affect any other jurisdictional relationships or disputes involving the community.

**History:** 1997 c 185 s 1, 1998 c 386 art 2 s 98

#### LAW ENFORCEMENT AUTHORITY OF FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

#### 626.92 ENFORCEMENT AUTHORITY; FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA.

**Subdivision 1. Definition.** As used in this section, "band" means the Fond du Lac Band of Lake Superior Chippewa, a federally recognized Indian tribe organized pursuant to the Indian Reorganization Act of 1934, United States Code, title 25, section 476, and which occupies the Fond du Lac reservation pursuant to the Treaty of LaPomte, 10 Stat. 1109.

**Subd. 2. Law enforcement agency.** (a) The band has the powers of a law enforcement agency, as defined in section 626 84, subdivision 1, paragraph (h), if all of the requirements of clauses (1) to (4) and paragraph (b) are met.

(1) the band agrees to be subject to liability for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties arising out of the law enforcement agency powers conferred by this section to the same extent as a municipality under chapter 466, and the band further agrees, notwithstanding section 16B 06, subdivision 6, to waive its sovereign immunity for purposes of claims arising out of this liability;

(2) the band files with the board of peace officer standards and training a bond or certificate of insurance for liability coverage for the maximum amounts set forth in section 466 04 or establishes that liability coverage exists under the Federal Torts Claims Act, United States Code, title 28, section 1346(b), et al , as extended to the band pursuant to the Indian Self-Determination and Education Assistance Act of 1975, United States Code, title 25, section 450f(c),

(3) the band files with the board of peace officer standards and training a certificate of insurance for liability of its law enforcement officers, employees, and agents for lawsuits under the United States Constitution or establishes that liability coverage exists under the Federal Torts Claims Act, United States Code, title 28, section 1346(b) et al , as extended to the band pursuant to the Indian Self-Determination and Education Assistance Act of 1975, United States Code, title 25, section 450F(c), and

(4) the band agrees to be subject to section 13 82 and any other laws of the state relating to data practices of law enforcement agencies

(b) By July 1, 1998, the band shall enter into written mutual aid or cooperative agreements with the Carlton county sheriff, the St Louis county sheriff, and the city of Cloquet under section 471 59 to define and regulate the provision of law enforcement services under this section. The agreements must define the following

(1) the trust property involved in the joint powers agreement;

(2) the responsibilities of the county sheriffs,

(3) the responsibilities of the county attorneys, and

(4) the responsibilities of the city of Cloquet city attorney and police department

**Subd 3 Concurrent jurisdiction.** The band shall have concurrent jurisdictional authority under this section with the Carlton county and St Louis county sheriffs' departments over crimes committed within the boundaries of the Fond du Lac reservation as indicated by the mutual aid or cooperative agreements entered into under subdivision 2, paragraph (b), and any exhibits or attachments to those agreements

**Subd 4 Peace officers.** If the band complies with the requirements set forth in subdivision 2, the band is authorized to appoint peace officers, as defined in section 626 84, subdivision 1, paragraph (c), who have the same powers as peace officers employed by local units of government.

**Subd 5 Effect on federal law.** Nothing in this section shall be construed to restrict the band's authority under federal law

**Subd 6 Construction.** This section is limited to law enforcement authority only, and nothing in this section shall affect any other jurisdictional relationships or disputes involving the band.

**History:** 1998 c 367 art 11 s 21