

## CHAPTER 626

TRAINING; INVESTIGATION, APPREHENSION;  
REPORTS

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

(a) Except as provided in paragraph (b), 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.

(b) A district court judge may grant an extension of a warrant on a financial institution for financial records upon an application under oath stating that the financial institution has not produced the requested financial records within ten days and that an extension is necessary to achieve the purposes for which the search warrant was granted. Each extension may not exceed 30 days.

For the purposes of this paragraph, "financial institution" has the meaning given in section 13A.01, subdivision 2, and "financial records" has the meaning given in section 13A.01, subdivision 3.

**History:** 1999 c 117 s 1

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

*[For text of subd 1, see M.S.1998]*

Subd. 2. [Repealed, 1999 c 216 art 5 s 15]

**626.5551 ALTERNATIVE RESPONSE PROGRAMS FOR CHILD PROTECTION ASSESSMENTS OR INVESTIGATIONS.**

Subdivision 1. **Programs authorized.** (a) A county may establish a program that uses alternative responses to reports of child maltreatment under section 626.556, as provided in this section.

(b) The alternative response program is a voluntary program on the part of the family, which may include a family assessment and services approach under which the local welfare agency assesses the risk of abuse and neglect and the service needs of the family and arranges for appropriate services, diversions, referral for services, or other response identified in the plan under subdivision 4.

(c) This section may not be used for reports of maltreatment in facilities required to be licensed under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B, or in a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10, or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

Subd. 2. **Use of alternative response or investigation.** (a) Upon receipt of a report under section 626.556, the local welfare agency in a county that has established an alternative response program under this section shall determine whether to conduct an investigation using the traditional investigative model under section 626.556 or to use an alternative response as appropriate to prevent or provide a remedy for child maltreatment.

(b) The local welfare agency may conduct an investigation of any report using the traditional investigative model under section 626.556. However, the local welfare agency must use the traditional investigative model under section 626.556 to investigate reports involving substantial child endangerment. For purposes of this subdivision, substantial child endangerment includes when a person responsible for a child's care, by act or omission, commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm as defined in section 260C.007, subdivision 26;
- (2) sexual abuse as defined in section 626.556, subdivision 2, paragraph (a);
- (3) abandonment under section 260C.301, subdivision 2;
- (4) neglect as defined in section 626.556, subdivision 2, paragraph (c), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (5) murder in the first, second, or third degree under section 609.185; 609.19; or 609.195;
- (6) manslaughter in the first or second degree under section 609.20 or 609.205;
- (7) assault in the first, second, or third degree under section 609.221; 609.222; or 609.223;
- (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- (9) criminal sexual conduct under sections 609.342 to 609.345 1;
- (10) solicitation of children to engage in sexual conduct under section 609.352;
- (11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378; or
- (12) use of minor in sexual performance under section 617.246.

(c) Nothing in this section gives a county any broader authority to intervene, assess, or investigate a family other than under section 626.556.

(d) In addition, in all cases the local welfare agency shall notify the appropriate law enforcement agency as provided in section 626.556, subdivision 3.

(e) The local welfare agency shall begin an immediate investigation under section 626.556 if at any time when it is using an alternative response it determines that an investigation is required under paragraph (b) or would otherwise be appropriate. The local welfare agency may use an alternative response to a report that was initially referred for an investigation if the agency determines that a complete investigation is not required. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and consult with:

- (1) the local law enforcement agency, if the local law enforcement is involved, and notify the county attorney of the decision to terminate the investigation; or
- (2) the county attorney, if the local law enforcement is not involved.

**Subd. 3. Documentation.** When a case in which an alternative response was used is closed, the local welfare agency shall document the outcome of the approach, including a description of the response and services provided and the removal or reduction of risk to the child, if it existed. Records maintained under this section must contain the documentation and must be retained for at least four years.

**Subd. 4. Plan.** The county community social service plan required under section 256E.09 must address the extent that the county will use the alternative response program authorized under this section, based on the availability of new federal funding that is earned and other available revenue sources to fund the additional cost to the county of using the program. To the extent the county uses the program, the county must include the program in the community social service plan and in the program evaluation under section 256E.10. The plan must address alternative responses and services that will be used for the program and protocols for determining the appropriate response to reports under section 626.556 and address how the protocols comply with the guidelines of the commissioner under subdivision 5.

Subd. 5. **Commissioner of human services to develop guidelines.** The commissioner of human services, in consultation with county representatives, may develop guidelines defining alternative responses and setting out procedures for family assessment and service delivery under this section. The commissioner may also develop guidelines for counties regarding the provisions of section 626.556 that continue to apply when using an alternative response under this section. The commissioner may also develop forms, best practice guidelines, and training to assist counties in implementing alternative responses under this section.

**History:** 1999 c 139 art 4 s 2; 1999 c 245 art 8 s 65

## 626.556 REPORTING OF MALTREATMENT OF MINORS.

*[For text of subd 1, see M.S.1998]*

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 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. 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:

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

(2) failure to protect a child from conditions or actions which imminently and seriously endanger the child's physical or mental health when reasonably able to do so;

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

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11;

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

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

(7) "medical neglect" as defined in section 260C.007, subdivision 4, clause (5);

(8) that the parent or other person responsible for the care of the child:

(i) engages in violent behavior that demonstrates a disregard for the well-being of the child as indicated by action that could reasonably result in serious physical, mental, or threatened injury, or emotional damage to the child;

(ii) engages in repeated domestic assault that would constitute a violation of section 609.2242, subdivision 2 or 4;

(iii) intentionally inflicts or attempts to inflict bodily harm against a family or household member, as defined in section 518B.01, subdivision 2, that is within sight or sound of the child; or

(iv) subjects the child to ongoing domestic violence by the abuser in the home environment that is likely to have a detrimental effect on the well-being of the child;

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

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

(d) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive and deprivation procedures that have not been authorized under section 245.825. Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

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

(2) striking a child with a closed fist;

(3) shaking a child under age three;

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

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

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

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

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

(9) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining.

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

(f) "Facility" means a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B; or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(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.

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

**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, agency responsible for assessing or investigating the report, 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 or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency, or agency responsible for assessing or investigating the report, 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, agency responsible for assessing or investigating reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph 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, agency responsible for assessing or investigating the report, 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 or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency or agency responsible for assessing or investigating the report, 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 under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b.

(d) Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to

report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

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

*[For text of subd 3a, see M.S.1998]*

**Subd. 3b. Agency responsible for assessing or investigating reports of maltreatment.** The department of children, families, and learning is the agency responsible for assessing or investigating allegations of child maltreatment in schools as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10.

**Subd. 3c. Agency responsible for assessing or investigating reports of maltreatment.** The following agencies are the administrative agencies responsible for assessing or investigating reports of alleged child maltreatment in facilities made under this section:

(1) the county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, and legally unlicensed child care and in juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county;

(2) the department of human services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care; and

(3) the department of health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58, and in unlicensed home health care.

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

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;

(2) any person with responsibility for performing duties under this section or supervisor employed by a local welfare agency, the commissioner of an agency responsible for operating or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19a, complying with subdivision 10d; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency 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.

*[For text of subs 4a to 6a, see M.S.1998]*

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 extent of the abuse or neglect and the name and address of the reporter. If requested, the local welfare agency shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. 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.

*[For text of subds 8 and 9, see M.S.1998]*

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 including gathering information on the existence of substance abuse 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.

If the assessment indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615. The local welfare agency shall report the determination of the chemical use assessment, and the recommendations and referrals for alcohol and other drug treatment services to the state authority on alcohol and drug abuse.

(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, and substance abuse.

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.

(i) 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.

*[For text of subd 10a, see M.S.1998]*

**Subd. 10b. Duties of commissioner; neglect or abuse in facility.** (a) This section applies to the commissioners of human services, health, and children, families, and learning. The commissioner of the agency responsible for assessing or investigating the report shall immediately investigate if the report alleges that:

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

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

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

(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 services 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 260C.007, subdivision 4, clause (5), the local welfare agency shall, in addition to its other duties under this section, immediately consult with designated hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration, and medication are being provided; and shall immediately secure an independent medical review of the infant's medical charts and records and, if necessary, seek a court order for an independent medical examination of the infant. If the review or examination leads to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by initiating legal proceedings under section 260C.141 and by filing an expedited motion to prevent the withholding of medically indicated treatment.

**Subd. 10d. Notification of neglect or abuse in facility.** (a) When a report is received that alleges neglect, physical abuse, or sexual abuse of a child while in the care of a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed according to sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in section 256B.04, subdivision 16, and 256B.0625, subdivision 19a, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, 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 of the agency responsible for assessing or investigating the report or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, or sexual abuse has occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, 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 of the agency responsible for assessing or investigating the report 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.

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 or agency responsible for assessing or investigating the report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. 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.

*[For text of subs 10g and 10h, see M.S.1998]*

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.

(d) If an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

Subd. 10j. **Release of data to mandated reporters.** A local social services 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, in the best interests of the child. Mandated reporters with ongoing responsibility for the health, education, or welfare of a child affected by the data include the child's teachers or other appropriate school personnel, foster parents, health care providers, respite care workers, therapists, social workers, child care providers, residen-

tial care staff, crisis nursery staff, probation officers, and court services personnel. Under this section, a mandated reporter need not have made the report to be considered a person with ongoing responsibility for the health, education, or welfare of a child affected by the data. Data provided under this section must be limited to data pertinent to the individual's responsibility for caring for the child.

*[For text of subd 10k, see M.S.1998]*

Subd. 11. **Records.** (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. 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 or agency responsible for assessing or investigating the report shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only 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.

*[For text of subd 11a, see M.S.1998]*

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

Subd. 11c. **Welfare, court services agency, and school records maintained.** Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, agencies responsible for assessing or investigating the report, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority.

(a) 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 or agency responsible for assessing or investigating the report shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

*[For text of subs 11d to 15, see M.S.1998]*

**History:** 1999 c 139 art 4 s 2; 1999 c 241 art 2 s 54; art 10 s 3; 1999 c 245 art 4 s 102; art 8 s 66-79

### **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, 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. A member of the team must be designated as the lead person of the team responsible for the planning process to develop standards for its activities with battered women's programs and services.

*[For text of subs 2 to 3, see M.S.1998]*

**History:** 1999 c 245 art 8 s 80

### **626.559 SPECIALIZED TRAINING AND EDUCATION REQUIRED.**

*[For text of subs 1 and 1a, see M.S.1998]*

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 260C.001 and the role of the assessment or investigation in meeting these goals;

(2) the special duties of child protection workers and law enforcement officers under 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.

[For text of subs 3 to 5, see M.S.1998]

**History:** 1999 c 139 art 4 s 2

#### **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:

(1) an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota state patrol, agents of the division of alcohol and gambling enforcement, state conservation officers, and metropolitan transit police officers; and

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

(d) "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:

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

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

(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.

[For text of subd 2, see M.S.1998]

**History:** 1999 c 175 s 1

## 626.843 RULES, STANDARDS; EXECUTIVE DIRECTOR.

[For text of subs 1 to 3, see M.S.1998]

Subd. 4. **Reporting requirements.** The board shall report to the attorney general, from time to time, and to the governor at least biennially concerning the activities of the board. The board shall report biannually to the chairs of the senate and house committees and divisions having jurisdiction over criminal justice funding concerning the activities of the board. In addition to other relevant items, the report must include detailed information concerning the compliance reviews required in section 626.8459.

**History:** 1999 c 216 art 5 s 5

## 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; and

(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.

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).

**History:** 1999 c 216 art 5 s 6

#### **626.8458 VEHICLE PURSUITS; POLICIES AND INSTRUCTION REQUIRED.**

Subdivision 1. **Purpose.** The legislature finds that emergency vehicle operations are an integral part of law enforcement's commitment to public safety. Law enforcement agencies shall make reasonable efforts to guide their officers in the safe and responsible performance of their emergency response duties. Although laws and rules provide the foundation for the conduct of law enforcement officers, continuous and effective training is essential to ensure proper law enforcement action during emergency vehicle operations, including police pursuits. This training must be designed to give officers both skills and decision-making ability so that emergency vehicle operations can be resolved safely and successfully.

Subd. 2. **Statewide model policy.** (a) By July 1, 1999, the board shall adopt a new or revised model policy governing the conduct of peace officers who are in pursuit of a vehicle being operated in violation of section 609.487. The board shall seek and consider comments of members of the public when adopting the policy. In order to assist peace officers in responding to the complex and unpredictable factors associated with police pursuits, the model policy shall, at a minimum, contain the following components:

(1) a statement describing the philosophy of the model policy. This philosophy must state that the safety of all persons involved in or by a police pursuit is of primary importance. It also must balance the risks of the pursuit to the public and peace officers with the consequences of failing to pursue;

(2) the factors to be considered in initiating and terminating a pursuit, and the standards for evaluating the need to initiate or terminate a pursuit;

(3) the procedures, tactics, and technologies used during pursuits;

(4) the various responsibilities of the pursuing officers, the officer supervising the pursuit, the dispatcher, and air support;

(5) the procedures governing interjurisdictional pursuits;

(6) the procedures governing care of any persons injured in the course of the pursuit;

(7) the contents of pursuit reports filed under section 626.5532; and

(8) the procedures used to evaluate each pursuit.

(b) The board shall review and, as necessary, revise the model pursuit policy in collaboration with the Minnesota chiefs of police association, the Minnesota sheriffs association, the Minnesota police and peace officers association, a representative from the state patrol, and other interested law enforcement industry groups.

Subd. 3. **Agency policies required.** (a) The chief law enforcement officer of every state and local law enforcement agency must establish and enforce a written policy governing the conduct of peace officers employed by the agency who are in pursuit of a vehicle being operated in violation of section 609.487. The policy must, at a minimum, comply with the requirements of any new or revised model pursuit policy adopted by the board under subdivision 2 and must take into account the comments of members of the public and any pursuit vehicle technology that is available to the agency.

(b) Every state and local law enforcement agency must certify annually to the board that it has adopted a written policy in compliance with the board's model pursuit policy.

(c) The board shall assist the chief law enforcement officer of each state and local law enforcement agency in developing and implementing pursuit policies under this subdivision.

Subd. 4. **Preservice training in police pursuits required.** (a) By January 1, 2000, the board shall prepare learning objectives for instructing peace officers in emergency vehicle

operations and in the conduct of police pursuits. The course shall consist of at least seven hours of classroom and skills-based training.

(b) An individual is not eligible to take the peace officer licensing examination or the part-time peace officer licensing examination on or after January 1, 2000, unless the individual has received the training described in paragraph (a).

**Subd. 5. In-service training in police pursuits required.** The chief law enforcement officer of every state and local law enforcement agency shall provide in-service training in emergency vehicle operations and in the conduct of police pursuits to every peace officer and part-time peace officer employed by the agency who the chief law enforcement officer determines may be involved in a police pursuit given the officer's responsibilities. The training shall comply with learning objectives developed and approved by the board and shall consist of at least eight hours of classroom and skills-based training every three years.

**Subd. 6. 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:** 1999 c 216 art 5 s 7

### **626.8459 POST BOARD; COMPLIANCE REVIEWS REQUIRED.**

(a) Each year, the board shall conduct compliance reviews on all state and local law enforcement agencies. The compliance reviews must ensure that the agencies are complying with all requirements imposed on them by statute and rule. The board shall include in the reports to the legislature required in section 626.843, subdivision 4, detailed information on the compliance reviews conducted under this section. At a minimum, the reports must specify each requirement imposed by statute and rule on law enforcement agencies, the compliance rate of each agency, and the action taken by the board, if any, against an agency not in compliance.

(b) The board may impose licensing sanctions and seek injunctive relief under section 214.11 for an agency's failure to comply with a requirement imposed on it in statute or rule.

**History:** 1999 c 216 art 5 s 8

### **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 80 hours:

- (1) permissible use of force by peace officers, including deadly force;
- (2) law of arrest, including probable cause;
- (3) law of search and seizure;
- (4) confessions and interrogations, oral and written;
- (5) law and rules of evidence;
- (6) Minnesota criminal code;
- (7) juvenile law;
- (8) general principles of criminal investigations;
- (9) crime scene search and investigation;
- (10) preservation and collection of crime scene evidence; and
- (11) traffic enforcement, including accident investigation.

The board shall prepare learning objectives for an 80-hour course to test competency under this section.

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:** 1999 c 216 art 5 s 9

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

**Subdivision 1. Appointment requirements.** (a) 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.
- (b) The board shall develop a new examination that tests in depth the expanded competency requirements of section 626.8462.

Subd. 2. [Repealed, 1999 c 216 art 5 s 15]

**History:** 1999 c 216 art 5 s 10

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

*[For text of subd 1, see M.S.1998]*

Subd. 2. **Part-time peace officer license, restriction.** Subject to section 626.8468, subdivision 1, 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.

*[For text of subd 3, see M.S.1998]*

**History:** 1999 c 216 art 5 s 11

#### 626.8468 PART-TIME PEACE OFFICERS; CAP ON NUMBER PER AGENCY, EXPANDED TRAINING REQUIRED, CONTINUING EDUCATION.

Subdivision 1. **Cap on number of part-time peace officers per agency.** (a) A law enforcement agency that employed a licensed part-time peace officer or that was in the process of training an individual to become a licensed part-time peace officer on or before February 1, 1999, may continue to do so. No agency may employ more part-time peace officers than it employed in calendar year 1996, 1997, or 1998.

(b) After January 1, 2000, the board may issue additional part-time peace officer licenses to a law enforcement agency that employs a part-time peace officer and that demonstrates to the board an extraordinary and temporary need for the additional license.

(c) If a local unit of government dissolves a law enforcement agency that employs a part-time peace officer authorized under this subdivision and contracts with another law enforcement agency to provide law enforcement services, the law enforcement agency contracted with may add that number of part-time positions to the agency's maximum under this subdivision if the agency hires or offers employment to all full-time peace officers employed by the dissolved agency at the time of dissolution. The employment offered must be of comparable responsibility and salary.

Subd. 2. **Expanded training required.** Each person seeking initial licensure as a part-time peace officer shall successfully complete the competency training described in section 626.8462. Before issuing a part-time peace officer license or allowing a person to take the examination described in section 626.8462, the board shall ensure that the applicant has successfully completed the training. The chief law enforcement officer of the agency employing or seeking to employ the applicant shall submit proof to the board that the applicant has successfully completed the training before the applicant may take the examination.

Subd. 3. **Continuing education.** All licensed part-time peace officers shall comply with continuing education standards required by the board. The officers may receive reimbursement for the costs of this education from the peace officers training account described in section 357.021, subdivision 7.

**History:** 1999 c 216 art 5 s 12

#### 626.93 LAW ENFORCEMENT AUTHORITY; TRIBAL PEACE OFFICERS.

Subdivision 1. **Definition.** As used in this section, "tribe" means a federally recognized Indian tribe, as defined in United States Code, title 25, section 450b(e), located within the

state of Minnesota, but does not include a tribe, band, or community described in section 626.90, 626.91, or 626.92.

**Subd. 2. Tribal law enforcement agency requirements.** A tribe may exercise authority under subdivision 3 only if it satisfies the following requirements:

(1) the tribe 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 section 626.84, subdivision 1, paragraph (h), to the same extent as a municipality under chapter 466, and the tribe further agrees, notwithstanding section 16C.05, subdivision 7, to waive its sovereign immunity with respect to claims arising from this liability;

(2) the tribe 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 tribe 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) if the tribe's governing body has authorized its peace officers to enforce criminal laws within the boundaries of the tribe's reservation, the tribe agrees to be subject to section 13.82 and any other laws of the state relating to data practices of law enforcement agencies.

**Subd. 3. Concurrent jurisdiction.** If the requirements of subdivision 2 are met and the tribe enters into a cooperative agreement pursuant to subdivision 4, the tribe shall have concurrent jurisdictional authority under this section with the local county sheriff within the geographical boundaries of the tribe's reservation to enforce state criminal law.

**Subd. 4. Cooperative agreements.** In order to coordinate, define, and regulate the provision of law enforcement services and to provide for mutual aid and cooperation, governmental units and the tribe shall enter into agreements under section 471.59. For the purposes of entering into these agreements, the tribe shall be considered a "governmental unit" as that term is defined in section 471.59, subdivision 1.

**Subd. 5. Effect on federal law.** Nothing in this section shall be construed to restrict a tribe'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 a tribe or current reservation boundaries.

**History:** 1999 c 175 s 2